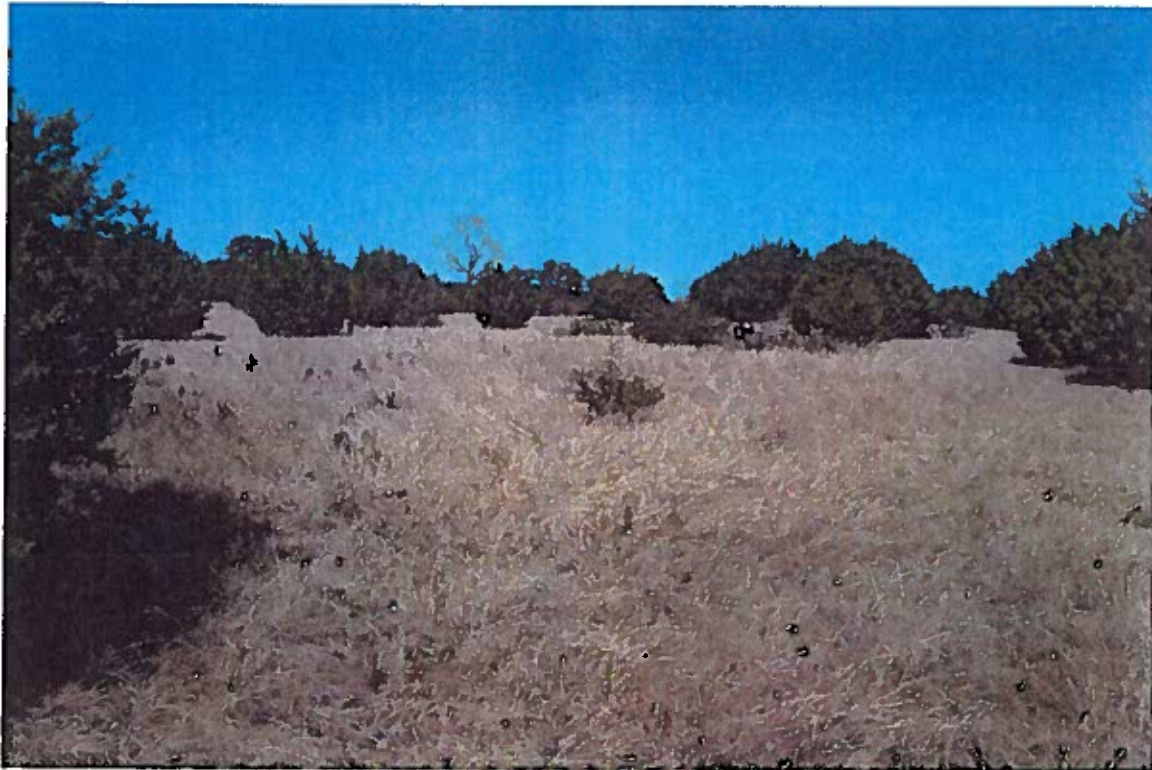


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**LAZY NINE
MUNICIPAL UTILITY DISTRICT 1-A**

**TREATED EFFLUENT HOLDING POND
Site Development Permit Variance Request
To Exceed a Four Foot (4') Cut
SP – 2010 – 0034D**



SUPPLEMENTAL INFORMATION PACKET

MARCH 25, 2010

**Malone/Wheeler, Inc.
7500 Rialto Blvd., Bldg. 1, Suite 240
Austin, TX 78735
Phone: (512)899-0601
Fax: (512)899-0655**

LAZY NINE MUNICIPAL UTILITY DISTRICT 1-A

Treated Effluent Holding Pond Site Development Permit Variance Request

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Supplemental Information Packet Table of Contents

1. Introductory Letter from Irion/Slade
Malone/Wheeler, Inc. Memo concerning effluent quality and
irrigation area parameters
2. Malone/Wheeler, Inc. Memo concerning effluent holding pond
volume and surface area
3. Memo from Dr. James Miertschin, P. E. describing magnitude of
irrigation area safety factors
TCEQ letter indicating approval of effluent holding pond design
TCEQ letter indicating approval of Final Irrigation Plan for Special
Provision 16 of the permit
4. Photos of pond site and irrigation area
5. Lazy Nine MUD 1-A TCEQ Permit No. WQ0014629001
6. Settlement Agreement
7. Little Barton Creek Watershed Boundary Maps

IRION | SLADE
ATTORNEYS & COUNSELORS AT LAW
A PROFESSIONAL LIMITED LIABILITY COMPANY

Terrence L. Irion
Attorney at Law

2224 Walsh Tarlton
Suite 210
Austin, Texas 78746

clt qb

512.347.9977
Fax: 512.347.7085
tirion@isblaw.com

March 24, 2010

Dr. Mary Gay Maxwell
Chair
City of Austin Environmental Board
301 W. 2nd Street
Austin, Texas 78701

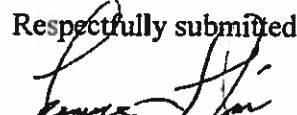
Re: Lazy Nine Municipal Utility District Treated Effluent Holding Pond
Case No. SP-2009-0042D

Dear Dr. Maxwell and Members of the Environmental Board:

Enclosed please find a package which provides additional information requested by the Board at its March 3, 2010 meeting. The package includes the following information:

1. Letter Memorandum from Richard J. Wheeler, P.E., addressing the design parameters of the wastewater treatment plant and the effluent concentration limits and how the no-discharge permit treatment levels were agreed to between the parties pursuant to the Settlement Agreement back in 2006.
2. Letter Memorandum from Richard J. Wheeler, P.E., addressing the significance of the General Description of the Permit identifying a 2.5 acre pond surface area and the TCEQ approved construction plans identifying a total maximum surface area for the Phase 1 pond of 3.5 acres.
3. A list of the Lazy Nine MUD Irrigation System Safety Factors as identified by Dr. James D. Miertschin, P.E.
4. Photographs of the site indicating the gentle slopes and vegetative cover of the subject site.
5. A copy of the current amended TCEQ Permit for the site.
6. Maps showing the portion of the Little Barton Creek Watershed in Austin ETJ (10.6%), and an area map showing the Lazy Nine MUD boundaries, the Austin ETJ boundaries, and the Bee Cave ETJ boundaries in relationship to surrounding development.

Respectfully submitted


Terrence L. Irion,

Special Counsel to Lazy Nine Municipal Utility District

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MEMORANDUM

TO: Dr. Mary Gay Maxwell, Chair
City of Austin Environmental Board

FROM: Richard J. Wheeler, P. E.

SUBJECT: Lazy Nine MUD 1-A Treated Effluent Holding Pond
Variance request form LDC Section 25-8-341. Cut Requirements

DATE: March 15, 2010



During the discussion of the above referenced variance request at the March 3, 2010 Environmental Board meeting a few comments and/or questions arose from the Board relative to the TCEQ permit effluent limitations and treated effluent spray irrigation disposal area. Please be advised of the following with regard to those comments and questions:

1. The primary Condition of the Permit, as stated on page 2 is that, "No discharge of pollutants into water in the State is authorized." Accordingly, the design of the treated effluent holding pond and irrigation system complies with that condition.
2. The design of the treated effluent holding pond was approved by TCEQ in December 2008. (copy of letter attached) The approved construction plans are identical to those submitted to the City and included the effluent holding pond with a volume of 64.5 acre-feet and surface area of 3.5 acres.
3. "Not to Exceed Effluent Concentration" limits specified in the permit for Biological Oxygen Demand (BOD) are 10 mg/l and total Suspended Solids (TSS) are 15 mg/l. These treated effluent parameters are identical to those contained in TCEQ Permit No. TX0046981 issued to the City of Austin. It is recognized that the City's TCEQ permit also further limits nitrogen ammonia to 2 mg/l to allow for direct discharge of treated wastewater effluent into the Colorado River from its Walnut Creek and South (Onion Creek) regional wastewater treatment plants. The City has elected to voluntarily treat the wastewater to a higher level of quality in order to facilitate the use of the reclaimed water for non-potable domestic purposes in accordance with the City's Authorization For Reclaimed Water issued by TCEQ in January 2006.
4. The potential imposition of more extensive effluent limits for the Lazy Nine MUD TCEQ permit was thoroughly reviewed and discussed by and with TCEQ, COA

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and LCRA staff during the Lazy Nine MUD wastewater permit application review and contested hearing processes. In this case, the 10 BOD-15 TSS treatment level was determined to be preferable. These effluent quality parameters were agreed to by all the parties via the Settlement Agreement. This conclusion is extremely reasonable because the irrigation area is unimproved range land with exceedingly good soil profiles. Native vegetative cover on the site consists of native grasses with a strong concentration of King Ranch blue stem, Ashe juniper and scattered hardwoods. Soil and root zone profiles are such that there is more than sufficient infiltration capacity and adsorptive capacity to accept the applied effluent such that nitrogen will be utilized for plant uptake. Phosphorus in the treated effluent will be immobilized due to plant uptake and the presence of calcium carbonate in the irrigation area soils. In other words, it is prudent to allow the nitrogen ammonia and other nutrients to remain in the treated effluent to feed the existing vegetative cover.

5. No turf improvements such as a golf course, park, athletic fields, or other facilities that would be utilized by the general public will be constructed on the irrigation land. Such land uses would most likely require periodic fertilization to maintain the quality and efficiency of the turf as well as more restrictive effluent limits to allow for human contact. Such a fertilization program would be necessary because of the limited amount of nitrogen and phosphorus in the treated effluent as might be the case for other wastewater permits where daily contact by the public with the area irrigated with treated effluent is anticipated. However, since native grasses and vegetative cover are and will continue to be the plant cover on the irrigation land, it is important to supply them with nutrients to enhance their growth and increase the uptake utilization capacity of the effluent and its constituent nutrients. In essence, the soil and native vegetative cover eco-system will operate as a closed loop organism in that the irrigated effluent will propagate improved growth of the native vegetation which will, in turn, increase its ability to uptake and utilize more of the irrigated effluent and nutrients. Hence, there is no technical or environmental protection rationale to reduce the effluent limits to 5 BOD-5 TSS-2N and 1P. In fact, it would be imprudent to do so.
6. To further reinforce the position that the 10 BOD - 15 TSS permit is adequate and appropriate, it should be noted that the Barton Creek West Water Supply Corporation, which owns and operates a domestic wastewater treatment and disposal system in the Barton Creek watershed, recently completed its standard five year TCEQ permit renewal process. Their original permit and the renewed permit were both issued for 10 BOD and 15 TSS. BCWWSC disposes of its treated wastewater effluent via spray irrigation of unimproved open space land within the Barton Creek West subdivision, all of which is located in Austin's ETJ adjacent to the main body of Barton Creek. The permit renewal process was completed last year with no comment or protest being registered by either the City of Austin, LCRA or Travis County. It is very obvious that such effluent conditions are perfectly acceptable for wastewater treatment and disposal via spray irrigation on unimproved range land.
7. The irrigation site designated in the TCEQ permit is more than suitable for disposal of effluent by irrigation. In addition, the irrigation system has been

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designed and will be operated in a manner such that no discharges of pollutants to surface or groundwater will occur, which is a condition of the permit

The irrigation system has been very conservatively sized for effluent disposal via spray irrigation. The effluent application rate is only 2.75 ac ft/yr/acre or 33 inches per year. To put this quantity in perspective, the entire annual volume of treated wastewater effluent to be disposed of is less than the average annual rainfall of the area and can be controlled to occur during the most advantageous periods of dry weather. The entire annual volume of effluent can be disposed of by irrigating no more than 36 days out of the year. Obviously, the highest levels of effluent irrigation will occur during the warmest months of the year to facilitate the greatest growth and nutrient uptake of the native vegetative cover.

This very low volume of irrigation, relative to the surface area available, will be readily taken up and absorbed by the existing soils on the site. Effluent will be retained in the soil root zone until it is utilized by plants and native vegetative cover.

8. Soil studies, analyses and evaluations of the native vegetative cover were conducted by Dr. Larry Wilding, Dr. Brad Wilcox and Dr. James Miertschin, P. E., all of whom are recognized experts in the fields of soil science, agronomy and wastewater treatment. The irrigation site study program and protocols were jointly established with a great deal of input from and agreement by City of Austin staff (Ed Peacock, David Johns and Joan Balogh) (Scott Hiers also reviewed the site) and LCRA staff (Geoff Saunders and Alicia Renmund) following extensive field and literature reviews in September 2006. The results of these studies resolved all issues or questions related to irrigation volume, nutrient uptake and water balance to the satisfaction of the City of Austin, LCRA and TCEQ. Dr. Miertschin prepared a summary of the irrigation system safety factors which are described on the attached memo. This summary indicates that no effluent will ever exit the irrigation site.
9. LCRA engaged B. L. Carlile, PhD, P. E. as an expert witness and advisor for the wastewater permit application review and contested hearing process. The Summary of his Technical Evaluation report dated December 12, 2005 reads as follows:

"The site selected for the application of wastewater from this project is one of the better sites in the hill country of western Travis County. The slopes are less severe, the vegetation in better condition and rock outcrops not as evident as on most sites in western Travis County."
10. The final irrigation management plan was approved by TCEQ in March, 2009 (copy of letter attached).
11. Wastewater treatment plants and treated effluent disposal facilities are subject to annual inspection by TCEQ. Inspections for this area are conducted by the TCEQ Region 11 office located at 2800 S. IH 35, Ste. 100, (512) 339-2929. Currently, these inspections are conducted by Michael Daniels and Claudia Schaffer.

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MEMORANDUM

TO: Dr. Mary Gay Maxwell, Chair
City of Austin Environmental Board

FROM: Richard J. Wheeler, P. E.

SUBJECT: Lazy Nine MUD 1-A Treated Effluent Holding Pond
Variance request

DATE: March 18, 2010



During the course of discussion of the cut variance for the Lazy Nine MUD 1-A treated effluent holding pond (SP-2010-0034D), a question was posed related to the seeming discrepancy between the 3.5 acre surface area of the pond, as designed, and the 2.5 acre surface area contained in the General Description and Location of Waste Disposal System on the face of the TCEQ TLAP permit. Please be advised of the following in that regard

1. The current design and construction plans for the treated effluent holding pond, which provides for a storage volume that is slightly in excess of 64.5 acre-feet and a water surface area, when the pond is full at maximum capacity of 3.5 acres was reviewed and approved by TCEQ in December 2008. (Copy of letter attached)
2. The construction plans for the treated effluent holding pond approved by TCEQ are identical to those submitted to the City of Austin for the site development permit review and approval process
3. This issue was reviewed and discussed with the Municipal Permits Team and Water Quality Assessment Section of the TCEQ Water Quality Division in some detail on March 11 and 16. Both groups acknowledged that the 3.5 acre surface area pond design was better than a 2.5 acre surface area pond design, if both have the same storage volume, because it allows for a higher volume of evapotranspiration to occur. Such evapotranspiration reduces the actual volume of effluent that needs to be disposed of via spray irrigation. TCEQ also acknowledged that effluent holding ponds are rarely filled to the permitted volume capacity such that the actual volume of treated effluent that creates a pond surface area of 2.5 acres or more would only occur very infrequently and will never occur during the interim phase daily flows of 180,000 gpd. This interim phase daily flow volume, with sixty (60) days of storage only utilizes 32

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acre feet of the 64.5 acre feet of the permitted interim phase pond capacity and daily flow volume limits. Accordingly a surface area of 2.5 acre of effluent will never occur during the interim phase of the permit.

4. TCEQ wastewater permits are issued for a term of five (5) calendar years. The current Lazy Nine MUD 1-A permit expires on September 1, 2011. An application for permit renewal must be submitted no later than 180 days prior to permit expiration (TCEQ staff actually prefers to receive the renewal application 300 days or more prior to expiration due to the ongoing review backlog of new permit, amended permit and renewed permit applications.) In this case, the permit renewal application will be submitted in September of this year to allow for sufficient processing time. The permit renewal application will include a modification of the interim phase pond surface area from 2.5 acres to 3.5 acres to accurately reflect the approved construction plans and as-built condition.
5. It is important to note that TCEQ recognizes that discrepancies in facility sizing or siting routinely occur between the time the permit parameters are established, without the benefit of final designs and construction plans, and the preparation of those detailed documents. As long as those discrepancies do not materially affect the permit conditions relative to water quality, treatment volumes and buffer zones, the corresponding changes in the permit itself are handled via a minor amendment or at the permit renewal. A minor permit amendment application has the same time and data requirements as does an application for a new permit or permit renewal. TCEQ staff suggested that, if the pond surface area issue cannot wait until the normal permit renewal cycle to be amended, a minor permit amendment application could be submitted and processed. In that case, the minor amendment permit would most likely be approved and issued in October or November of this year, virtually at the same time that the permit renewal application is submitted. There is no scenario in which the completed interim phase pond would receive treated effluent in a volume sufficient to create a ponds surface area of 2.5 acres, much less 3.5 acres prior to permit renewal in 2011.
6. From a practical standpoint, construction of the treated effluent holding pond will not be completed prior to the first quarter of 2011. There are currently no connections to the Lazy Nine MUD 1-A wastewater treatment and disposal system. The interim phase effluent holding pond and irrigation will serve between 600 connections and 1,200 connections. Within the context of current and anticipated near term economic conditions this pond is easily expected to be sufficient for ten (10) to twenty (20) years and perhaps beyond. It may be sufficient for a longer period of time because Lazy Nine MUD 1-A will also utilize a TCEQ 210 Re-Use Permit that allows for the irrigation of landscaping and rights-of-way with treated wastewater effluent. There are approximately ten acres (10 ac) of right-of-way and landscape areas that will be available to be irrigated from the first day that the wastewater treatment plant produces treated effluent. This acreage can accommodate approximately seventy (70) connections to the wastewater system which may well be equivalent to the first twelve (12) to eighteen (18) months of home building within the MUD. Accordingly, the earliest that any treated effluent might actually be pumped to the treated effluent holding pond may be mid-year 2012 which is well after the permit renewal cycle of 2011. Further, based on the potential homebuilding

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schedule within the MUD, the surface area of the pond would not reach 2.5 acres, much less 3.5 acres before the year 2030 unless the MUD voluntarily and arbitrarily elects to allow the pond to fill before initiating the spray irrigation program, an unlikely scenario at best.

Simply put the effluent holding pond surface area description will be modified in the General Description of the permit well in advance of any treated effluent reaches a surface area of 2.5 acre in the pond.

7. TCEQ staff also reminded us that the permit holder is responsible for compliance with the permit conditions. As long as permit conditions, which are separate and apart from the General Description and Location of Waste Disposal System, are being met, the description of the waste disposal system components can be readily modified via permit renewal or minor amendment. This is particularly true for phased permits with multiple system components that will be constructed as flow demand and capacity dictate, such as Lazy Nine. In this case, the surface area description of the ponds can be easily changed by either process.
8. It is also important to note that the effluent holding pond has been designed to have two feet (2') of free board above the design capacity in accordance with TCEQ design standards. This free board provides a meaningful safety factor for the storage of treated effluent. For a 2.5 acre surface acre pond that safety volume is approximately 1,742,400 gallons or almost 10 days of additional storage. In the same vein, a 3.5 acre surface area pond has a free board safety volume of approximately 2,439,360 gallons or the equivalent of an additional 13.6 days of additional emergency storage.
9. Lastly, the 64.5 acre foot treated effluent holding pond will accommodate the equivalent of 375,000 gpd of wastewater production; more than double the interim phase permit condition for volume of 180,000 gpd. In essence, the current pond design is more than twice as large as is needed to store the interim phase flows contained in the permit. This situation will be noted and included in the permit renewal application that will be submitted late this year. Accordingly, the difference in the description of the surface area of pond effluent shown in the permit and the maximum design pond surface area is insignificant.

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LAZY NINE MUD IRRIGATION SYSTEM SAFETY FACTORS

The proposed effluent application rates described in the Preliminary Irrigation Management Plan incorporate substantial safety factors that will preclude measurable impacts upon surface water or groundwater resources.

Annual Water Balance Consumptive Use

- water balance calculation shows an allowable average annual effluent application rate of 53.73 in/ac/yr
- proposed annual application rate in draft permit is 33 in/ac/yr (2.75 ft/ac/yr)
- **safety factor = 163%** ($53.73 / 33 = 1.63$)
- the proposed annual application rate is only 63% of the calculated allowable rate

Infiltration Rate

- 50 soil infiltration rate tests were conducted on the site, results summarized as:
Good Cover: range 5.0 - 7.1 in/hr for dry runs, range median = 6.05 in/hr
Poor Cover: range 1.7 - 5.1 in/hr for dry runs, range median = 3.4 in/hr
- nominal proposed effluent dosing rate = 0.5 in/hr
- **Good Cover safety factor = 1210%** ($6.05 / 0.5 = 12.1$)
Poor Cover safety factor = 680% ($3.4 / 0.5 = 6.8$)
- the proposed effluent dosing rate is only 8% of the measured infiltration rates for good cover and 15% of the measured infiltration rates for poor cover on the site
- establishment of irrigation is expected to convert poor cover sites to good cover
- effluent dosing at rates substantially lower than infiltration rates ensures that no surface runoff of effluent will occur

Soil Water Retention Capacity

- 71 soil profile estimates of cumulative water retention difference (CRWD), results summarized as: trench-average range 1.7 - 9.7 in/profile, range median = 5.7 in/profile
- nominal proposed effluent dosing rate = 0.5 in/hr
- **safety factor = 1140%** ($5.7 / 0.5 = 11.4$)
- the proposed effluent dosing rate is only 9% of the calculated median water retention capacity for the site, ranging from 5% - 29% per trench site
- establishment of irrigation is expected to support robust vegetation even on areas with low CRWD
- effluent dosing at rates substantially lower than the water retention capacity ensures that no surface runoff of effluent will occur

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Buffer Zones

- proposed buffer zones are 50 ft and 200 ft for various tributary channels
- literature shows that vegetated buffer strip length of roughly 30 ft is sufficient to achieve substantial mitigation of runoff pollutants
- buffer areas are typically deeper soils with high infiltration rates and water retention which limits potential offsite movement of pollutants
- this safety factor is not numerically quantifiable

Irrigation Management

- proposed effluent dosing rates selected to accommodate the worst-case infiltration and worst-case water retention capacity on the irrigation site
- selected dosing rates then applied to the entire irrigation site, including areas with more favorable characteristics
- therefore not necessary to have variable effluent dosing zones across site since worst-case already incorporated



The Seal appearing on this document was authorized by Dr. James D. Miertschin, P.E. 43900 on November 29, 2006.

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December 29, 2008

Mr. James Mertsch, P.E.
James Mertsch & Associates
P.O. Box 16,308
Austin, Texas 78716

Re: Interim Phase I Wastewater Treatment Plant
Lazy 9 Municipal Utility District EA
Texas Commission on Environmental Quality Permit No. WQ0004027000
WWR LOP No. 0908-006
Travis County

Dear Mr. Mertsch:

On September 8, 2008 TCEQ received your Summary Transmittal Letter dated September 5, 2008.

As noted in your cover letter, the rules that regulate the design, installation, and testing of domestic wastewater projects are found in 30 TAC Chapter 217, *Design Criteria for Domestic Wastewater Systems*. However you requested a variance to be held to the 217 Criteria which is allowed by 217.1(c).

We have completed our review of your design for the 0.180 MGD wastewater treatment system for the existing LAAP effluent limits of 10 mg/l BOD₅ and 15 mg/l TSS. The design includes:

- a 24,000 gallon activated sludge aeration basin
- a 56,250 gallon secondary clarifier
- a 44,940 gallon sludge digester
- a 12,500 gallon chlorine contact chamber
- effluent pumping station and
- 62.8 ac-ft effluent storage pond

Our review indicates that the documents provided are in general compliance with the applicable minimum standards as set forth in Chapter 217 of the Texas Commission on Environmental Quality's rules entitled *Design Criteria for Sewerage Systems*.


Mr. James Mertsch, P.E.
Paw
December 29, 2008

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Within 60 days of completion of construction, an appointed engineer must notify the Commission (Plan Review) of the date of completion. The engineer must also provide written certification that all construction materials and equipment were in accordance with the approved plans and specifications and any change orders filed with the Commission.

If you have any questions please call Louis C. Herrin, III, P.E. at (512) 239-4552 or Richard H. Smith, P.E. at (512) 239-5188.

Sincerely,


Richard H. Smith, P.E.
Water Quality Assessment Section
Water Quality Division
Texas Commission on Environmental Quality

RHS:m

cc: TCEQ Region 11 Office

1101 Governor's Office Building
Austin, Texas 78701
Phone: (512) 239-6934
Fax: (512) 239-6935



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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas Air, Water, and Protecting Pollution

March 20, 2009

Mr. James Miertschin, P.E., PhD
James Miertschin & Associates, Inc.
P.O. Box 162305
Austin, Texas 78716-2305

Re: Final Irrigation Plan for Special Provisions 16
Lazy Nine Municipal Utility District EA Permit No. W00014629001
(RN105477814, CN602731572)

Dear Mr. Miertschin:

On March 18, 2009 we received your letter dated March 13, 2009 with a final irrigation management plan that was submitted in response to Special Provision 16 of the permit issued on November 27, 2007.

The plan provided includes description of the irrigation system (center pivot and impact sprinklers), the layout of the irrigation system including location of mains, pivot and impact sprinkler areas, storage pond and creek buffers as depicted on Exhibit A of the submittal, a dosing schedule with nominal application rates of 0.5 inches every 2 days to a maximum application rate of 1.0 inch every 3 days during May through September, a proposal to bury transmission lines to prevent freezing; a proposal to plant a mix of native grasses and forbs (both warm and cool season) to enhance the existing vegetation composed mainly of King Ranch Bluestem, weekly inspection of the land application area and delivery system with prompt resolution of problems with the wastewater delivery system, the surface erosion in the land application area with proper documentation of actions taken and recorded in a logbook kept on site. The plan as proposed is approved.

Should you have questions, please contact Mr. Paul A. Lemay at (512) 239-6934 or if by correspondence, please include MC 150 following the letterhead address.

Sincerely,

James M. Moore, P.E.
Water Quality Assessment Section
Water Quality Division

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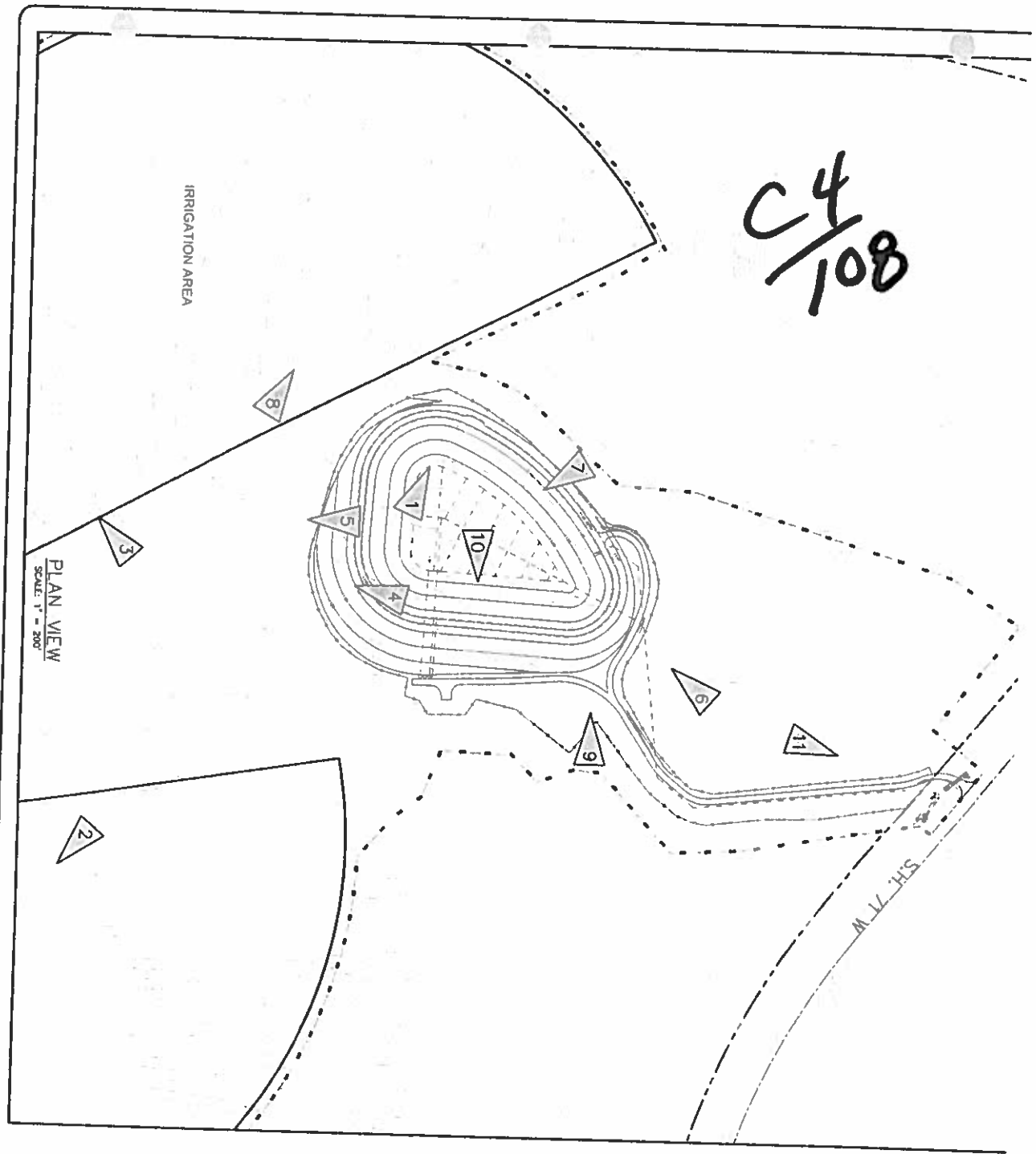
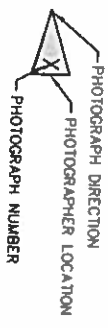


PHOTO LEGEND



- 1 WEST SIDE OF POND
- 2 SOUTHEAST IRRIGATION AREA
- 3 SOUTHWEST IRRIGATION AREA
- 4 SOUTH SIDE OF POND SITE
- 5 SOUTH CENTRAL IRRIGATION AREA
- 6 POND SITE
- 7 POND SITE LOOKING SOUTHEAST
- 8 NORTHWEST IRRIGATION AREA
- 9 NORTH SIDE OF POND SITE
- 10 EAST SIDE OF POND SITE
- 11 ACCESS ROAD LOOKING NORTH

**LAZY NINE M.U.D. 1A
TREATED EFFLUENT HOLDING POND**

PHOTOGRAPH KEY MAP

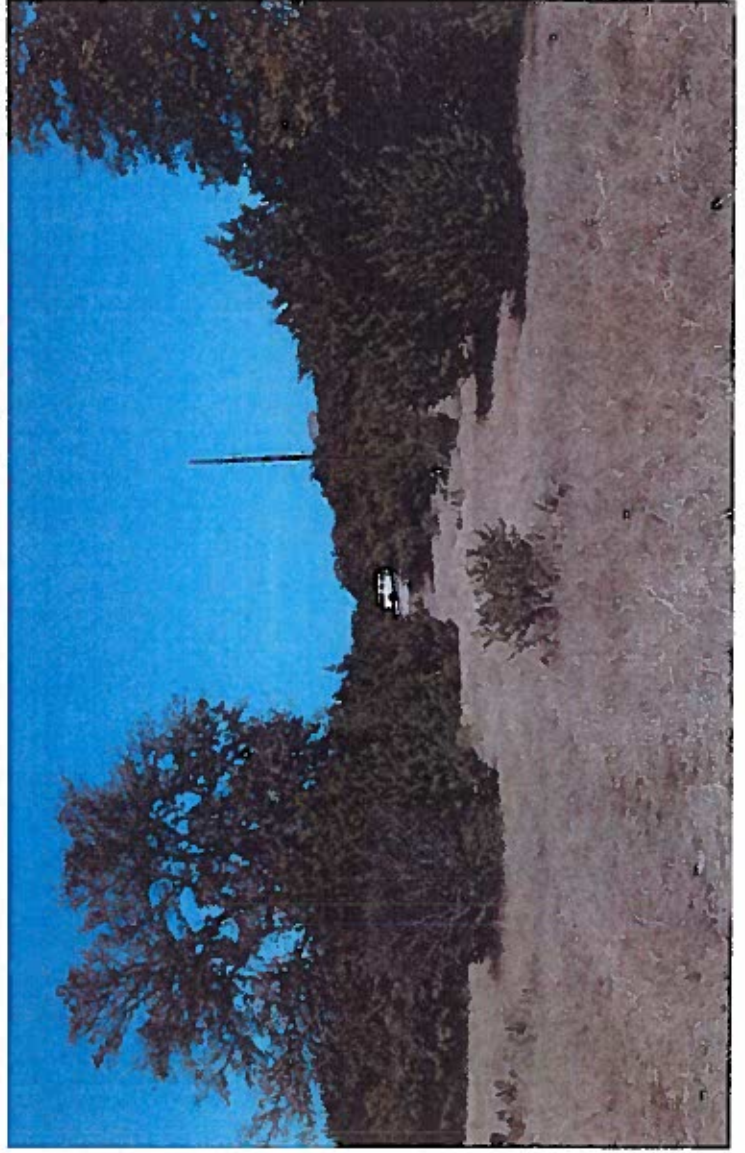
**Malone/
Wheeler, Inc.**
Engineering & Development Consultants
7600 South Blvd., Suite 200
North, Texas 75705
Phone: (512) 999-0901 Fax: (512) 999-0905
Firm Registration No. P-708

NO.	DATE	REVISION

East Side of Pond Site

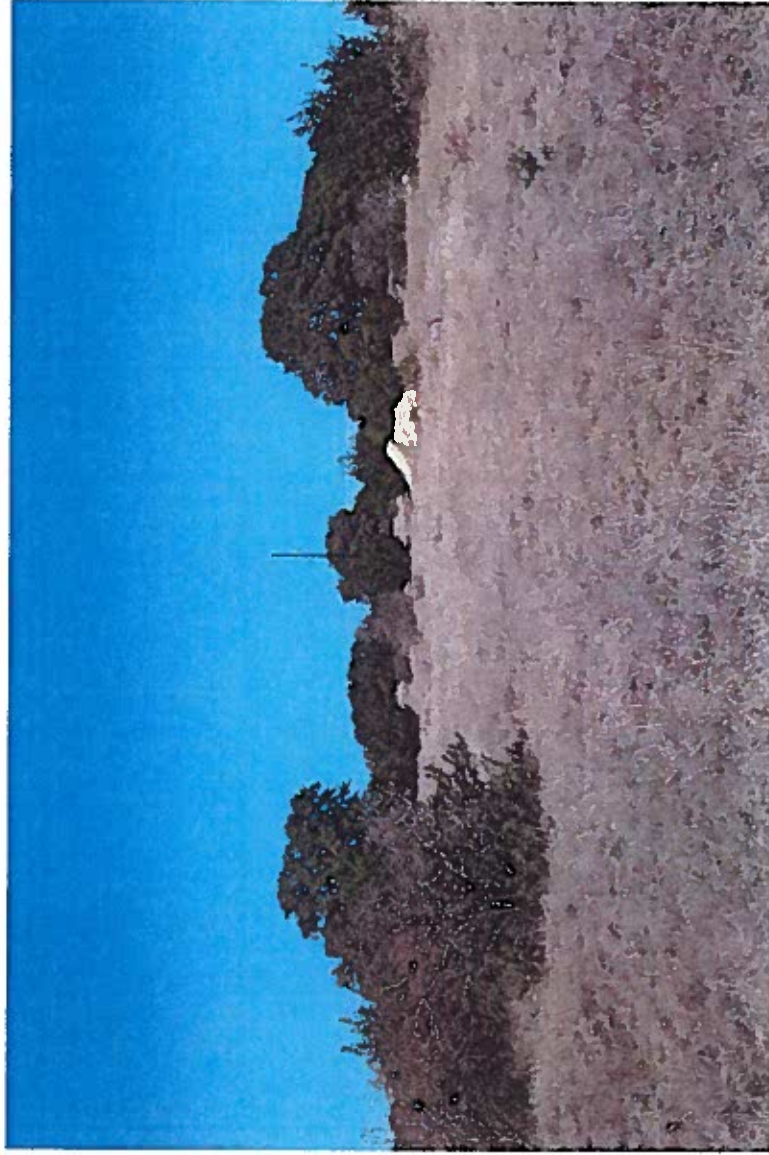


Access Road Looking North



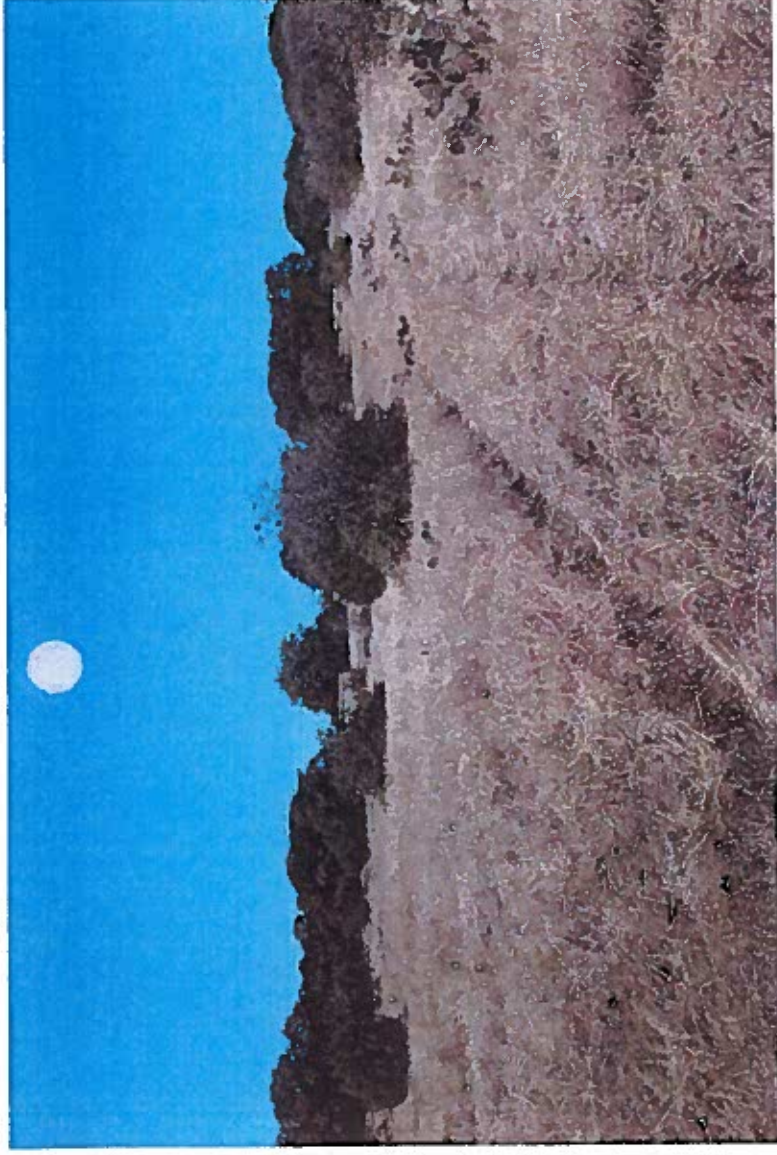
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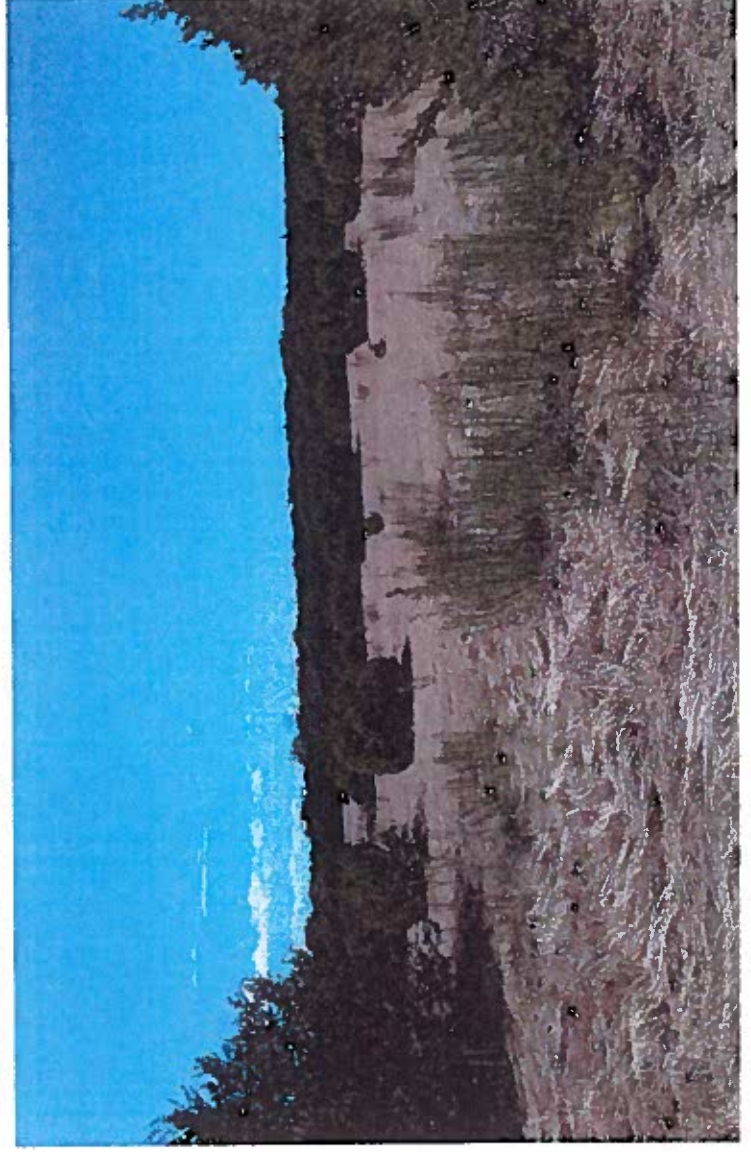


West Side of Pond

Southeast Irrigation Area

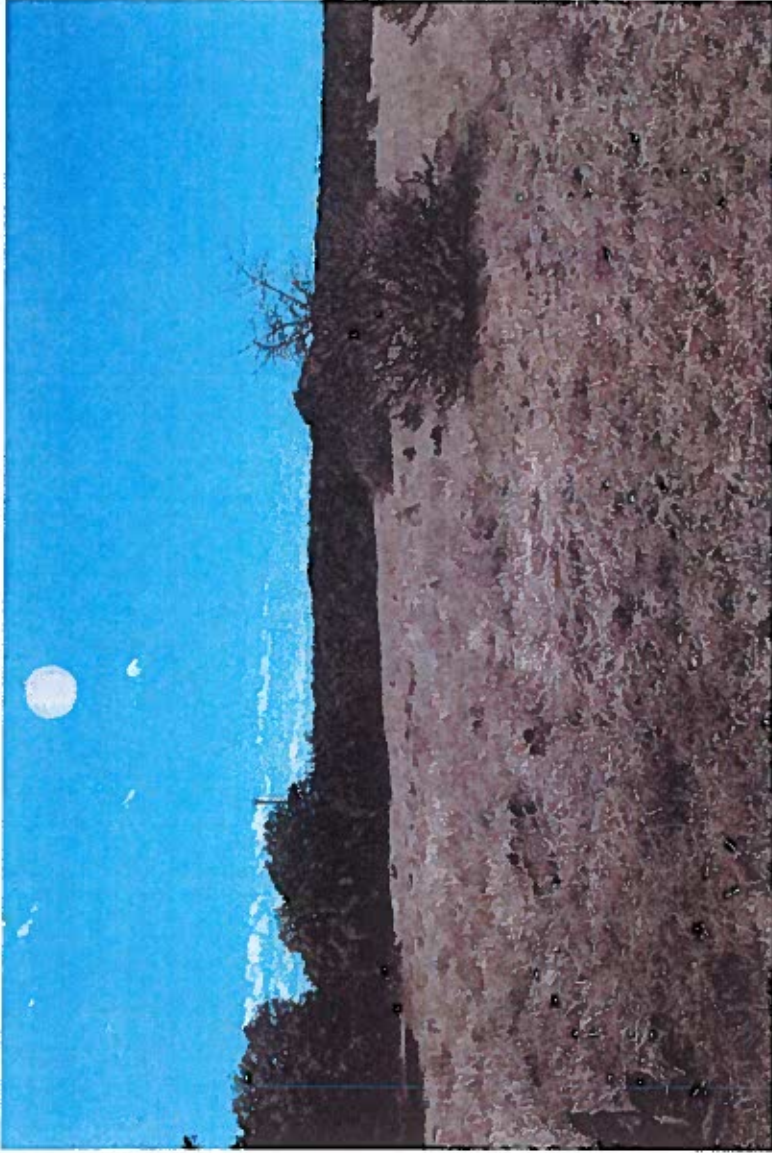


Southwest Irrigation Area

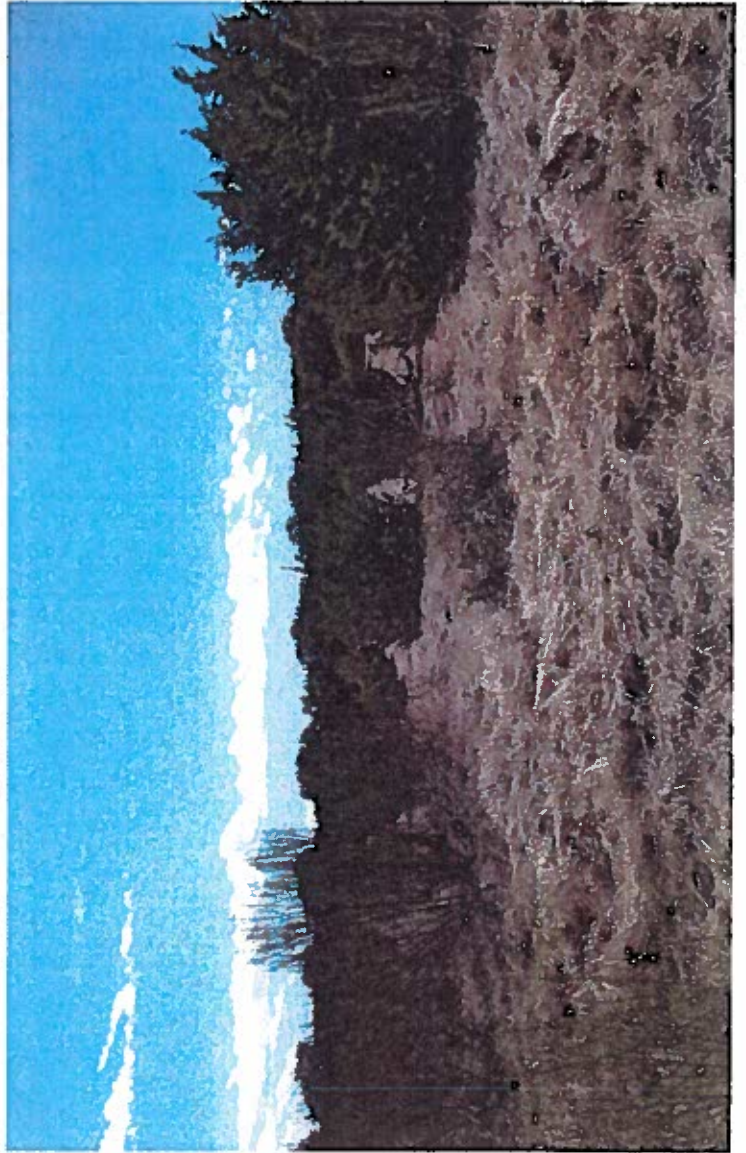


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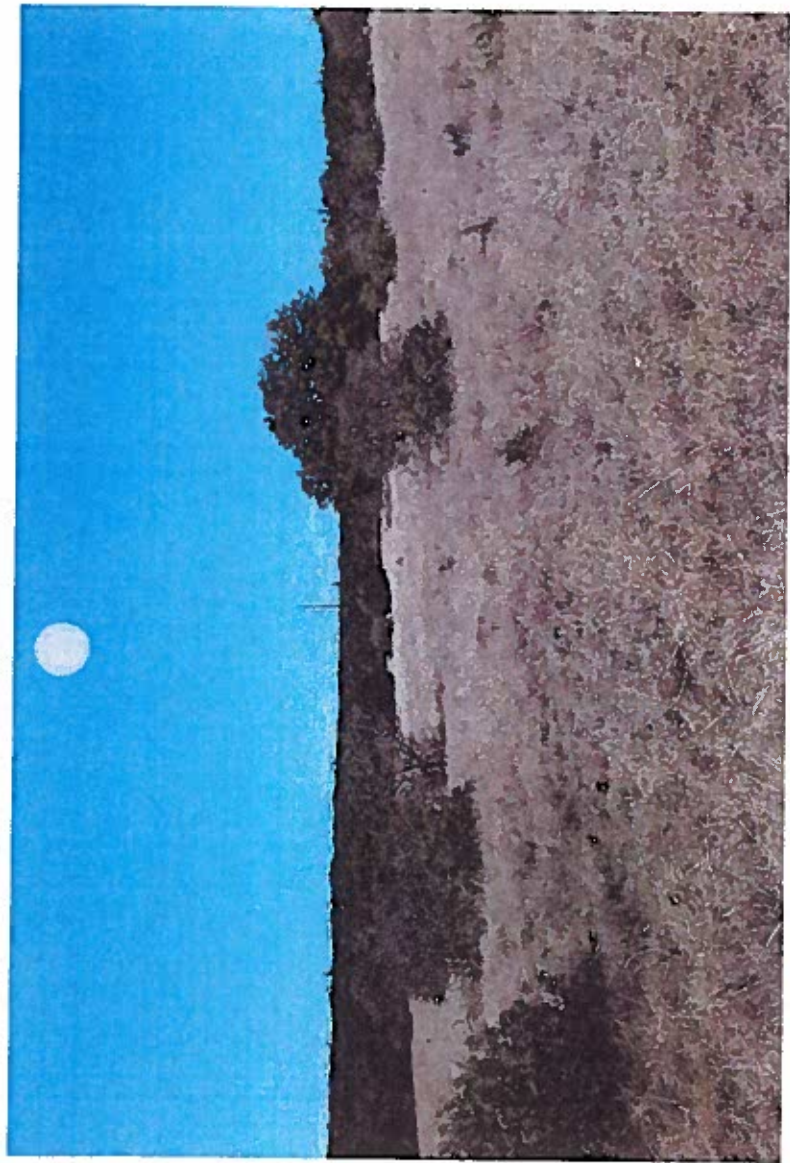


South Side of Pond Site



South Central Irrigation Area

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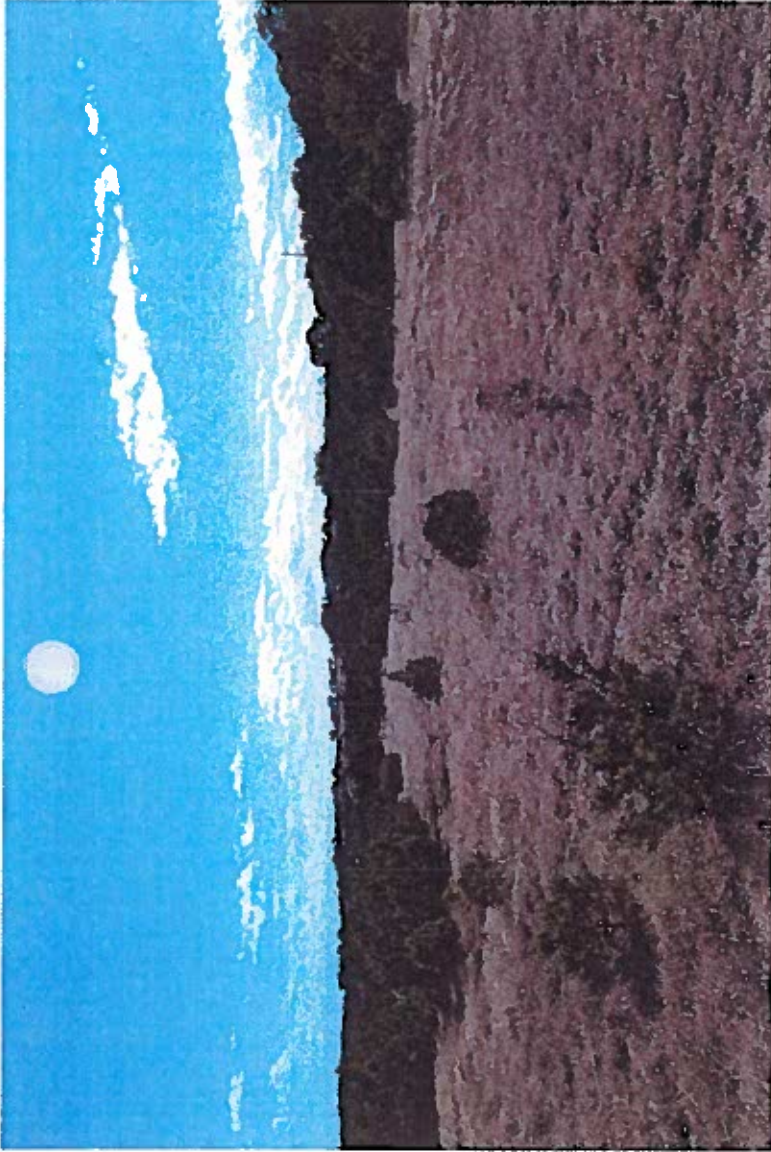


Pond Site

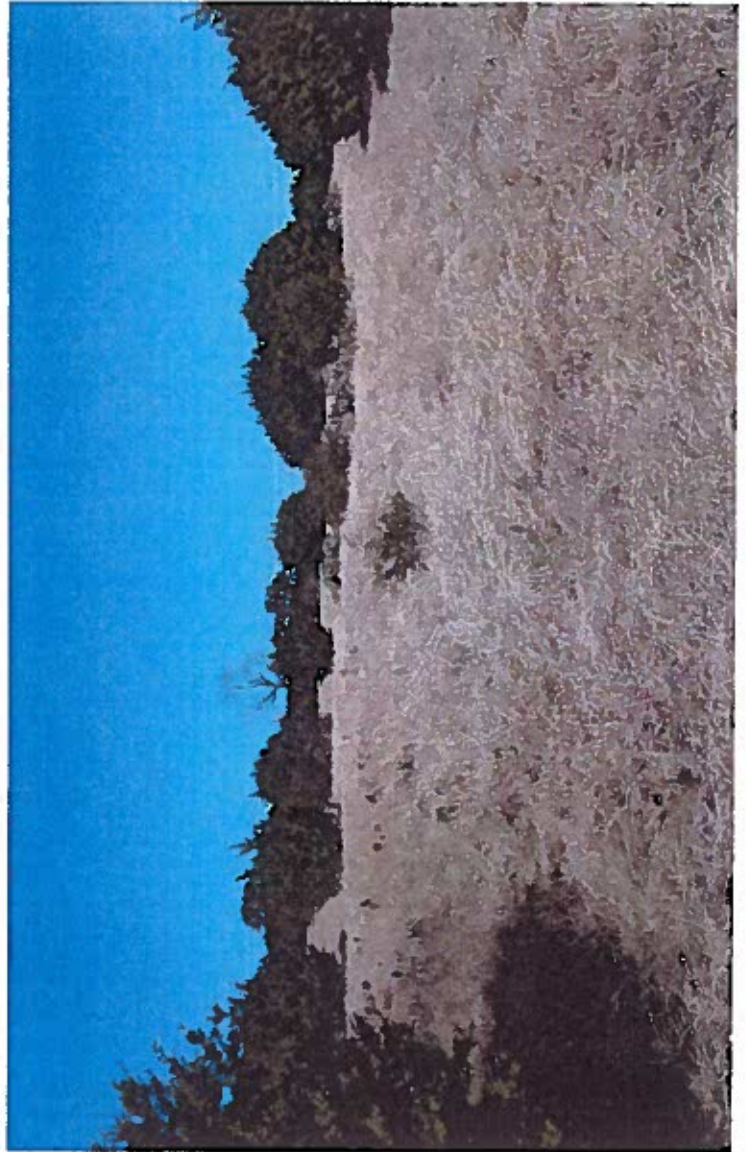


Pond Site Looking Southeast

Northwest Irrigation Area



North Side of Pond Site



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PERMIT NO. WQ0014629001

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

This is a renewal of Permit No.
WQ0014629001 issued
October 20, 2009.

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

Lazy Nine Municipal Utility District No. 1A and WS-COS Development, LLC

whose mailing address is

c/o Willatt & Flickinger
2001 North Lamar Boulevard
Austin, Texas 78705

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

General Description and Location of Waste Disposal System:

Description: The Lazy Nine MUD No. 1A Wastewater Treatment Facility consists of an activated sludge process plant using the single stage nitrification mode in all phases. Treatment units include bar screen, aeration basin, final clarifier, aerobic sludge digester, and a chlorine contact chamber. The facility includes one storage pond with a total surface area of 3.5 acres and total capacity of 64.5 acre-feet for storage of treated effluent prior to irrigation in the interim phase. The facility includes two storage ponds with a total surface area of 5 acres and total capacity of 90.3 acre-feet for storage of treated effluent prior to irrigation in the final phase. The permittee is authorized to dispose of treated domestic wastewater effluent at a daily average flow not to exceed 0.18 million gallons per day (MGD) via surface irrigation of 73.3 acres of non-public access rangeland in the Interim Phase, and 0.49 MGD via surface irrigation of 199.5 acres of non-public access rangeland in the Final Phase. Application rates to the irrigated land shall not exceed 2.75 acre-feet per year per acre irrigated in the Interim Phase and in the Final Phase. The irrigated crops include native grass, junipers, hardwood, common bermuda or other managed cover grasses.

Location: The wastewater treatment facility and disposal site are located approximately 6.2 miles west of the Village of Bee Cave near State Highway 71, in Travis County, Texas 78669. (See Attachment A and C)

Drainage Area: The wastewater treatment facility is located in the drainage basin of Bee Creek in Segment No. 1404 of the Colorado River Basin and the treated effluent disposal site is located in the drainage basin of Little Barton Creek in Segment No. 1430 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 **September 1, 2015**.

ISSUED DATE: October 18, 2011


For the Commission

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EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

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

A. Effluent Limitations

Character: Treated Domestic Sewage Effluent

Volume: Daily Average Flow – 0.18 MGD from the treatment system (Interim Phase)
Daily Average Flow – 0.49 MGD from the treatment system (Final Phase)

Quality: The following effluent limitations shall be required:

<u>Parameter</u>	<u>Effluent Concentrations</u> (Not to Exceed)			
	<u>Daily Average</u> mg/l	<u>7-Day Average</u> mg/l	<u>Daily Maximum</u> mg/	<u>Single Grab</u> mg/l
Biochemical Oxygen Demand (5-day)	10	N/A	N/A	35
Total Suspended Solids	15	N/A	N/A	60

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

The effluent shall be chlorinated in a chlorine contact chamber to a residual of 1.0 mg/l with a minimum detention time of 20 minutes. If the effluent is to be transferred to a holding pond or tank, re-chlorination prior to the effluent being delivered into the irrigation system will be required. A trace chlorine residual shall be maintained in the effluent at the point of irrigation application.

B. Monitoring Requirements:

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

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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 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.

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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. 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.

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3. Records of Results

- a. Monitoring samples and measurements shall be taken at times and in a manner so as to be representative of the monitored activity.
- b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use 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 Enforcement Division (MC 224).

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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. 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 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 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 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 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;

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- 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.

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- 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

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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.

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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.

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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 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

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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 149) 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.

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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 Environmental Cleanup 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

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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.

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SLUDGE PROVISIONS

The permittee is authorized to dispose of sludge only at a Texas Commission on Environmental Quality (TCEQ) authorized land application site or co-disposal landfill. **The disposal of sludge 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 by the TCEQ. This provision does not authorize Distribution and Marketing of sludge. This provision does not authorize land application of Class A Sludge. This provision does not authorize the permittee to land apply sludge on property owned, leased or under the direct control of the permittee.**

SECTION I. REQUIREMENTS APPLYING TO ALL SEWAGE SLUDGE LAND APPLICATION

A. General Requirements

1. The permittee shall handle and dispose of sewage sludge in accordance with 30 TAC Chapter 312 and all other applicable state and federal regulations in a manner which protects public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants which may be present in the sludge.
2. In all cases, if the person (permit holder) who prepares the sewage sludge supplies the sewage sludge to another person for land application use or to the owner or lease holder of the land, the permit holder shall provide necessary information to the parties who receive the sludge to assure compliance with these regulations.
3. The 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 disposal practice.

B. Testing Requirements

1. Sewage sludge shall be tested once during the term of this permit in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I [Toxicity Characteristic Leaching Procedure (TCLP)] or other method, which receives the prior approval of the TCEQ for the contaminants listed in Table 1 of 40 CFR Section 261.24. Sewage sludge 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 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 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 Remediation Support Division and the Regional Director (MC Region 11) 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:

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Director, Permitting and Remediation 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 Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year.

2. Sewage sludge shall not be applied to the land if the concentration of the pollutants exceed the pollutant concentration criteria in Table 1. The frequency of testing for pollutants in Table 1 is found in Section I.C.

TABLE 1

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

* Dry weight basis

3. Pathogen Control

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

- a. Six alternatives are available to demonstrate compliance with Class A sewage sludge. The first 4 options require either the density of fecal coliform in the sewage sludge be less than 1000 Most Probable Number (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. Below are the additional requirements necessary to meet the definition of a Class A sludge.

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 Section 312.82(a)(2)(A) for specific information.

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.

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The temperature of the sewage sludge shall be above 52 degrees 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 percent.

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 Section 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 Section 312.82(a)(2)(C)(iv-vi) for specific information.

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.

Alternative 5 (PFRP) - Sewage sludge that is used or disposed of shall 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.

Alternative 6 (PFRP Equivalent) - Sewage sludge that is used or disposed of shall 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. Three alternatives are available to demonstrate compliance with Class B criteria for sewage sludge.

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;

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- ii. An independent Texas Licensed Professional Engineer must make a certification to the generator of 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, the following site restrictions must be met if Class B sludge is land applied:

- i. Food crops with harvested parts that touch the sewage sludge/soil mixture and are totally above the land surface shall not be harvested for 14 months after application of sewage sludge.
- ii. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of sewage sludge when the sewage sludge remains on the land surface for 4 months or longer prior to incorporation into the soil.
- iii. Food crops with harvested parts below the surface of the land shall not be harvested for 38 months after application of sewage sludge when the sewage sludge remains 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 sewage sludge.
- v. Animals shall not be allowed to graze on the land for 30 days after application of sewage sludge.
- vi. Turf grown on land where sewage sludge is applied shall not be harvested for 1 year after application of the sewage sludge 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 sewage sludge.
- viii. Public access to land with a low potential for public exposure shall be restricted for 30 days after application of sewage sludge.
- ix. Land application of sludge shall be in accordance with the buffer zone requirements found in 30 TAC Section 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 percent.

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- 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 degrees Celsius. Volatile solids must be reduced by less than 17 percent 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 degrees Celsius. Volatile solids must be reduced by less than 15 percent 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 degrees 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 degrees Celsius and the average temperature of the sewage sludge shall be higher than 45 degrees 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 percent 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 percent 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.

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- iii. When sewage sludge that is injected below the surface of the land is Class A with respect to pathogens, the sewage sludge shall be injected below the land surface within eight hours after being discharged from the pathogen treatment process.

Alternative 10-

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

C. Monitoring Requirements

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

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

<u>Amount of sewage sludge (*) 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 sewage sludge applied to the land (dry weight basis).*

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

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

For those permittees meeting Class A 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>	<u>Cumulative Pollutant Loading Rate (pounds per acre)*</u>
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>	<u>Monthly Average Concentration (milligrams per kilogram)*</u>
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 or Class B pathogen reduction requirements as defined above in Section I.B.3.

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C. Management Practices

1. Bulk sewage sludge shall not be applied to agricultural land, forest, a public contact site, or a reclamation site that is flooded, frozen, or snow-covered so that the bulk sewage sludge enters a wetland or other waters in the State.
2. Bulk sewage sludge not meeting Class A requirements shall be land applied in a manner which complies with the Management Requirements in accordance with 30 TAC Section 312.44.
3. Bulk sewage sludge 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 sewage sludge sold or given away. The information sheet shall contain the following information:
 - a. The name and address of the person who prepared the sewage sludge that is sold or given away in a bag or other container for application to the land.
 - b. A statement that application of the sewage sludge 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 sewage sludge 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 sewage sludge is applied to land in a State other than Texas, written notice shall be provided prior to the initial land application to the permitting authority for the State in which the bulk sewage sludge is 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 sewage sludge 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 sewage sludge.
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 sewage sludge disposal practice.

E. Record keeping Requirements

The sludge 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 sewage sludge 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

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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 Section 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 B sludges, 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 Section 312.82(a) or (b) and the vector attraction reduction requirements in 30 TAC Section 312.83(b) have been met for each site on which bulk sewage sludge is 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 sewage sludge or a sewage sludge 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 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 Section 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 Section 312.47(a)(4)(A)(ii) or 30 TAC Section 312.47(a)(5)(A)(ii), as applicable, and to the permittee's specific sludge treatment activities.
- b. The location, by street address, and specific latitude and longitude, of each site on which sludge is applied.
- c. The number of acres in each site on which bulk sludge is applied.
- d. The date and time sludge is applied to each site.

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- 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 Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30 of each year the following information:

1. Results of tests performed for pollutants found in either Table 2 or 3 as appropriate for the permittee's land application practices.
2. The frequency of monitoring listed in Section I.C. which applies to the permittee.
3. Toxicity Characteristic Leaching Procedure (TCLP) results.
4. Identity of hauler(s) and TCEQ transporter number.
5. PCB concentration in sludge in mg/kg.
6. Date(s) of disposal.
7. Owner of disposal site(s).
8. Texas Commission on Environmental Quality registration number, if applicable.
9. Amount of sludge disposal dry weight (lbs/acre) at each disposal site.
10. The concentration (mg/kg) in the sludge of each pollutant listed in Table 1 (defined as a monthly average) as well as the applicable pollutant concentration criteria (mg/kg) listed in Table 3 above, or the applicable pollutant loading rate limit (lbs/acre) listed in Table 2 above if it exceeds 90% of the limit.
11. Level of pathogen reduction achieved (Class A or Class B).
12. Alternative used as listed in Section I.B.3.(a. or b.). Alternatives describe how the pathogen reduction requirements are met. If Class B sludge, include information on how site restrictions were met.
13. Vector attraction reduction alternative used as listed in Section I.B.4.
14. Annual sludge production in dry tons/year.
15. Amount of sludge land applied in dry tons/year.

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16. The certification statement listed in either 30 TAC Section 312.47(a)(4)(A)(ii) or 30 TAC Section 312.47(a)(5)(A)(ii) as applicable to the permittee's sludge treatment activities, shall be attached to the annual reporting form.
17. 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 sewage sludge is applied.
 - c. The date and time bulk sewage sludge is applied to each site.
 - d. The cumulative amount of each pollutant (i.e., pounds/acre) listed in Table 2 in the bulk sewage sludge applied to each site.
 - e. The amount of sewage sludge (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.

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

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

- E. Sewage sludge shall be tested as needed, in accordance with the requirements of 30 TAC Chapter 330.

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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 Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year the following information:

1. Toxicity Characteristic Leaching Procedure (TCLP) results.
2. Annual sludge production in dry tons/year.
3. Amount of sludge disposed in a municipal solid waste landfill in dry tons/year.
4. Amount of sludge transported interstate in dry tons/year.
5. A certification that the sewage sludge meets the requirements of 30 TAC Chapter 330 concerning the quality of the sludge disposed in a municipal solid waste landfill.
6. Identity of hauler(s) and transporter registration number.
7. Owner of disposal site(s).
8. Location of disposal site(s).
9. 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.

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

This Category C facility must be operated by a chief operator or an operator holding a Category C license or higher. The facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher. The licensed chief operator or operator holding the required level of license or higher must be available by telephone or pager seven days per week. Where shift operation of the wastewater treatment facility is necessary, each shift which does not have the on-site supervision of the licensed chief operator must be supervised by an operator in charge who is licensed not less than one level below the category for the facility.

3. The permittee shall maintain and operate the treatment facility in order to achieve optimum efficiency of treatment capability. This shall include required monitoring of effluent flow and quality as well as appropriate grounds and building maintenance.
4. Prior to construction of the Final Phase wastewater treatment facilities, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) of the Water Quality Division, a summary transmittal letter according to the requirements in 30 TAC Section 217.6(c). 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 Wastewater Treatment Systems. The permittee shall clearly show how the treatment system will meet the final permitted effluent limitations required on Page 2 of the permit.
5. The permittee shall comply with the requirements of 30 TAC Section 309.13 (a) through (d). In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC Section 309.13(e).
6. The permittee shall submit a simplified block diagram of the cross-section of the synthetic lined wastewater storage pond(s) to show that an underdrain leak detection system will be installed as required by 30 TAC 217.203 (d)(4)(A-D). The block diagram shall be submitted with the summary transmittal letter required under Other Requirement Item 4 above.

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7. Reporting requirements according to 30 TAC Sections 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.
8. The permittee is authorized to haul sludge from the wastewater treatment facility, by a licensed hauler, to the City of Austin Walnut Creek Wastewater Treatment Facility, TPDES Permit No. WQ0010543011, or the San Antonio Water System Dos Rios Wastewater Treatment Facility, TPDES Permit No. WQ0010137033 to be digested, blended, dewatered and then disposed of with the sludge from the plant accepting the sludge.

The permittee shall keep records of all sludge removed from the wastewater treatment plant site and these records shall include the following information:

- a. The volume of sludge hauled;
- b. The date(s) that sludge was hauled;
- c. The identity of haulers; and
- d. The permittee, TCEQ permit number, and location of the wastewater treatment plant to which the sludge is hauled.

These records shall be maintained on a monthly basis and shall be reported to the TCEQ Regional Office (MC Region 11) and the TCEQ Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year.

9. Holding ponds shall conform to the Texas Commission on Environmental Quality "Design Criteria for Sewerage Systems" requirements for stabilization ponds with regard to construction and levee design, and a minimum of 2 feet of freeboard shall be maintained.
10. Permanent transmission lines shall be installed from the holding pond to each tract of land to be irrigated utilizing effluent from that pond.
11. The holding pond facility and disposal area are located on the Edwards Aquifer Contributing Zone, as mapped by the TCEQ, and is subject to 30 TAC Chapter 213, Subchapter B.
12. The irrigated crops include native grass, junipers, hardwood, common bermuda or other managed cover grasses. Application rates to the irrigated land shall not exceed 2.75 acre-feet per year per acre irrigated in the Interim Phase and 2.75 acre-feet per year per acre irrigated in the Final Phase. 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 Texas Commission on Environmental Quality and shall be maintained for at least three years.
13. 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. Crops and other ground cover 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.

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14. Effluent shall not be applied for irrigation during rainfall events or when the ground is frozen or saturated.
15. 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.
16. Spray fixtures for the irrigation system shall be of such design that they cannot be operated by unauthorized personnel.
17. Irrigation with effluent shall be accomplished only when the area specified is not in use.
18. 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.
19. The permittee shall provide facilities for the protection of its wastewater treatment facilities from a 100-year flood.
20. The water well location marked in the permittee's irrigation tract shown on the USGS Shingle Hills Quadrangle Map submitted by the permittee (on file) is the location of two wells. These two wells shall have either (i) a 150-foot buffer from wastewater application or (ii) a plugging and abandoning report(s) as required by the water well drillers 16 TAC Chapter 76 rules.

The following provisions are in accordance with the changes required by the Commission Order issued on September 19, 2007 regarding TCEQ Docket No. 2006-0688-MWD; SOAH Docket No. 582-06-2596.

21. The permittee shall submit a Final Irrigation Management Plan to the TCEQ Water Quality Assessment Team (MC-150) for approval and/or modification at least 120 days before any wastewater is applied to the permitted area. The Final Irrigation Management Plan shall describe the type of irrigation system, the layout or distribution of fixed head side roll, pivot, or traveling gun and main lines of the irrigation system, the locations and coverage of each spray nozzle, wastewater dosing schedule, and a proposal to prevent freezing, rupture or averting mechanical damage to the irrigation lines and confirm the cover vegetation that will remove nutrients throughout the year. The plan shall include a weekly schedule of monitoring and inspecting the physical condition of the irrigation fields for any problems associated with surface runoff, erosion, and stressed or damaged vegetation, the results of which shall be recorded in a site log book and retained on the facility property for inspection. The plan shall indicate that corrective measures will be implemented immediately upon identification of problems related to surface erosion, stressed or damaged vegetation, or problems in maintaining an annual vegetative cover system that will use wastewater nutrients throughout the year.
22. The Applicants will confirm, through their engineer, and under the seal of the engineer, that the location of the proposed wastewater treatment facility is outside the 100-year flood plain

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shown on the Federal Emergency Management Agency, FIRM Flood Insurance Rate Map, Travis County, Texas, and Incorporated Areas, Panel 385 of 745, Map No. 48453CO385G, REVISED PRELIMINARY FEB 24, 2006.

23. Effluent shall not be applied on the following areas:

- a) A 210-foot buffer between wastewater application and the centerline of Little Barton Creek or the width of the 100-year floodplain, whichever is greater;
- b) A 50-foot buffer between wastewater application and the centerline of the two intermittent streams and valley area or the width of the 100-year flood plain, whichever is greater, except that, around the area identified on Exhibit "B" attached hereto as wetland just south of the ranch building, the buffer zone shall be 150 feet from the center of the wetland area.
- c) An outcrop of bedrock/broken rock approximately 1.9 acres in size, located at the northwest corner of the permitted tract shall be excluded from effluent application.

24. Subsequent to the initiation of land application and annually thereafter, the permittee shall obtain representative soil samples from the A, B, and C horizons of the same genetic type as far as a total depth of 30 inches. 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 then be composited by genetic horizon and soil type for analysis and reporting. The permittee shall sample and analyze soils between December and February of each year. Samples shall be taken within the same 45-day time-frame each year.

The permittee shall provide annual soil analyses of the land application area for pH [2:1 (v/v) water/soil mixture], conductivity [2:1 (v/v) water/soil mixture]; total kjeldahl nitrogen (TKN), nitrate-nitrogen, and plant-available potassium; calcium; magnesium; sulfur; and phosphorus. The plant nutrient parameters shall be analyzed on a plant available or extractable basis. Phosphorus shall be analyzed according to the Mehlich III procedure and potassium, calcium, magnesium, sodium, and sulfur may also be analyzed in the Mehlich III extract. Plant-available phosphorus, potassium, calcium, magnesium, sodium and sulfur shall be reported on a dry weight basis in mg/kg; conductivity, in mmho/cm; and pH, in standard units. Kjeldahl procedures that use methods that rely on mercury as a catalyst are not acceptable.

The permittee shall submit the results of the annual soil sample analyses with copies of the laboratory reports to the TCEQ Water Quality Assessment Team of the Water Quality Division (MC 150), TCEQ Regional Office (MC Region 11), and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division, no later than the end of July of each sampling year. If wastewater is not applied in a particular year, the permittee shall notify the same TCEQ offices and indicate that wastewater has not been applied on the approved land disposal site during that year.

25. Vegetation shall be established and well maintained throughout all months of the year. The permittee shall plant a mix of tall and mid grasses, primarily but not wholly consisting of grasses and forbs that are native to the area, including by way of example, Big bluestem, switch grass, Indian grass, little bluestem, side oats gamma, Green Sprangletop, Texas winter grass and eastern gamma grass in the applicable areas to maintain an annual

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vegetative cover. Grasses will be cut at least annually. Grass cuttings shall be removed from the application areas. Any areas that will receive wastewater and contain surface rock fragments greater than 50% shall be irrigated in a manner that will prevent surface runoff from the permitted area.

26. The permittee shall submit a Wastewater Treatment Plant (WWTP) Emergency Plan with the "Plans and Specifications for the WWTP" with the summary transmittal letter required under Other Requirement Item 4 above. The Emergency Plan shall address how the facility will meet the 30TAC 309 Subchapter B 309.12, Site Selection to Protect Groundwater or Surface Water, (3) separation distance from the facility to points of discharge to surface water. The Applicants will provide a spill containment system for the wastewater treatment plant that will contain at least one day's volume of wastewater flows (490,000 gallons), spill containment devices for the lift stations that are in the Bee Creek Watershed, a backup power generator integrated into the electrical control system of the wastewater treatment plant, and backup power generators integrated into the electrical control systems of the lift stations in the Bee Creek Watershed, and will equip the electric control systems of the wastewater treatment plant and the lift stations in the Bee Creek Watershed with autodial equipment and with visual and auditory alarm systems that will activate in the event of a power outage.

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Lazy Nine Municipal Utility District No. 1A and WS-COS Development, LLC
TCEQ Permit No. WQ0014629001



SCALE: 1" = 1,400'

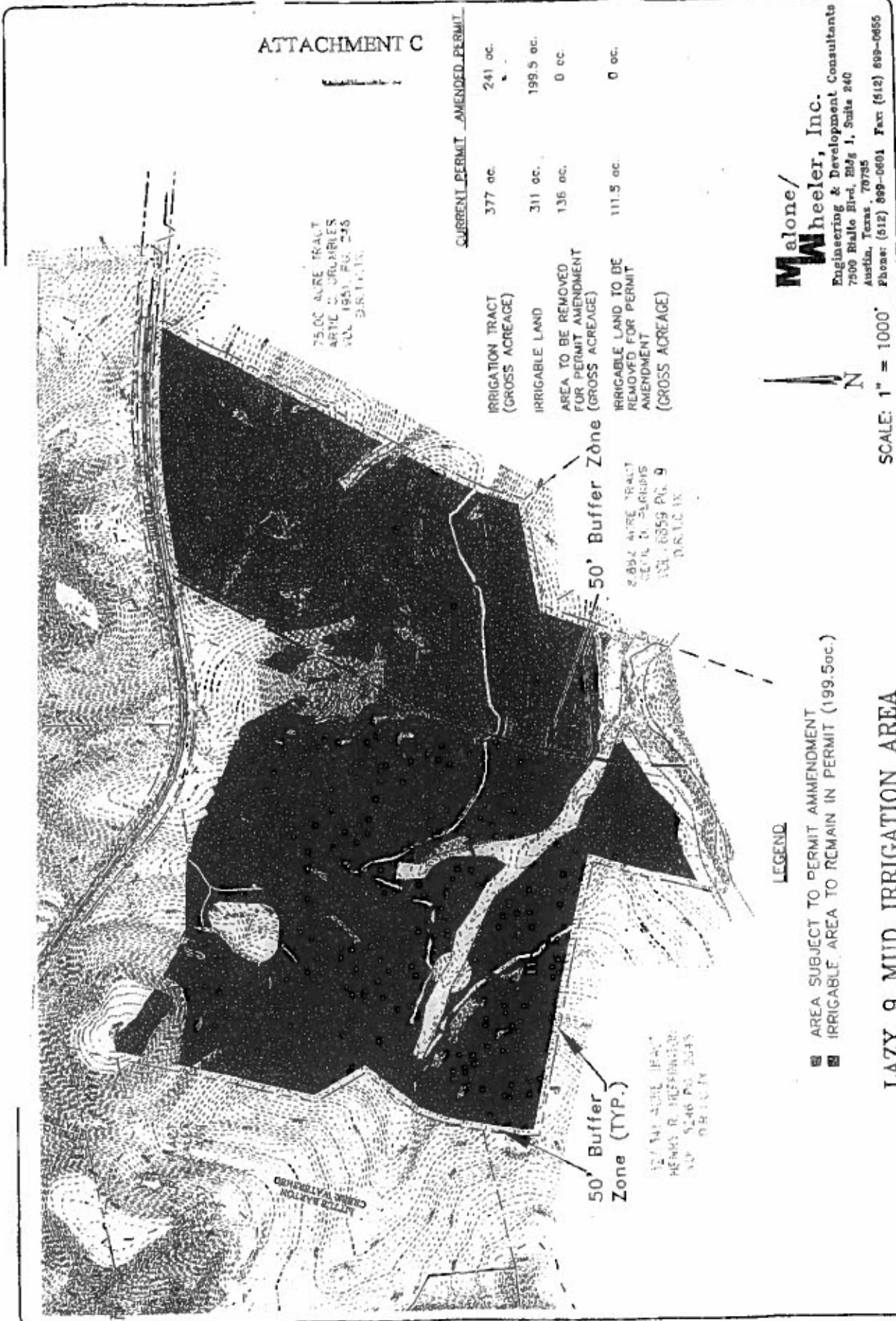
LEGEND:



ATTACHMENT A

SITE DRAWING
WWTP & AREA SERVED

Lazy Nine Municipal Utility District No. 1A and WS-COS Development, LLC
TCEQ Permit No. WQ0014629001



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04/151

SOAH DOCKET NO. 582-06-2596
TCEQ DOCKET NO. 2006-0688-MWD

APPLICATION OF LAZY NINE	§	BEFORE THE STATE OFFICE
MUNICIPAL UTILITY DISTRICT AND	§	OF
FOREST CITY SWEETWATER	§	ADMINISTRATIVE HEARINGS
LIMITED PARTNERSHIP FOR	§	
PROPOSED PERMIT WQ0014629001	§	

SETTLEMENT AGREEMENT

This Agreement is by and between Lazy Nine Municipal Utility District, Forest City Sweetwater Limited Partnership, hereinafter called "Applicants," the City of Austin, Texas hereinafter called the "City," and the Lower Colorado River Authority, hereafter called "LCRA."

RECITALS

A. Applicants applied to the Texas Commission on Environmental Quality ("TCEQ") for a Texas land application permit. The TCEQ issued a draft permit, with cover letter from L'Oreal W. Stepney, Director, Water Quality Division, addressed to Mike Willatt, a copy of which letter and draft permit are attached hereto as Exhibit "A."

B. In the above-captioned Cause, the City, the LCRA and the Protestants are contesting the terms of the draft permit.

C. The parties have now agreed to issuance of the proposed draft permit, with certain changes more particularly set forth herein.

AGREEMENT

NOW THEREFORE, for and in consideration of the premises and the covenants and promises contained herein, the parties agree as follows:

ARTICLE I
TERMS OF DRAFT PERMIT

The parties agree to issuance of the draft permit, with certain changes as follows:

1. Special Provision 16. The first sentence of Special Provision 16 shall be revised to read as follows: "The permittee shall submit a **Final Irrigation Management Plan** to the TCEQ Water Quality Assessment Team (MC-150) for approval and/or modification at least 120 days before any wastewater is applied to the permitted area."

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2. Special Provision 17. Special Provision 17 will be deleted from the permit.

3. Special Provision 18. The last sentence of Special Provision 18 shall be revised to read as follows:

The Applicants will provide a spill containment system for the wastewater treatment plant that will contain at least one day's volume of wastewater flows (700,000 gallons), spill containment devices for the lift stations that are in the Bee Creek Watershed, a backup power generator integrated into the electrical control system of the wastewater treatment plant, and backup power generators integrated into the electrical control systems of the lift stations in the Bee Creek Watershed, and will equip the electric control systems of the wastewater treatment plant and the lift stations in the Bee Creek Watershed with autodial equipment and with visual and auditory alarm systems that will activate in the event of a power outage.

4. Special Provision 20. Special Provision 20 shall be revised to read as follows:

Vegetation shall be established and well maintained throughout all months of the year. The permittee shall plant a mix of tall and mid grasses, primarily but not wholly consisting of grasses and forbs that are native to the area, including by way of example, Big bluestem, switch grass, Indian grass, little bluestem, side oats gamma, Green Sprangletop, Texas winter grass and eastern gamma grass in the applicable areas to maintain an annual vegetative cover. Grasses will be cut at least annually. Grass cuttings shall be removed from the application areas. Any areas that will receive wastewater and contain surface rock fragments greater than 50% shall be irrigated in a manner that will prevent surface runoff from the permitted area.

5. Special Provision 22. Effluent shall not be applied on the following areas:

- (a) A 210-foot buffer between wastewater application and the centerline of Little Barton Creek or the width of the 100-year flood plain, whichever is greater;
- (b) A 50-foot buffer between wastewater application and the centerline of the two intermittent streams and valley area or the width of the 100-year flood plain, whichever is greater, except that, around the area identified on Exhibit "B" attached hereto as wetland just south of the ranch building, the buffer zone shall be 150 feet from the center of the wetland area.
- (c) An outcrop of bedrock/broken rock approximately 1.9 acres in size, located at the northwest corner of the permitted tract shall be excluded from effluent application.

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ARTICLE II
FLOOD PLAIN ASSURANCES

The Applicants will confirm, through their engineer, and under the seal of the engineer, that the location of the proposed wastewater treatment facility is outside the 100-year flood plain shown on the Federal Emergency Management Agency, FIRM Flood Insurance Rate Map, Travis County, Texas and Incorporated Arcas, Panel 385 of 745, Map No. 48453CO385G, Map Revised PRELIMINARY FEB 24, 2006.

ARTICLE III
COMPLIANCE WITH PERMIT

The Applicants agree to comply with the terms of the Permit issued by the TCEQ in TCEQ DOCKET NO. 2006-0688-MWD.

ARTICLE IV
AGREED MOTION TO ALJ

The parties agree that they will file an agreed motion substantially in the form of that attached hereto as Exhibit "C" attached hereto.

Signed and agreed to on the dates shown below.

LAZY NINE MUNICIPAL UTILITY DISTRICT
AND FOREST CITY SWEETWATER LIMITED
PARTNERSHIP, BY AND THROUGH THEIR
ATTORNEY, MIKE WILLATT

By: Mike Willatt
Mike Willatt

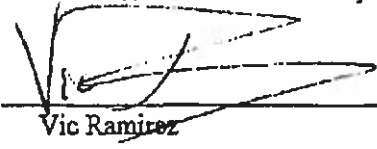
CITY OF AUSTIN, TEXAS, BY AND THROUGH
ITS ATTORNEY, HOLLY NOELKE

By: Signed on her behalf
Holly Noelke
by Mike Willatt, as
evidenced by the
-3- attached excerpt of
an e-mail

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LOWER COLORADO RIVER AUTHORITY, BY
AND THROUGH ITS ATTORNEY, VIC RAMIREZ

By:


Vic Ramirez

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Willatt & Flickinger

From: "Noelke, Holly" <Holly.Noelke@ci.austin.tx.us>
 To: <mwillatt@wfaustin.com>; <Vic.Ramirez@lcra.org>; <stuarthenry@wildblue.net>
 Cc: "Cotton, Mitzi" <Mitzi.Cotton@ci.austin.tx.us>; "Noelke, Holly" <Holly.Noelke@ci.austin.tx.us>
 Sent: Friday, December 08, 2006 10:25 AM
 Attach: settlement-agreement.pdf
 Subject: FW: SETTLEMENT

Mr. Willatt,

Please tell the ALJ that you have my authorization to sign my name on the attached settlement agreement. I am using an out of office computer which is acting up and I am not able to transmit a signed version. I will be at the hearing on Monday morning and will respond to any questions at that time. In addition at that time we can discuss the admission of testimony and the need for examination of the city witnesses.

Thank you. I can be reached by cell phone today at 799-8899.

Holly Noelke

Edmund Harwood White, Chairman
L. L. "Poppy" Mangus, Commissioner
Larry E. Seward, Commissioner
Glenn Strubbe, Executive Director

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

Mr. Mike Willatt
Willatt & Flickinger
2001 North Lamar Boulevard
Austin, Texas 78705

Re: Willatt & Flickinger, Permit No. WQ0014629001
(RN 104703186, CN 602731572 & 603001413)

Dear Mr. Willatt:

Enclosed is a copy of the above referenced permit for a wastewater treatment facility issued on behalf of the Executive Director pursuant to Chapter 26 of the Texas Water Code.

Self-reporting or Discharge Monitoring Forms and instructions will be forwarded to you from the Water Quality Management Information Systems Team so that you may comply with monitoring requirements. For existing facilities, revised forms will be forwarded if monitoring requirements have changed.

Enclosed is a "Notification of Completion of Wastewater Treatment Facilities" form. Use this form when the facility begins to operate or goes into a new phase. The form notifies the agency when the proposed facility is completed or when it is placed in operation. This notification complies with the special provision incorporated into the permit.

Should you have any questions, please contact Mr. Julian D. Centeno, Jr. of the Texas Commission on Environmental Quality's Wastewater Permitting Section at (512) 239-4671 or if by correspondence, include MC 148 in the letterhead address below.

Sincerely,

L'Oréal W. Stepney, Director
Water Quality Division

LWS/JC/ms

Enclosures

ccs: TCEQ, Region 11
Mr. James Miertschin, P.E., Ph.D., James Miertschin & Associates, P.O. Box 162035,
Austin, Texas 78716

P.O. Box 13087 • Austin, Texas 78713-2087 • 512/239-1000 • Internet address: www.tceq.state.tx.us

EXHIBIT "A"
TO
SETTLEMENT AGREEMENT

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C4/157
PERMIT NO. W00014629001

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

Permittee:

Lazy Nine Municipal Utility District and Forest City Sweetwater Limited Partnership

c/o Willatt & Flickinger
2001 North Lamar Boulevard
Austin, Texas 78705

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

General Description and Location of Waste Disposal System:

Description: The Lazy Nine MUD Wastewater Treatment Facilities will consist of an activated sludge process plant using the single stage nitrification mode in all phases. Treatment units will include bar screen, aeration basin, final clarifier, aerobic sludge digester, and chlorine contact chamber. The facility will include one storage pond with a total surface area of 2.5 acres and total capacity of 64.5 acre-feet for storage of treated effluent prior to irrigation in the Interim I Phase. The facility will include two storage ponds with a total surface area of 5 acres and total capacity of 129 acre-feet for storage of treated effluent prior to irrigation in the Interim II and Final Phases. The permittee is authorized to dispose of treated domestic wastewater effluent at a daily average flow not to exceed 0.12 million gallons per day (MGD) via surface irrigation of 73.3 acres of non-public access rangeland in the Interim I Phase, 0.44 MGD via surface irrigation of 179 acres of non-public access rangeland in the Interim II Phase, and 0.70 MGD via surface irrigation of 285 acres of non-public access rangeland in the Final Phase. Application rates to the irrigated land shall not exceed 2.75 acre-feet per year per acre irrigated. The irrigated crops include native grass, junipers, hardwood, common bermuda or other managed cover grasses.

Location: The wastewater treatment facilities will be located approximately 6.2 miles west of the Village of Bee Cave near State Highway 71 in Travis County, Texas. The disposal site will be located on the south side of State Highway 71, approximately 3 miles west of the Village of Bee Cave in Travis County, Texas. (See Attachment A.)

Drainage Area: The disposal site is located in the Little Barton Creek drainage basin in Segment No. 1430 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 September 1, 2011.

ISSUED DATE:

For the Commission

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EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

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

A. Effluent Limitations

Character: Treated Domestic Sewage Effluent

Volume: Daily Average Flow - 0.18 MGD from the treatment system (Interim I Phase)
Daily Average Flow - 0.44 MGD from the treatment system (Interim II Phase)
Daily Average Flow - 0.70 MGD from the treatment system (Final Phase)

Quality: The following effluent limitations shall be required:

<u>Parameter</u>	<u>Effluent Concentrations</u> (Not to Exceed)			
	<u>Daily Average</u> mg/l	<u>7-Day Average</u> mg/l	<u>Daily Maximum</u> mg/l	<u>Single Grab</u> mg/l
Biochemical Oxygen Demand (5-day)	10	N/A	N/A	35
Total Suspended Solids	15	N/A	N/A	60

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

The effluent shall be chlorinated in a chlorine contact chamber to a residual of 1.0 mg/l with a minimum detention time of 20 minutes.

B. Monitoring Requirements:

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

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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.
- c. 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.

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TCEQ Permit No. WQ0014629001

Lazy Nine Municipal Utility District
and Forest City Sweetwater Limited Partnership

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. 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

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.

3. Records of Results

- a. Monitoring samples and measurements shall be taken at times and in a manner so as to be representative of the monitored activity.
- b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use 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.

Lazy Nine Municipal Utility District
and Forest City Sweetwater Limited Partnership

5. Calibration of Instruments

All automatic flow measuring or recording devices and all analyzing 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 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. 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 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 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 Enforcement Division (MC 224) as promptly as possible.

e. 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 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 I and II (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 aminomyl;
- iii. Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
- iv. The level established by the TCEQ.

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TCEQ Permit No. WQ0014629001

Lazy Nine Municipal Utility District
and Forest City Sweetwater Limited Partnership

- b. That any activity has occurred or will occur which would result in any discharge, on a nonpoint 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":
- Five hundred micrograms per liter (500 µg/L)
 - One milligram per liter (1 mg/L) for ammonia
 - Ten (10) times the maximum concentration value reported for that pollutant in the permit application, or
 - 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

- 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.
- 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:
 - Violation of any terms or conditions of this permit;
 - Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
 - A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- 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

- 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.
- 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.
- 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.
- 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.
- 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.
- 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.

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- 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 in 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 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

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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

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Commission, the permittee shall comply with all applicable provisions of 30 TAC Chapter 312 concerning sewage sludge 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 Permit 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 Land Application 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 149) 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.

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- 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 Registration, Review, and Reporting 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 silo, injection well, container, drum, solid 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:
 - 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.

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SLUDGE PROVISIONS

The permittee is authorized to dispose of sludge only at a Texas Commission on Environmental Quality (TCEQ) authorized land application site or co-disposal landfill. The disposal of sludge 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 by the TCEQ. This provision does not authorize Distribution and Marketing of sludge. This provision does not authorize land application of Class A Sludge. This provision does not authorize the permittee to land apply sludge on property owned, leased or under the direct control of the permittee.

SECTION I. REQUIREMENTS APPLYING TO ALL SEWAGE SLUDGE LAND APPLICATION

A. General Requirements

1. The permittee shall handle and dispose of sewage sludge in accordance with 30 TAC Chapter 312 and all other applicable state and federal regulations in a manner which protects public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants which may be present in the sludge.
2. In all cases, if the person (permit holder) who prepares the sewage sludge supplies the sewage sludge to another person for land application use or to the owner or lease holder of the land, the permit holder shall provide necessary information to the parties who receive the sludge to assure compliance with these regulations.
3. The permittee shall give 180 days prior notice to the Executive Director in care of the Wastewater Permitting Section (MC 14E) of the Water Quality Division of any change planned in the sewage sludge disposal practice.

B. Testing Requirements

1. Sewage sludge shall be tested once during the term of this permit in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I (Toxicity Characteristic Leaching Procedure (TCLP)) or other method, which receives the prior approval of the TCEQ for the contaminants listed in Table 1 of 40 CFR Section 261.24. Sewage sludge 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 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 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 Registration, Review, and Reporting Division and the Regional Director (MC Region 11) 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, Registration, Review, and Reporting 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 Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.

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2. Sewage sludge shall not be applied to the land if the concentration of the pollutants exceed the pollutant concentration criteria in Table 1. The frequency of testing for pollutants in Table 1 is found in Section 1.C.

TABLE 1

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

* Dry weight basis

3. Pathogen Control

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

- a. Six alternatives are available to demonstrate compliance with Class A sewage sludge. The first 4 options require either the density of fecal coliform in the sewage sludge be less than 1000 Most Probable Number (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. Below are the additional requirements necessary to meet the definition of a Class A sludge.

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 Section 312.82(a)(2)(A) for specific information.

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 degrees 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 percent.

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 Section 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 Section 312.82(a)(2)(C)(iv-vi) for specific information.

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.

Alternative 5 (PFRP) - Sewage sludge that is used or disposed of shall 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.

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

- h. Three alternatives are available to demonstrate compliance with Class B criteria for sewage sludge

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, the following site restrictions must be met if Class B sludge is land applied:

- i. Food crops with harvested parts that touch the sewage sludge/soil mixture and are totally above the land surface shall not be harvested for 14 months after application of sewage sludge.
- ii. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of sewage sludge when the sewage sludge remains on the land surface for 4 months or longer prior to incorporation into the soil.
- iii. Food crops with harvested parts below the surface of the land shall not be harvested for 36 months after application of sewage sludge when the sewage sludge remains 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 sewage sludge.
- v. Animals shall not be allowed to graze on the land for 30 days after application of sewage sludge.
- vi. Turf grown on land where sewage sludge is applied shall not be harvested for 1 year after application of the sewage sludge 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 sewage sludge.
- viii. Public access to land with a low potential for public exposure shall be restricted for 30 days after application of sewage sludge.
- ix. Land application of sludge shall be in accordance with the buffer zone requirements found in 30 TAC Section 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 percent.

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 degrees Celsius. Volatile solids must be reduced by less than 17 percent 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 a percent solids of two percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20 degrees Celsius. Volatile solids must be reduced by less than 15 percent 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 degrees 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 degrees Celsius and the average temperature of the sewage sludge shall be higher than 45 degrees Celsius.

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

C. Monitoring Requirements

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

PCBs - once during the term of this permit

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

Amount of sewage sludge (*) metric tons per 365-day period	Monitoring Frequency
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 sewage sludge applied to the land (dry weight basis).

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

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

For those permittees meeting Class A 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>	<u>Cumulative Pollutant Loading Rate</u>	
	<u>(pounds per acre)</u>	
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>	<u>Monthly Average Concentration</u>	
	<u>(milligrams per kilogram)*</u>	
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 or Class B pathogen reduction requirements as defined above in Section I.B.3.

C. Management Practices

1. Bulk sewage sludge shall not be applied to agricultural land, forest, a public contact site, or a reclamation site that is flooded, frozen, or snow-covered so that the bulk sewage sludge enters a wetland or other waters in the State.
2. Bulk sewage sludge not meeting Class A requirements shall be land applied in a manner which complies with the Management Requirements in accordance with 30 TAC Section 312.44.
3. Bulk sewage sludge shall be applied at or below the agronomic rate of the cover crop.

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4. An information sheet shall be provided to the person who receives bulk sewage sludge sold or given away. The information sheet shall contain the following information:
 - a. The name and address of the person who prepared the sewage sludge that is sold or given away in a bag or other container for application to the land.
 - b. A statement that application of the sewage sludge to the land is prohibited except in accordance with the instructions on the label or information sheet.
 - c. The annual whole sludge application rate for the sewage sludge application rate for the sewage sludge 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 sewage sludge is applied to land in a State other than Texas, written notice shall be provided prior to the initial land application to the permitting authority for the State in which the bulk sewage sludge is 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 sewage sludge 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 sewage sludge.
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 sewage sludge disposal practice.

E. Record keeping Requirements

The sludge 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 sewage sludge 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 applicator of the requirements for record keeping found in 30 TAC Section 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 B sludges, 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 Section 312.62(a) or (b) and the vector attraction reduction requirements in 30 TAC Section 312.63(b) have been met for each site on which bulk sewage sludge is 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.

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The person who applies bulk sewage sludge or a sewage sludge 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 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 Section 312.47 for persons who land apply.

1. 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 Section 312.47(a)(4)(A)(ii) or 30 TAC Section 312.47(a)(5)(A)(ii) as applicable, and to the permittee's specific sludge treatment activities.
2. The location, by street address, and specific latitude and longitude, of each site on which sludge is applied.
3. The number of acres in each site on which bulk sludge is applied.
4. The date and time sludge is applied to each site.
5. The cumulative amount of each pollutant in pounds/acre listed in Table 2 applied to each site.
6. 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 Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 1 of each year the following information:

1. Results of tests performed for pollutants found in either Table 2 or 3 as appropriate for the permittee's land application practices.
2. The frequency of monitoring listed in Section I.C. which applies to the permittee.
3. Toxicity Characteristic Leaching Procedure (TCLP) results.
4. Identity of hauler(s) and TCEQ transporter number.
5. PCB concentration in sludge in mg/kg.
6. Date(s) of disposal.
7. Owner of disposal site(s).
8. Texas Commission on Environmental Quality registration number, if applicable.
9. Amount of sludge disposal dry weight (lbs/acre) at each disposal site.
10. The concentration (mg/kg) in the sludge of each pollutant listed in Table 1 (defined as a monthly average) as well as the applicable pollutant concentration criteria (mg/kg) listed in Table 3 above, or the applicable pollutant loading rate limit (lbs/acre) listed in Table 2 above if it exceeds 90% of the limit.
11. Level of pathogen reduction achieved (Class A or Class B).
12. Alternative used as listed in Section I.B.3 (a or b). Alternatives describe how the pathogen reduction requirements are met. If Class B sludge, include information on how site restrictions were met.
13. Vector attraction reduction alternative used as listed in Section I.B.4.
14. Annual sludge production in dry tons/year.

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15. Amount of sludge land applied in dry tons/year.
16. The certification statement listed in either 30 TAC Section 312.47(a)(4)(A)(iii) or 30 TAC Section 312.47(a)(5)(A)(iii) as applicable to the permittee's sludge treatment activities, shall be attached to the annual reporting form.
17. 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 sewage sludge is applied.
 - c. The date and time bulk sewage sludge is applied to each site.
 - d. The cumulative amount of each pollutant (i.e., pounds/acre) listed in Table 2 in the bulk sewage sludge applied to each site.
 - e. The amount of sewage sludge (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.

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

A. The permittee shall handle and dispose of sewage sludge in accordance with 30 TAC Chapter 330 and all other applicable state and federal regulations to protect public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that may be present. The permittee shall ensure that the sewage sludge meets the requirements in 30 TAC Chapter 330 concerning the quality of the sludge disposed in a municipal solid waste landfill.

B. If the permittee generates sewage sludge and supplies that sewage sludge 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 disposal practice.

D. Sewage sludge shall be tested once during the term of this permit in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix 1 (Toxicity Characteristic Leaching Procedure) or other method, which receives the prior approval of the TCEQ for contaminants listed in Table 1 of 40 CFR Section 261.24. Sewage sludge 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 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 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 Registration, Review, and Reporting 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, Registration, Review, and Reporting 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 Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.

E. Sewage sludge 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.

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G Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MDC Region 11) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year the following information:

1. Toxicity Characteristic Leaching Procedure (TCLP) results
2. Annual sludge production in dry tons/year.
3. Amount of sludge disposed in a municipal solid waste landfill in dry tons/year.
4. Amount of sludge transported interstate in dry tons/year.
5. A certification that the sewage sludge meets the requirements of 30 TAC Chapter 330 concerning the quality of the sludge disposed in a municipal solid waste landfill.
6. Identity of hauler(s) and transporter registration number.
7. Owner of disposal site(s).
8. Location of disposal site(s).
9. 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.

SPECIAL PROVISIONS:

1. This permit is granted subject to the policy of the Commission to encourage the development of areawide 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 areawide 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 areawide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.

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

This Category C facility must be operated by a chief operator or an operator holding a Category C license or higher. The facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher. The licensed chief operator or operator holding the required level of license or higher must be available by telephone or pager seven days per week. Where shift operation of the wastewater treatment facility is necessary, each shift which does not have the on-site supervision of the licensed chief operator must be supervised by an operator in charge who is licensed not less than one level below the category for the facility.

3. The permittee shall maintain and operate the treatment facility in order to achieve optimum efficiency of treatment capability. This shall include required monitoring of effluent flow and quality as well as appropriate grounds and building maintenance.
4. Prior to construction of the Interim I, II and Final Phase treatment facilities, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) a summary transmittal letter in accordance with the requirements in 30 TAC Section 317.1. If requested by the Wastewater Permitting Section, the permittee shall submit plans, specifications and a final engineering design report which comply with 30 TAC Chapter 317, Design Criteria for Sewerage Systems. The permittee shall clearly show how the treatment system will meet the permitted effluent limitations required on Page 2 of the permit.
5. The permittee shall comply with the requirements of 30 TAC Section 309.13 (a) through (d). In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC Section 309.13(e).
6. Monitoring requirements contained in the permit are suspended from the effective date of the permit until plant startup. The permittee shall provide written notice to the TCEQ Regional Office (MC Region 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.

7. Application rates to the irrigated land shall not exceed 2.75 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 Texas Commission on Environmental Quality and shall be maintained for at least three years.
8. 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. Cover crops and other ground cover shall be established and well maintained in the irrigation area throughout the year for wastewater and nutrient uptake by the crop and to prevent pathways for wastewater surfacing. Tailwater control facilities shall be provided as necessary to prevent the discharge of any wastewater from the irrigated land.
9. Wastewater shall not be applied for irrigation during rainfall events or when the ground is frozen or saturated.
10. 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.
11. Spray fixtures for the irrigation system shall be of such design that they cannot be operated by unauthorized personnel.
12. Irrigation with effluent shall be accomplished only when the area specified is not in use.
13. 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.
14. The permittee shall provide facilities for the protection of its wastewater treatment facilities from a 100-year flood.
15. The water well location marked in the permittee's irrigation tract shown on the USGS Shingle Hills Quadrangle Map submitted by the permittee (on file) is the location of two wells. These two wells shall have either (i) a 150-foot buffer from wastewater application or (ii) a plugging and abandoning report(s) as required by the water well drillers 16 TAC Chapter 76 rules.
16. The permittee shall submit a Final Irrigation Management Plan to the TCEQ Water Quality Assessment Team (MC-150) for approval and/or modification before any wastewater is applied to the permitted area. The Final Irrigation Management Plan shall describe the type of irrigation system, the layout or distribution of fixed head side roll, pivot, or traveling gun and main lines of the irrigation system, the locations and coverage of each spray nozzle, wastewater dosing schedule, and a proposal to prevent freezing, rupture or averting mechanical damage to the irrigation lines and confirm the cover vegetation that will remove nutrients throughout the year. The plan shall include a weekly schedule of monitoring and inspecting the physical condition of the irrigation fields for any problems associated with surface runoff, erosion, and stressed or damaged vegetation, the results of which shall be recorded in a site log book and retained on the facility property for inspection. The plan shall indicate that corrective measures will be implemented immediately upon identification of problems related to surface erosion, stressed or damaged vegetation, or problems in maintaining an annual vegetative cover system that will use wastewater nutrients throughout the year.

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17. Should the permittee develop athletic fields using wastewater, the permittee shall revise the permit, in a major amendment application, to indicate irrigation on public access land and include the athletic fields as part of the area to be irrigated with the effluent. The permit application shall include a revised Final Irrigation Management Plan. The plan shall outline the location of the athletic fields, irrigation delivery method (spray or subsurface), the layout of the main lines of the irrigation system, the locations and coverage of each spray nozzle, wastewater dosing schedule, a proposal to prevent freezing, rupture or averting mechanical damage to the irrigation lines, and confirm the cover vegetation that will remove nutrients throughout the year. The plan shall include a weekly schedule of monitoring and inspecting the physical condition of the irrigation fields for any problems associated with surface runoff, erosion, and stressed or damaged vegetation, the results of which shall be recorded in a site log book and retained on the facility property for inspection. The plan shall indicate that corrective measures will be implemented immediately upon identification of problems related to surface erosion, stressed or damaged vegetation, or problems in maintaining an annual vegetative cover system that will use wastewater nutrients throughout the year.
18. The permittee shall submit a Wastewater Treatment Plant (WWTP) Emergency Plan with the "Plans and Specifications for the WWTP" with the summary transmittal letter required under Other Requirement Item 4 above. The Emergency Plan shall address how the facility will meet the 30TAC 309 Subchapter B 309.12, Site Selection to Protect Groundwater or Surface Water, (3) separation distance from the facility to points of discharge to surface water. The permittee shall consider the case of emergency storage of effluent and/or containment structures around the treatment plant, emergency power generators, or lift stations in the case of emergency shut down of the plant or failure of the effluent storage tanks.
19. The permittee shall submit a simplified block diagram of the cross-section of the synthetic lined wastewater storage pond(s) to show that an underdrain leak detection system will be installed as required by 30 TAC 317.4 (j)(2)(B). The block diagram shall be submitted with the summary transmittal letter required under Other Requirement Item 4 above.
20. Vegetation shall be established and well maintained throughout all months of the year. The permittee shall establish and maintain Common Bermuda grass or other managed cover grasses in the application areas and over-seed with rye grass to maintain an annual vegetative cover. Common Bermuda grass will be cut to maintain a maximum grass height of 10 inches and a minimum grass height of 4 inches. Grass cuttings shall be removed from the application areas. Any areas that will receive wastewater and contain surface rock fragments greater than 50% shall be amended with fill soil to support and maintain vegetation cover throughout the year.
21. Subsequent to initiation of land application and annually thereafter, the permittee shall obtain representative soil samples from the root zones of the land application area. 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 to 18 inches, and 18 to 30 inches below ground level. The permittee shall sample and analyze soils in December to February of each year. Samples shall be taken within the same 45-day time-frame each year.

The permittee shall provide annual soil analyses of the land application area for pH [2:1 (v/v) water/soil mixture], conductivity [2:1 (v/v) water/soil mixture], total kjeldahl nitrogen (TKN), nitrate-nitrogen, and plant-available potassium; calcium; magnesium; sulfur; and phosphorus. The plant nutrient parameters shall be analyzed on a plant available or extractable basis. Phosphorus shall be analyzed according to the Mehlich III procedure and potassium, calcium, magnesium, sodium, and sulfur may also be analyzed in the Mehlich III extract. Plant-available phosphorus, potassium, calcium, magnesium, sodium and sulfur shall be reported on

use methods that rely on mercury as a catalyst are not acceptable.

The permittee shall submit the results of the annual soil sample analyses with copies of the laboratory reports to the TCEQ Water Quality Assessment Team of the Water Quality Division (MC 150), TCEQ Regional Office (MC Region 11) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division, no later than the end of July of each sampling year. If wastewater is not applied in a particular year, the permittee shall notify the same TCEQ offices and indicate that wastewater has not been applied on the approved land disposal site during that year.

22. Effluent shall not be applied on the following areas:

- a) A 200-foot buffer between wastewater application and the centerline of Little Barton Creek or the width of the 100-year floodplain, whichever is greater;
- b) A 50-foot buffer between wastewater application and the centerline of the two intermittent streams and valley area or the width of the 100-year floodplain, whichever is greater.

23. Reporting requirements according to 30 TAC Sections 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.

24. The permittee is authorized to haul sludge from the wastewater treatment facility, by a licensed hauler, to the City of Austin Walnut Creek Wastewater Treatment Facility, TPDES Permit No. WQ0010543011, or the San Antonio Water System Dos Rios Wastewater Treatment Facility, TPDES Permit No. WQ0010137033 to be digested, blended, dewatered and then disposed of with the sludge from the plant accepting the sludge.

The permittee shall keep records of all sludge removed from the wastewater treatment plant site and these records shall include the following information:

- a. The volume of sludge hauled;
- b. The date(s) that sludge was hauled;
- c. The identity of haulers; and
- d. The permitter, TCEQ permit number, and location of the wastewater treatment plant to which the sludge is hauled.

These records shall be maintained on a monthly basis and shall be reported to the TCEQ Regional Office (MC Region 11) and the TCEQ Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.

25. Holding ponds shall conform to the Texas Commission on Environmental Quality "Design Criteria for Sewerage Systems" requirements for stabilization ponds with regard to construction and levee design, and a minimum of 2 feet of freeboard shall be maintained.

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and Forest City Sweetwater Limited Partnership

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26. Permanent transmission lines shall be installed from the holding pond to each tract of land to be irrigated utilizing effluent from that pond.
27. The facility is located on the Edwards Aquifer Contributing Zone, as mapped by the TCEQ, and is subject to 30 TAC Chapter 213, Subchapter B.

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ATTACHMENT A

SITE DRAWING
WWTF & AREA SERVED

Lezy Nine Municipal Utility District and Forest City Sweetwater Limited Partnership
TCEQ Permit No. WQ001462901



SCALE: 1" = 1,000'

LEGEND:

EFFLUENT DISPOSAL



The Seal appearing on this document was authorized by Dr. James D. MacArthur, P.E. 43900 on November 29, 2006.

LAZY NINE M.U.D. EFFLUENT DISPOSAL AREA
ROCKY AREA MAP

JAMES MIERTSCHIN & ASSOCIATES, INC.
ENVIRONMENTAL ENGINEERING



LEGEND:

ROCK CATEGORIES:

- A. BED ROCK:**
bedrock and broken rock, extensive
- B. BROKEN ROCK:**
bedrock with intervening bedrock
- D. DISJOINTED ROCK:**
flag, nodules of loose rock at surface
- G. GRAVEL:**
gravel-sized rock fragments, very soft

NOTE:
Field-checked files based on model photo review

C4/185

SOAH DOCKET NO. 582-06-2596
TCEQ DOCKET NO. 2006-0688-MWD

APPLICATION OF LAZY NINE	§	BEFORE THE STATE OFFICE
MUNICIPAL UTILITY DISTRICT AND	§	OF
FOREST CITY SWEETWATER	§	ADMINISTRATIVE HEARINGS
LIMITED PARTNERSHIP FOR	§	
PROPOSED PERMIT WQ0014629001	§	

AGREED MOTION

TO: The Honorable Administrative Law Judge:

Come now, Lazy Nine Municipal Utility District, Forest City Sweetwater Limited Partnership, the Lower Colorado River Authority, and the City of Austin, Texas, and requests as follows:

I

All of the above-named parties have entered into a Settlement Agreement, a copy of which is attached hereto as Exhibit "A".

II

The Executive Director has issued a draft permit, a copy of which is attached hereto as Exhibit "B." All of the above-named parties request the Administrative Law Judge to issue a proposal for decision that recommends approval of the draft permit attached hereto as Exhibit "B," with the changes agreed to by the parties in Article I of the Settlement Agreement attached hereto as Exhibit "A."

Wherefore, premises considered, the parties to this Motion request that the Administrative Law Judge grant the relief requested in this Motion, and for such other orders as may be proper.

EXHIBIT "C"
TO
SETTLEMENT AGREEMENT

C4/186

Respectfully submitted,

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By: _____

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AND FOREST CITY SWEETWATER LIMITED
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ATTORNEY FOR LOWER COLORADO RIVER
AUTHORITY

C4/187

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By: _____
Holly Noelke
State Bar No. _____

ATTORNEY FOR CITY OF AUSTIN, TEXAS

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CERTIFICATE OF SERVICE

I hereby certify that on the __ day of December, 2006 a true and correct copy of the above was served on the following by the method shown:

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Austin, Texas 78767-0220
Ph: (512) 473-3530
Fx: (512) 473-4010

SIGNED this __ day of December, 2006.

By: _____
Mike Willatt