

City of Hackberry

TPDES Permit No. WQ0013434001

modified or revoked and reissued to conform to the toxic effluent standard or prohibition. The permittee shall comply with effluent standards or prohibitions established under CWA § 307(a) for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

5. Permit Transfer

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

6. Relationship to Hazardous Waste Activities

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

7. Relationship to Water Rights

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

8. Property Rights

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

9. Permit Enforceability

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

10. Relationship to Permit Application

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

11. Notice of Bankruptcy

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

City of Hackberry

TPDES Permit No. WQ0013434001

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

### OPERATIONAL REQUIREMENTS

1. The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control. Process control, maintenance, and operations records shall be retained at the facility site, or shall be readily available for review by a TCEQ representative, for a period of three years.
2. Upon request by the Executive Director, the permittee shall take appropriate samples and provide proper analysis in order to demonstrate compliance with Commission rules. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall comply with all applicable provisions of 30 TAC Chapter 312 concerning sewage sludge 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.

City of Hackberry

TPDES Permit No. WQ0013434001

5. Unless otherwise specified, the permittee shall provide a readily accessible sampling point and, where applicable, an effluent flow measuring device or other acceptable means by which effluent flow may be determined.
6. The permittee shall remit an annual water quality fee to the Commission as required by 30 TAC Chapter 21. Failure to pay the fee may result in revocation of this permit under TWC § 7.302(b)(6).
7. Documentation

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

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

If in the judgment of the Executive Director the population to be served will not cause permit noncompliance, then the requirement of this section may be waived. To be effective, any waiver must be in writing and signed by the Director of the Enforcement Division (MC 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.
9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.
  10. For Publicly Owned Treatment Works (POTWs), the 30-day average (or monthly average) percent removal for BOD and TSS shall not be less than 85%, unless otherwise authorized by this permit.
  11. Facilities that generate industrial solid waste as defined in 30 TAC § 335.1 shall comply with these provisions:
    - a. Any solid waste, as defined in 30 TAC § 335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.
    - b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.
    - c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC § 335.8(b)(1), to the 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.

City of Hackberry

TPDES Permit No. WQ0013434001

- 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 kiln, injection well, container, drum, salt dome waste containment cavern, or any other structure vessel, appurtenance, or other improvement on land used to manage industrial solid waste.
- f. The permittee shall keep management records for all sludge (or other waste) removed from any wastewater treatment process. These records shall fulfill all applicable requirements of 30 TAC § 335 and must include the following, as it pertains to wastewater treatment and discharge:
  - i. Volume of waste and date(s) generated from treatment process;
  - ii. Volume of waste disposed of on-site or shipped off-site;
  - iii. Date(s) of disposal;
  - iv. Identity of hauler or transporter;
  - v. Location of disposal site; and
  - vi. Method of final disposal.

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

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

TCEQ Revision 08/2008

City of Hackberry

TPDES Permit No. WQ0013434001

**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 with 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 § 312 and all other applicable state and federal regulations in a manner that protects public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that may be present in the sludge.
2. 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 that receives the prior approval of the TCEQ for the contaminants listed in 40 CFR Part 261.24, Table 1. 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 4) within seven (7) days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, 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 4) 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 exceeds 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> <u>(Milligrams per kilogram)*</u>
Arsenic	75
Cadmium	85
Chromium	3000
Copper	4300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
PCBs	49
Selenium	100
Zinc	7500

\* Dry weight basis

3. Pathogen Control

All sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site 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 § 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° 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%.

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

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;
- 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;

City of Hackberry

TPDES Permit No. WQ0013434001

- 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 § 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.

City of Hackberry

TPDES Permit No. WQ0013434001

- Alternative 1 - The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38%.
- Alternative 2 - If Alternative 1 cannot be met for an anaerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30° and 37° Celsius. Volatile solids must be reduced by less than 17% to demonstrate compliance.
- Alternative 3 - If Alternative 1 cannot be met for an aerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge with percent solids of two percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20° Celsius. Volatile solids must be reduced by less than 15% to demonstrate compliance.
- Alternative 4 - The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20° Celsius.
- Alternative 5 - Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40° Celsius and the average temperature of the sewage sludge shall be higher than 45° Celsius.
- Alternative 6 - The pH of sewage sludge shall be raised to 12 or higher by alkali addition and, without the addition of more alkali shall remain at 12 or higher for two hours and then remain at a pH of 11.5 or higher for an additional 22 hours at the time the sewage sludge is prepared for sale or given away in a bag or other container.
- Alternative 7 - The percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75% based on the moisture content and total solids prior to mixing with other materials. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.
- Alternative 8 - The percent solids of sewage sludge that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90% based on the moisture content and total solids prior to mixing with other materials at the time the sludge is used. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.
- Alternative 9 -
- i. Sewage sludge shall be injected below the surface of the land.
  - ii. No significant amount of the sewage sludge shall be present on

the land surface within one hour after the sewage sludge is injected.

- iii. When sewage sludge that is injected below the surface of the land is Class A 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 wt. basis).*

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

City of Hackberry

TPDES Permit No. WQ0013434001

**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.

City of Hackberry

TPDES Permit No. WQ0013434001

**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 § 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

City of Hackberry

TPDES Permit No. WQ0013434001

the facility site and/or shall be readily available for review by a TCEQ representative for a period of five years. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for record keeping found in 30 TAC § 312.47 for persons who land apply.

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

"I certify, under penalty of law, that the applicable pathogen requirements in 30 TAC § 312.82(a) or (b) and the vector attraction reduction requirements in 30 TAC § 312.83(b) have been met for each site on which bulk 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 § 312.47 for persons who land apply:
  - a. A certification statement that all applicable requirements (specifically listed) have been met, and that the permittee understands that there are significant penalties for false certification including fine and imprisonment. See 30 TAC § 312.47(a)(4)(A)(ii) or 30 TAC § 312.47(a)(5)(A)(ii), as applicable, and to the permittee's specific sludge treatment activities.
  - b. The location, by street address, and specific latitude and longitude, of each site on which 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.

City of Hackberry

TPDES Permit No. WQ0013434001

- 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 4) 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. that 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.
16. The certification statement listed in either 30 TAC § 312.47(a)(4)(A)(ii) or 30 TAC § 312.47(a)(5)(A)(ii) as applicable to the permittee's sludge treatment activities, shall be attached to the annual reporting form.



City of Hackberry

TPDES Permit No. WQ0013434001

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.

City of Hackberry

TPDES Permit No. WQ0013434001

**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 § 330 and all other applicable state and federal regulations to protect public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that may be present. The permittee shall ensure that the sewage sludge meets the requirements in 30 TAC § 330 concerning the quality of the sludge 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 § 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 4) of the appropriate TCEQ field office within 7 days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, 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 4) 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.
- F. Record keeping Requirements

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

City of Hackberry

TPDES Permit No. WQ0013434001

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

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

G. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 4) and 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 § 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.

City of Hackberry

TPDES Permit No. WQ0013434001

**OTHER REQUIREMENTS**

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

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

2. The facility is not located in the Coastal Management Program boundary.
3. The permittee is hereby placed on notice that this permit may be reviewed by the TCEQ after the completion of any new intensive water quality survey on Segment No. 0823 of the Trinity River Basin and any subsequent updating of the water quality model for Segment No. 0823, in order to determine if the limitations and conditions contained herein are consistent with any such revised model. The permit may be amended, pursuant to 30 TAC § 305.62, as a result of such review. The permittee is also hereby placed on notice that effluent limits may be made more stringent at renewal based on, for example, any change to modeling protocol approved in the TCEQ Continuing Planning Process.
4. The Corps of Engineers submitted a letter dated August 5, 2005, which prohibits any type of structures within the part of the buffer zone not owned by the city and authorizes the use of the property to serve as a buffer zone for the south side of the facility. The permittee shall comply with the requirements of 30 TAC § 309.13 (a) through (d). In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC § 309.13(e). (See Attachment A).
5. The permittee shall provide facilities for the protection of its wastewater treatment facilities from a 100-year flood.
6. In accordance with 30 TAC §319.9, a permittee that has at least twelve months of uninterrupted compliance with its bacteria limit may notify the commission in writing of its compliance and request a less frequent measurement schedule. To request a less frequent schedule, the permittee shall submit a written request to the TCEQ Wastewater Permitting Section (MC 148) for each phase that includes a different monitoring frequency. The request must contain all of the reported bacteria values (Daily Avg. and Daily Max/Single Grab) for the twelve consecutive months immediately prior to the request. If the Executive Director finds that a less frequent measurement schedule is protective of human health and the environment, the permittee may be given a less frequent measurement schedule. For this permit, 1/month may be reduced to 1/quarter in the Interim phase and 2/month may be reduced to 1/month in the Final phase. **A violation of any bacteria limit by a facility that has been granted a less frequent measurement schedule will require the permittee to return to the standard frequency schedule and submit written notice to the TCEQ Wastewater Permitting Section (MC 148).** The permittee may not apply for another reduction in measurement frequency for at least 24 months from the date of the last violation. The Executive Director may establish a more frequent measurement schedule if necessary to protect human health or the environment.

City of Hackberry

TPDES Permit No. WQ0013434001

7. Prior to construction of the Final phase treatment facilities, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) a summary submittal letter in accordance with 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 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 2a of the permit.
8. The permittee shall notify the TCEQ Regional Office (MC Region 4) and the Applications Review and Processing Team (MC 148) of the Water Quality Division, in writing at least forty-five (45) days prior to the completion of the new facilities on Notification of Completion Form 20007.

City of Hackberry

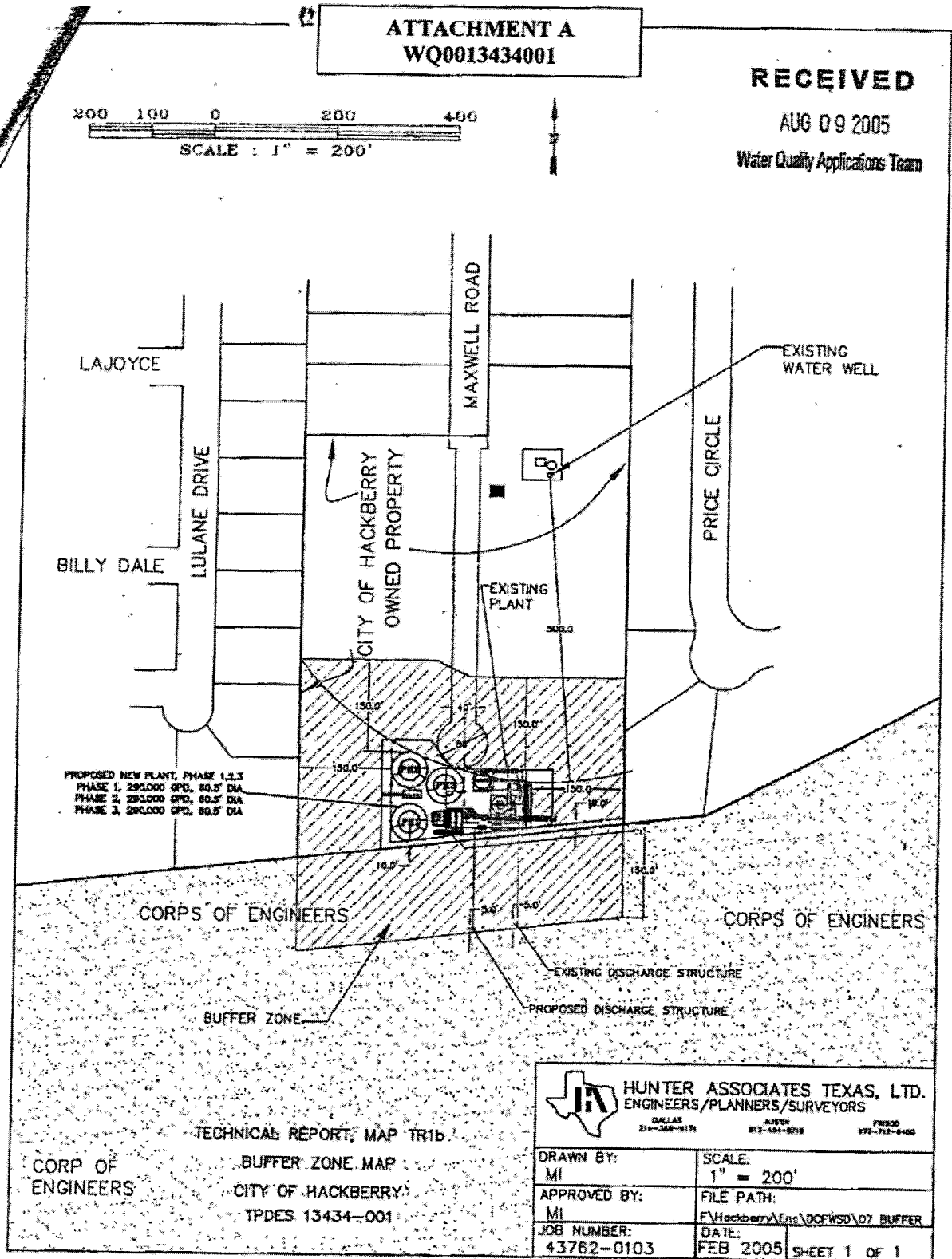
TPDES Permit No. WQ0013434001

**CONTRIBUTING INDUSTRIES AND PRETREATMENT REQUIREMENTS**

1. The following pollutants may not be introduced into the treatment facility:
  - a. Pollutants which create a fire or explosion hazard in the publicly owned treatment works (POTW), including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR § 261.21;
  - b. Pollutants which will cause corrosive structural damage to the POTW, but in no case shall there be discharges with pH lower than 5.0 standard units, unless the works are specifically designed to accommodate such discharges;
  - c. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW, resulting in Interference;
  - d. Any pollutant, including oxygen demanding pollutants (e.g., BOD), released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW;
  - e. Heat in amounts which will inhibit biological activity in the POTW resulting in Interference but in no case shall there be heat in such quantities that the temperature at the POTW treatment plant exceeds 104 degrees Fahrenheit (40 degrees Celsius) unless the Executive Director, upon request of the POTW, approves alternate temperature limits;
  - f. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through;
  - g. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems; and
  - h. Any trucked or hauled pollutants, except at discharge points designated by the POTW.
2. The permittee shall require any indirect discharger to the treatment works to comply with the reporting requirements of Sections 204(b), 307, and 308 of the Clean Water Act, including any requirements established under 40 CFR Part 403[*rev. Federal Register/ Vol. 70/ No. 198/ Friday, October 14, 2005/ Rules and Regulations, pages 60134-60798*].
3. The permittee shall provide adequate notification to the Executive Director care of the Wastewater Permitting Section (MC 148) of the Water Quality Division within 30 days subsequent to the permittee's knowledge of either of the following:
  - a. Any new introduction of pollutants into the treatment works from an indirect discharger which would be subject to Sections 301 and 306 of the Clean Water Act if it were directly discharging those pollutants; and
  - b. Any substantial change in the volume or character of pollutants being introduced into the treatment works by a source introducing pollutants into the treatment works at the time of issuance of the permit.

Any notice shall include information on the quality and quantity of effluent to be introduced into the treatment works, and any anticipated impact of the change on the quality or quantity of effluent to be discharged from the POTW.

Revised July 2007



Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
Zak Covar, *Commissioner*  
Richard A. Hyde, P.E., *Executive Director*



WATER<sup>172</sup>  
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## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

February 14, 2014

### E SIGNATURE CONFIRMATION # 91 3408 2133 3931 8616 4218

The Honorable Ronald Austin, Mayor  
City of Hackberry  
119 Maxwell Road B-7  
Frisco, Texas 75034

Re: Notice of Violation for Public Water Supply Comprehensive Compliance Investigation at:  
City of Hackberry PWS, 800 Rose Lane, Hackberry, Denton County, Texas  
RN101232015, PWS ID No. 0610091, Investigation No. 1087875

Dear Mayor Austin:

On January 8, 2014, Ms. Crystal Watkins of the Texas Commission on Environmental Quality (TCEQ) Dallas/Fort Worth (D/FW) Regional Office conducted an investigation of the above-referenced regulated entity to evaluate compliance with applicable requirements for public water supply. Enclosed is a summary which lists the investigation findings. Please submit to this office by **May 15, 2014**, a written description of corrective action taken and the required documentation demonstrating that compliance has been achieved for each of the outstanding alleged violations.

In the listing of the alleged violations, we have cited applicable requirements, including TCEQ rules. Please note that both the rules themselves and the agency brochure entitled *Obtaining TCEQ Rules* (GI 032) are located on our agency website at <http://www.tceq.state.tx.us> for your reference. If you would like a hard copy of this brochure mailed to you, you may call and request one from either the D/FW Regional Office at (817) 588-5800 or the Central Office Publications Ordering Team at 512-239-0028.

The TCEQ appreciates your assistance in this matter. Please note that the Legislature has granted TCEQ enforcement powers which we may exercise to ensure compliance with environmental regulatory requirements. We anticipate that you will resolve the alleged violations as required in order to protect the State's environment. If you have additional information that we are unaware of, you have the opportunity to contest the violations documented in this notice. Should you choose to do so, you must notify the D/FW Regional Office within 10 days from the date of this letter. At that time, Mr. Charles Marshall, Public Water Supply Program Team Leader, will schedule a violation review meeting to be conducted within 21 days from the date of this letter.

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Attachment No. 5, Question 5 A iv  
City of Hackberry, Texas



The Honorable Ronald Austin, Mayor  
Page 2  
February 14, 2014

173  
WATER  
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However, please be advised that if you decide to participate in the violation review process, the TCEQ may still require you to adhere to the compliance schedule included in the attached Summary of Investigation Findings until an official decision is made regarding the status of any or all of the contested violations.

If you or members of your staff have any questions, please feel free to contact Ms. Crystal Watkins in the D/FW Regional Office at (817) 588-5804.

Sincerely,



Jeff Tate  
Water Section Manager  
D/FW Regional Office  
Texas Commission on Environmental Quality

JT/cdw

Enclosure: Summary of Investigation Findings

WATER

**TCEQ EXIT INTERVIEW FORM: Potential Violations and/or Records Requested**

Regulated Entity/Site Name	City of Hackberry			TCEQ Add. ID No.	0610091
Investigation Type	CE	Contact Made In-House (Y/N)	Y	Purpose of Investigation	Routine
Regulated Entity Contact	Steve Doughty			Telephone No.	
Title	Operator			Fax No.	
				Date Contacted	
				Date Faxed	

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NOTICE: The information provided in this form is intended to provide clarity to issues that have arisen during the investigation process between the TCEQ and the regulated entity named above and does not represent final TCEQ findings related to violations. Any potential or alleged violations discovered after the date on this form will be communicated by telephone to the regulated entity representative prior to the issuance of a notice of violation or enforcement. Conclusions drawn from this investigation, including additional violations or potential violations discovered (if any) during the course of this investigation, will be documented in a final investigation report.

Issue		For Records Request: Identify the necessary records, the company contact and date due to the agency. For Alleged and Potential Violation issues: include the rule in question with the clearly described potential problem. Other type of issues: fully describe.			
No.	Type	Rule Citation (if known)	Description of Issue		
1	AV	30 TAC 290	Failure to maintain an up-to-date monitoring plan.		
2	AV	30 TAC 296	Failure to record the chemical used each day.		
3	AV	30 TAC 296	Failure to record the amount of water treated each day.		
4	AV	30 TAC 290	Failure to up date the ownership sign on the water plant.		
5	RAI		Please update the plant operations manual to reflect current practices.		

Issue Type Can Be One or More of: AV (Alleged Violation), PV (Potential Violation), O (Other), or RR (Records Request)

Did the TCEQ document the regulated entity named above operating without proper authorization?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Did the investigator advise the regulated entity representative that continued operation is not authorized?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Document Acknowledgment. Signature on this document establishes only that the regulated entity (company) representative received a copy of this document and associated continuation pages on the date noted. If contact was made by telephone, document will be faxed to regulated entity; therefore, signature not required.

Crystal D. Watkins	Crystal D. Watkins	1/8/2014	<i>Steven D. Doughty</i>	STEVEN D. Doughty	1-8-14
Investigator Name (Signed & Printed)		Date	Regulated Entity Representative Name (Signed & Printed)		Date

If you have questions about any information on this form, please contact your local TCEQ Regional Office. Individuals are entitled to request and review their personal information that the agency gathers on its forms. They may also have any errors in their information corrected. To review such information, call 512-239-3282.

Attachment No. 5, Question 5 A IV  
City of Hackberry, Texas

Summary of Investigation Findings

175

WATER

CITY OF HACKBERRY PWS 119 MAXWELL RD # B-7 FRISCO, DENTON COUNTY, TX 75034	Investigation # 1165370 Investigation Date: 05/02/2014
Additional ID(s): 0610091	

ALLEGED VIOLATION(S) NOTED AND RESOLVED

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Track No: 525906  
30 TAC Chapter 290.46(f)(3)(A)(i)(II)

**Alleged Violation:**  
Investigation: 1087875  
Comment Date: 01/30/2014

Failure to record the amount of chemical used daily.  
30 TAC 290.46(f)(3)(A)(i)(II) states that the amount of chemicals used for systems that serve 250 or more connections or serve 750 or more people shall maintain a record of the amount of each chemical used each day

On the day of the investigation, the water system was only recording the amount of chemical used five days a week and was not recording the amount of chemicals used on the weekends.  
Investigation: 1165370  
Comment Date: 05/02/2014

Failure to record the amount of chemical used daily, including on weekends.  
After review of the documentation, the investigator determined that the water system had adequately corrected the alleged violation.  
**Recommended Corrective Action:** Begin recording the amount of chemicals used daily, including on the weekends. Provide two months' worth of daily chemical usage to the regional office.  
**Resolution:** On April 7, 2014, documentation was received in the regional office which verifies that the water system is recording the amount of chemicals used on the weekends was received at the TCEQ D/FW Region Office. Based on this documentation, it appears the water system has adequately corrected the alleged violation.

Track No: 525909  
30 TAC Chapter 290.46(f)(3)(A)(ii)(II)

**Alleged Violation:**  
Investigation: 1087875  
Comment Date: 01/30/2014

Failure to record the volume of water treated daily.  
30 TAC 290.46(f)(3)(A)(ii)(II) states that systems that serve 250 or more connections or serve 750 or more people shall maintain a record of the amount of water treated each day.

On the day of the investigation, the water system was only recording the volume of water treated five days a week and was not recording the volume of water treated on the weekends.  
Investigation: 1165370  
Comment Date: 05/02/2014

Failure to record the volume of water treated daily, including on weekends.  
After review of the documentation, the investigator determined that the water system had adequately corrected the alleged violation.

HACKBERRY PWS

Investigation # 1165370

WATER

**Recommended Corrective Action:** Begin recording the volume of water treated daily, including on the weekends. Provide two months' worth of the daily amounts of the volume of water treated to the regional office.

**Resolution:** On April 7, 2014, documentation was received in the regional office which verifies that the water system is recording the volume of water treated used on the weekends was received at the TCEQ D/FW Region Office. Based on this documentation, it appears the water system has adequately corrected the alleged violation.

Track No: 525910

30 TAC Chapter 290.46(t)



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**Alleged Violation:**

Investigation: 1087875

Comment Date: 02/03/2014

Failure to post a legible sign at each of the system's production, treatment, and storage facilities.

30 TAC 290.46(t) states that all community water systems shall post a legible sign at each of its production, treatment, and storage facilities. The sign shall be located in plain view of the public and shall provide the name of the water supply and an emergency telephone number where a responsible official can be contacted.

On the day of the investigation, the water system sign on at the entrance of the pump station had the name of an inactive PWS, Denton County Fresh Water Supply District 4A, that was consolidated with the City of Hackberry in 2010. The water system submitted documentation on January 22, 2014, verifying that several ownership signs had been ordered but had not submitted documentation that the new ownership sign was installed at the pump station.

Investigation: 1165370

Comment Date: 05/02/2014

Failure to post a legible sign at each of the system's production, treatment, and storage facilities.

After review of the documentation, the investigator determined that the water system had adequately corrected the alleged violation.

**Recommended Corrective Action:** Update the sign on the pump station with the correct name of the water system. Submit photographs to the regional office verifying that an ownership sign has been placed at the water plant.

**Resolution:** On February 12, 2014, a photograph of the ownership sign at the pump station with City of Hackberry's name and phone number was received at the TCEQ DFW Region office. Based on this documentation, it appears the water system has adequately corrected the alleged violation.

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
Zak Covar, *Commissioner*  
Richard A. Hyde, P.E., *Executive Director*



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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

March 13, 2014

## E-SIGNATURE CONFIRMATION #91 3499 9991 7030 0269 8907

Ms. Brenda Lewallen, City Administrator  
City of Hackberry  
119 Maxwell Road B-7  
Frisco, Texas 75034-9112

Re: Notice of Violation for Comprehensive Compliance Investigation at:  
Hackberry Wastewater Treatment Plant, located at the southern end of Maxwell Rd,  
Hackberry (Denton County), Texas  
RN102077054, TCEQ ID No.: WQ0013434-001, EPA ID No.: TX0103276

Dear Ms. Lewallen:

On January 14, 2014, Ms. Carol Moulton of the Texas Commission on Environmental Quality (TCEQ) Dallas/Fort Worth (DFW) Region Office conducted an investigation of the above-referenced regulated entity to evaluate compliance with applicable requirements for wastewater treatment. Enclosed is a summary which lists the investigation findings. During the investigation, some concerns were noted which were alleged noncompliances that have been resolved as Areas of Concern based on subsequent corrective action. In addition, a certain outstanding alleged violation was identified for which compliance documentation is required. Please submit to this office by **April 14, 2014** a written description of corrective action taken and the required documentation demonstrating that compliance has been achieved for the outstanding alleged violation.

In the listing of the alleged violation, we have cited applicable requirements, including TCEQ rules. Please note that both the rules themselves and the agency brochure entitled *Obtaining TCEQ Rules* (GI 032) are located on our agency website at <http://www.tceq.state.tx.us> for your reference. If you would like a hard copy of this brochure mailed to you, you may call and request one from either the DFW Region Office at (817) 588-5800 or the Central Office Publications Ordering Team at 512-239-0028.

The TCEQ appreciates your assistance in this matter. Please note that the Legislature has granted TCEQ enforcement powers which we may exercise to ensure compliance with environmental regulatory requirements. Self-reported violations may be subject to enforcement, including penalties, upon review by the Enforcement Division. We anticipate that you will resolve the alleged violations as required in order to protect the State's environment. If you have additional information that we are unaware of, you have the opportunity to contest the violation documented in this notice. Should you choose to do so, you must notify the DFW Region Office within 10 days from the date of this letter. At that time, Mr. Jeff Tate, Water

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Attachment No. 5, Question 5 A iv  
City of Hackberry, Texas

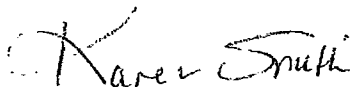
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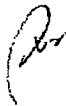
Brenda Lewallen  
Page 2  
March 13, 2014

Section Manager, will schedule a violation review meeting to be conducted *within 21 days from the date of this letter*. However, please be advised that if you decide to participate in the violation review process, the TCEQ may still require you to adhere to the compliance schedule included in the attached Summary of Investigation Findings until an official decision is made regarding the status of any or all of the contested violations.

If you or members of your staff have any questions, please feel free to contact Ms. Moulton in the DFW Region Office at (817) 588-5894.

Sincerely,



 Jeff Tate, Water Section Manager  
Dallas/Fort Worth Region Office  
Texas Commission on Environmental Quality

JT/cm

Enclosures: Summary of Investigation Findings  
Investigation Sample Results and COC  
Flow Accuracy Check

**Summary of Investigation Findings**

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CITY OF HACKBERRY 119 MAXWELL RD FRISCO, DENTON COUNTY, TX 75034	Investigation # 1140211 Investigation Date: 01/14/2014
Additional ID(s): WQ0013434001 TX0103276	

**OUTSTANDING ALLEGED VIOLATION(S)  
ASSOCIATED TO A NOTICE OF VIOLATION**

Track No: 528992      Compliance Due Date: To Be Determined  
 30 TAC Chapter 305.125(1)

PERMIT WQ0013434-001  
 See INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS, No. 1, page 2.

**Alleged Violation:**  
 Investigation: 1140211      Comment Date: 03/11/2014

Failure to maintain compliance with the permitted effluent limits during the investigation. Specifically, the grab sample collected during the investigation was not compliant with the single grab limit of 15 mg/l for Ammonia Nitrogen. The result of the Ammonia Nitrogen analysis was 22.7 mg/l. Compliance with the permitted effluent limits must be maintained.

**Recommended Corrective Action:** Submit documentation describing actions taken to prevent the recurrence of Ammonia Nitrogen violations.

**ALLEGED VIOLATION(S) NOTED AND RESOLVED  
ASSOCIATED TO A NOTICE OF VIOLATION**

Track No: 525794

2D TWC Chapter 26.121(a)  
 2D TWC Chapter 26.121(a)(1)  
 2D TWC Chapter 26.121(a)(3)  
 2D TWC Chapter 26.121(b)  
 2D TWC Chapter 26.121(c)  
 2D TWC Chapter 26.121(d)  
 2D TWC Chapter 26.121(e)  
 30 TAC Chapter 305.125(4)  
 30 TAC Chapter 305.125(5)  
 TWC Chapter 26.121  
 TWC Chapter 26.121(a)(2)

PERMIT WQ0013434-001  
 See MONITORING AND REPORTING REQUIREMENTS, No. 7 (b)(i), page 5.

**Alleged Violation:**  
 Investigation: 1140211      Comment Date: 03/11/2014

Failure to prevent the unauthorized discharge of wastewater. Specifically, since the last investigation, one unauthorized discharge was reported on March 14, 2013, which was due to a malfunctioning pump at the influent lift station.

**Resolution:** The unauthorized discharge was adequately addressed at the time, including repair of the lift station pumps, and access to the manholes in the remote section upstream from the plant. No unauthorized discharges have been reported since then.

Track No: 525795  
 30 TAC Chapter 305.125(1)

CITY OF HACKBERRY

Investigation # 1140211

WW

PERMIT WQ0013434-001

See INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS, No. 2, page 2.

**Alleged Violation:**

Investigation: 1140211

Comment Date: 03/11/2014

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Failure to maintain compliance with the permitted effluent limits during the investigation. Specifically, the grab sample collected during the investigation was not compliant with the maximum limit of 4.0 mg/l for total chlorine residual. The result of the total chlorine residual analysis was 5.39 mg/l. Compliance with the permitted effluent limits must be maintained.

**Recommended Corrective Action:** Submit documentation describing actions taken to prevent the recurrence of total chlorine residual violations.

**Resolution:** Documentation submitted on January 17, 2014 indicated the operator adjusted the chlorine feed down 2 lbs/day after the investigation on January 14, 2014. A reading taken at 2:20 pm on January 14, 2013 was compliant with total chlorine residual permitted effluent limits.

Track No: 525797

30 TAC Chapter 305.125(1)

PERMIT WQ0013434-001

See INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS, No. 1., page 2.

**Alleged Violation:**

Investigation: 1140211

Comment Date: 01/29/2014

Failure to maintain compliance with permitted effluent limits. Specifically, during the review period of June 2012 to November 2013, one violation of the permitted limit of 1mg/l for total phosphorus daily average, two violations of the permitted limit of 3 mg/l for ammonia-nitrogen daily average, and one violation of 15 mg/l for ammonia-nitrogen single grab were reported. Compliance with the permitted effluent limits must be maintained.

**Resolution:** No violations of self-reported permitted effluent limits have been reported since April 2013. However, please note that self-reported effluent violations are subject to review by the Enforcement Division, and may be subject to enforcement action, including penalties.

**AREA OF CONCERN**

Track No: 525796

30 TAC Chapter 305.125(1)

PERMIT WQ0013434-001

See MONITORING AND REPORTING REQUIREMENTS, No. 5 Calibration of Instruments, page 5.

**Alleged Violation:**

Investigation: 1140211

Comment Date: 01/29/2014

Failure to ensure flow measurement accuracy. Specifically, the flow measurement accuracy check performed during the investigation revealed that the staff gauge measured 0.0387 MGD and the flow meter measured 0.0143 MGD, with a percent error of -63%. The flow meter 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.

**Recommended Corrective Action:** Submit documentation indicating that the flow meter has been accurately calibrated.

**Resolution:** Documentation submitted on January 23, 2014 indicated the effluent flow meter was calibrated on January 21, 2014. A new flow meter was installed in February and a new calibration certificate was received in the Region Office on February 27, 2014.

Track No: 525798

30 TAC Chapter 319.11(b)

30 TAC Chapter 319.11(c)

Summary of Investigation Findings

Page 2 of 3



**Alleged Violation:**

Investigation: 1140211

Comment Date: 01/29/2014

Failure to properly analyze effluent samples. Specifically, the total chlorine residual secondary standards expired on October 31, 2013. Unexpired secondary standards must be utilized.

**Recommended Corrective Action:** Submit documentation indicating that unexpired secondary standards are being utilized.

**Resolution:** Documentation submitted on January 15, 2014 indicates new secondary standards for chlorine were purchased on January 14, 2014.

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**ADDITIONAL ISSUES**

**Description**

Are the correct type of samples collected (grab or composite)?

**Additional Comments**

The wastewater treatment plant is currently in Interim Phase I which allows for 0.42 MGD to discharge at Outfall 001. This phase requires grab samples, not composite samples, which the operator was collecting. Should the wastewater treatment plant enter the Final Phase of the permit, composite sampling will be required. Please refer to 30 TAC 319.9 (a) for additional information regarding composite sampling time frames.

Are sampling and analyses performed at the frequency specified in the permit?

If more analyses are being conducted and used in calculated values reported on DMRs than are required by the permit, such as for pH and E. coli analyses, this information is required to be indicated in the frequency of analysis column.

Has the regulated entity abandoned or closed any pit, tank, pond, lagoon, or surface impoundment regulated by the permit and appropriately notified the Executive Director at least 90 days prior to conducting such activity? If yes, has a closure plan been submitted?

The TPDES permit renewal application indicated the two old treatment trains would be closed after the new 0.29 MGD plant was constructed. Contact Mr. Brian Sierant with the Municipal Permits Team, Wastewater Permitting Section of the Water Quality Division, for the required steps necessary to properly close the old wastewater treatment trains.

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**TCEQ EXIT INTERVIEW FORM: Potential Violations and/or Records Requested**

Regulated Entity/Site Name		Town of Hackberry WWTP		TCEQ Add. ID No. / RN No. (optional)	WW 0013434-001
Investigation Type	CCI	Contact Made In-House (Y/N)	Y	Purpose of Investigation	Minor
Regulated Entity Contact	Steve Dougherty		Telephone No.	972-243-3222	Date Contacted
Title	Operator		Fax No.		Date Faxed

NOTICE: The information provided in this form is intended to provide clarity to issues that have arisen during the investigation process between the TCEQ and the regulated entity named above and does not represent final TCEQ findings related to violations. Any potential or alleged violations discovered after the date on this form will be communicated by telephone to the regulated entity representative prior to the issuance of a notice of violation or enforcement. Conclusions drawn from this investigation, including additional violations or potential violations discovered (if any) during the course of this investigation, will be documented in a final investigation report.

Issue		For Records Request: identify the necessary records, the company contact and date due to the agency. For Alleged and Potential Violation issues: include the rule in question with the clearly described potential problem. Other type of issues: fully describe.			
No.	Type	Rule Citation (if known)	Description of Issue		
1	AV	noted & resolved	Effluent violations - total P - 8/2013, NH3N - 8/2013; 5/2013		
2	AV	noted & resolved	Unauthorized discharge 3/3/2013		
3	AV		Chlorine Low Range Standards were expired (10/2013)		
4	AV		Chlorine residual grab max excursion 5.39 mg/L		
5	AI		Plant closure - speak with Brian Sierant TCEQ Austin		
6	AI		frequency of analysis column for pt, & col if sample more frequently		
7	AI		Interim phase I (0.42 mg/d) requires grab samples, not composite		

Issue Type Can Be One or More of: AV (Alleged Violation), PV (Potential Violation), O (Other), or RR (Records Request)

Did the TCEQ document the regulated entity named above operating without proper authorization?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Did the investigator advise the regulated entity representative that continued operation is not authorized?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Document Acknowledgment. Signature on this document establishes only that the regulated entity (company) representative received a copy of this document and associated continuation pages on the date noted. If contact was made by telephone, document will be faxed to regulated entity; therefore, signature not required.

Investigator Name (Signed & Printed)	Date	Regulated Entity Representative Name (Signed & Printed)	Date
Carole McMillon	1-14-14	STEVEN D. DOUGHERTY	1-14-14

If you have questions about any information on this form, please contact your local TCEQ Regional Office. Individuals are entitled to request and review their personal information that the agency gathers on its forms. They may also have any errors in their information corrected. To review such information, call 512-239-3282.

Attachment No. 5, Question 5.A.V. City of Hackberry, Texas

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
 Toby Baker, *Commissioner*  
 Zak Covar, *Commissioner*  
 Richard A. Hyde, P.E., *Executive Director*



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## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 2, 2014

Ms. Brenda Lewallen, City Administrator  
 City of Hackberry  
 119 Maxwell Road B-7  
 Frisco, Texas 75034-9112

Re: Notice of Compliance with Notice of Violation (NOV) dated *March 13, 2014*:  
 Hackberry WWTP, Hackberry (Denton County), Texas  
 RN102077054, TCEQ ID No.: WQ0013434-001, EPA ID No.: TX0103276

Dear Ms. Lewallen:

This letter is to inform you that Texas Commission on Environmental Quality (TCEQ) Dallas/Fort Worth (DFW) Region Office has received adequate compliance documentation on March 19, 2014 to resolve the alleged violation documented during the investigation of the above-referenced regulated entity conducted on January 14, 2014. Based on the information submitted, no further action is required concerning this investigation.

The Texas Commission on Environmental Quality appreciates your assistance in this matter and your compliance efforts to ensure protection of the State's environment. If you or members of your staff have any questions, please feel free to contact Ms. Carol Moulton at the DFW Region Office at (817) 588-5894.

Sincerely,

*Karen Smith*

*JS*  
 Jeff Tate  
 Water Section Manager  
 DFW Region Office

JT/cm

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
 Toby Baker, *Commissioner*  
 Zak Covar, *Commissioner*  
 Richard A. Hyde, P.E., *Executive Director*



WATER  
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## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 12, 2014

The Honorable Ronald Austin, Mayor  
 City of Hackberry  
 119 Maxwell Road B-7  
 Frisco, Texas 75034

Re: Notice of Compliance with Notice of Violation (NOV) dated February 14, 2014:  
 City of Hackberry PWS, 800 Rose Lane, Hackberry, Denton County, Texas  
 RN101232015, PWS ID No. 0610091, Investigation No. 1087875.

Dear Mr. Austin:

This letter is to inform you that Texas Commission on Environmental Quality (TCEQ) Dallas/Fort Worth (D/FW) Regional Office has received adequate compliance documentation on February 12 and April 7, 2014 to resolve the alleged violations documented during the investigation of the above-referenced regulated entity conducted on January 8, 2014. Based on the information submitted, TCEQ records indicate that compliance with the above-reference NOV has been achieved.

The Texas Commission on Environmental Quality appreciates your assistance in this matter and your compliance efforts to ensure protection of the State's environment. If you or members of your staff have any questions, please feel free to contact Ms. Crystal Watkins at the D/FW Regional Office at (817) 588-5804.

Sincerely,

Charles Marshall  
 Team Leader, Public Water Supply Program  
 D/FW Regional Office

CM/cdw

Enclosure: Summary of Investigation Findings

## Attachment No. 7

## 5. G. Effect of Granting a Certificate or Amendment

- i. The Applicant provides sewer service to 193 customers located within the corporate limits of the Applicant and 1,005 customers located three different public improvement districts (PIDs) located in the Applicant's extra territorial jurisdiction (ETJ). Collectively the PIDs are substantially coterminous with the Applicant's ETJ. Granting the requested certificate will support the Applicant's contractual duty to provide sewer service within the PIDs and the expansion of the Applicant's wastewater treatment plant (WWTP). When the current expansion of the Applicant's WWTP is completed, it will have the capacity to serve 2,664 sewer customers.
- ii. No other public utility of the same kind is providing sewer service within the Applicant's corporate limits or its ETJ, the granting the certificate should not have any effect on any public utility of the same kind providing service outside of the Applicant's corporate limits or its ETJ.
- iii. All of the landowner's in the request area are either receiving sewer service from the Applicant or have requested sewer service from the Applicant. Therefore, granting the certificate either supports current service or supports the investment necessary to provide sewer service to the area requesting service.

**CITY OF HACKBERRY AND CITY OF FRISCO  
TREATED WATER SUPPLY CONTRACT**

THIS CONTRACT ("Contract") is made and entered into effective as of the 12<sup>th</sup> day of May, 2005 (the "Contract Date"), by and between the City of Frisco, Texas ("Frisco"), a Texas home rule municipal corporation, and the City of Hackberry, Texas ("Hackberry"), a Texas general law municipal corporation.

WHEREAS, Frisco and Hackberry are authorized to enter into this Contract pursuant to Chapter 791 of the Texas Local Government Code (the "Inter-local Cooperation Contract"), and other applicable laws; and

WHEREAS, Hackberry is desirous of obtaining an adequate and dependable treated water supply; and

WHEREAS, the City of Frisco ("Frisco") has expressed a willingness to assist Hackberry by providing treated water service to Hackberry; and

WHEREAS, it is necessary, convenient and advisable for Hackberry to purchase treated water service from Frisco.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, Frisco agrees to furnish and Hackberry agrees to pay for treated water upon the terms and conditions and for the consideration hereinafter set forth, to wit:

**Section 1. DEFINITION OF TERMS.** The following terms and expressions as used in this Contract, unless the context clearly shows otherwise, shall have the following meanings:

- (a) "Annual Payment" means the amount of money to be paid to Frisco by Hackberry during each Annual Payment Period.
- (b) "Annual Payment Period" means Frisco's fiscal year, which currently begins on October 1 of each calendar year and ends on September 30 of the next following calendar year, but which may be any twelve (12) consecutive month period fixed by Frisco.
- (c) "CCN" means a Certificate of Convenience and Necessity issued by the Texas Commission on Environmental Quality ("TCEQ").
- (d) "Frisco" means the City of Frisco, Texas, a contracting party.
- (e) "Hackberry" means the City of Hackberry, Texas, a contracting party.

- (f) "NTMWD" means the North Texas Municipal Water District, a conservation and reclamation district created under Article 16, Section 59, of the Texas Constitution.
- (g) "MGD" is an abbreviation for "million gallons of water per day" and means a quantity of water during a period of time expressed for convenience in terms of an average annual daily quantity during an Annual Payment Period.
- (h) "Service Area" means the area identified or described in CCN No. 12015 issued to Hackberry by the TECQ as modified by the a CCN Agreement Among The City of Frisco and the City of Hackberry, Land Advisors, Ltd. And LSR Development, Inc. and highlighted on Exhibit "A", attached hereto.
- (i) "System" means collectively the existing facilities and the future water of Frisco for projects, water storage, treatment, transportation, distribution and supply, including all dams, reservoirs, and other properties or interests therein wherever located. Said terms do not include any of Frisco's facilities which provide wastewater treatment or disposal services, or solid waste disposal services, of any kind.
- (j) "Water Year" means the period of August 1 of each calendar year through July 31 of the next following calendar year or such other twelve (12) month period designated by Frisco.

**Section 2. QUANTITY.** Subject to the provisions of this Contract, Frisco agrees to sell and to deliver treated water under this Contract to Hackberry at the Point of Delivery as described in Section 5 herein, and Hackberry agrees to take at said Point of Delivery, water required for use by Hackberry during the term of this Contract, including treated water for Hackberry's own use and for distribution to all customers served by Hackberry's water distribution system or within the service area currently designated under Hackberry's CCN No. 12015 issued by TCEQ. The quantity of water sold to Hackberry shall be measured at the Point of Delivery as described in Section 6 herein. Hackberry shall not become a party to any contract for the sale of treated water which would violate or be inconsistent with the provisions of this Contract, and Frisco will use its best efforts to furnish and remain in position to furnish treated water sufficient for all reasonable treated water requirements of Hackberry, not to exceed a daily average of 3.5 MGD (identified and designated by the City Engineer of Hackberry as constituting Hackberry's daily ultimate need on a fully developed out basis during the term of this Contract. The current maximum rate of delivery will not exceed 2.5 times Hackberry's daily average. If treated water from the System must be rationed, such rationing shall, within the limits permitted by law, be done by Frisco on an equal basis of the relative actual total amount of all treated water from the entire System taken by each other municipal wholesale water customer, respectively, during the last preceding Annual Payment Period in which rationing among its other municipal wholesale water customers was not necessary subject to the controlling terms of the immediately following sentence. Frisco will use its best efforts to remain in a position to furnish water as provided for in this Contract, but its obligations shall be limited by the amount of water available to Frisco from NTMWD, and shall be subordinate to the

rights of the Member cities of NTMWD.

**Section 3. OTHER CONTRACTS.** Frisco reserves the right to supply treated water from the System to additional or other contracting parties as determined by the Frisco City Council.

**Section 4. QUALITY.** The water to be delivered by Frisco and received by Hackberry shall be treated water from the System. Hackberry has satisfied itself that such water will be suitable for its needs, but NTMWD is obligated to treat such water so as to meet the standards of all state agencies having jurisdiction over water quality of treated water sold by NTMWD. Frisco and Hackberry shall cooperate, each within its legal powers, in preventing, to the extent practicable, the pollution and contamination of the reservoirs and watersheds from which System water is obtained.

**Section 5. POINT OF DELIVERY.** Currently, neither Hackberry nor Frisco have pipeline facilities to provide for delivery of treated water from Frisco to Hackberry. Hackberry has contracted with Land Advisors, Ltd. and LSR Development, Inc. to cause to be constructed certain additional facilities to the System (the "Additional Facilities") to provide for delivery of water from the existing pipeline facilities located in the area of Stonebrook Parkway and FM 423 to the point of delivery. The Point of Delivery will be North of the intersection of the future alignment of Stonebrook Parkway and East of Rose Lane. At the Point of Delivery a vault with master meter and associated valves, fittings and accessories as specified by Frisco, described in Section 6 below, will be installed. Meter readings will be the basis for calculation of all charges for water sold to Hackberry as set forth in Section 8 herein.

**Section 6. MEASURING EQUIPMENT.** At the Point of Delivery Hackberry will furnish and install, at its own expense, the necessary meter vault and rate of flow equipment (master meter) of a standard type approved by Frisco for measuring properly the quantity of treated water delivered under this Contract and such meter and other equipment so installed shall become the property of Frisco. Hackberry will submit plans and specifications for all improvements applicable to the Point of Delivery for Frisco's review and approval prior to the construction of the same. Reading, calibration and adjustment of the metering equipment shall be done only by the employees or agents of Frisco, but Hackberry shall have access to the metering equipment at all reasonable times for purposes of inspection and verification. The original record for meter readings under this Contract shall be a journal or other record book maintained by Frisco in its offices in which the records of the employees or agents of Frisco who take such readings shall be transcribed. Upon the written request of Hackberry, Frisco will prepare and forward a copy of the journal or record book to Hackberry within a reasonable time or allow Hackberry access to the same in the offices of Frisco during regular business hours. In addition, Hackberry and Frisco agree to cooperate on the installation and operation of SCADA or equivalent systems so that Hackberry may monitor usage and receive master meter readings electronically.



Frisco will calibrate the metering equipment annually and provide a written report of such calibration to Hackberry. Not more than once in any six (6) month time period, Frisco shall test the meter if requested in writing by Hackberry to do so, in the presence of a representative of Hackberry, and the parties shall jointly observe any adjustments which are made to the meter in case any adjustments shall be necessary, and if the check meter hereinafter provided for has been installed, the same shall also be calibrated by Hackberry in the presence of a representative of Frisco and the parties shall jointly observe any adjustment, if necessary. Upon Hackberry delivering a written request to Frisco to test and calibrate the meter, Frisco shall give Hackberry notice of a date and time for the performance of same. If a representative of Hackberry is not present at the time set, Frisco may proceed with the test and calibration in the absence of any representative of Hackberry.

If either party at any time observes a variation between the delivery meter and the check meter or meters, if any such check meter or meters shall be installed, such party will promptly notify the other party, and the parties hereto shall then cooperate to procure an immediate calibration test and joint observation of any adjustment and the same meter or meters shall then be adjusted to accuracy. Each party shall give the other party forty-eight (48) hours notice of the time of all tests of meters so that the other party may conveniently have a representative present.

If upon any test, the percentage of inaccuracy of any metering equipment is found to be in excess of two percent (2%), registration thereof shall be corrected for a period extending back to the time when such inaccuracy began, if such time is ascertainable, and if such time is not ascertainable, then for a period extending back one-half ( $\frac{1}{2}$ ) of the time elapsed since the last date of calibration, but in no event further back than a period of six (6) months. If, for any reason, any meters are out of repair so that the amount of water delivered cannot be ascertained or computed from the reading thereof, the water delivered through the period such meters are out of service or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available. For such purposes, the best data available shall be deemed to be the registration of any check meter or meters if the same have been installed and are accurately registering. Otherwise, the amount of water delivered during such period may be estimated (i) by correcting the error if the percentage of the error is ascertainable by calibration tests or mathematical calculation, or (ii) estimating the quantity of delivery by deliveries during the preceding periods under similar conditions when the meter or meters were registering accurately.

Hackberry may, at its sole expense, install and operate a check meter to check each meter installed by Frisco but the measurement of water delivered under this Contract shall be determined by Frisco's meter(s), except in those cases specified above. All check meters shall be of standard make and shall be subject at all reasonable times to inspection and examination by any employee or agent of Frisco, but the reading, calibration and adjustment thereof shall be made only by Hackberry except during any period when a check meter(s) may be used under the provisions hereof for measuring the amount of water delivered, in which case the reading, calibration and adjustment thereof shall be made by Frisco with like effect as if the check meter(s) had been furnished or installed by Frisco.

**Section 7. UNIT OF MEASUREMENT.** The unit of measurement for treated water delivered under this Contract shall be 1,000 gallons of water, U.S. Standard Liquid Measure.

**Section 8. PRICE AND TERMS.** The service to be performed under this Contract by Frisco consists of the readiness of Frisco to deliver to Hackberry, upon its demand, and upon completion of the Additional Facilities necessary to deliver treated water to Hackberry, treated water in accordance with the provisions of this Contract. In return for such service, Hackberry agrees to compensate Frisco by payment of certain minimum annual sums of money, for each of which said sums Frisco agrees, if required by Hackberry, to deliver all, or so much thereof as Hackberry may desire, of a certain corresponding volume of water as follows:

(a) For the first Annual Payment Period beginning with the next first day of the second month after the first delivery of water to Hackberry, Hackberry will take or pay for 50,000 gallons of water per day (0.05 MGD) at the rate established for the members of NTMWD, plus a transmission fee of \$0.788 per 1,000 gallons. Any water delivered in excess of the amount allowed for the annual minimum will be purchased at the amount charged by NTMWD to its members for excess water, plus \$0.788 per 1,000 gallons. The minimum amount of water Hackberry will be required to purchase at the above rate, or such other rate, as may be from time to time determined by Frisco, shall be calculated annually for each ensuing year and such amount shall be determined in the same manner as said amount is determined for the customers. The annual minimum to be purchased during any ensuing year shall not be less than the highest total amount withdrawn from Frisco's system by Hackberry during any previous year or 18,250,000 gallons, whichever is greater. In the event that Frisco provides services for only a portion of the first or last fiscal year of the Contract, the annual minimum charge shall be prorated on the basis of the annual minimum charge divided by 365 times the actual number of days for which service was provided.

(b) The quantities and rates set out in Section 2 and Section 8 hereof shall be reviewed at the end of the first full Annual Payment Period of service after the first delivery of water to Hackberry, and each year thereafter, and the minimum amount of water to be purchased, rate per 1,000 gallons and the maximum rate of delivery shall be re-determined by Frisco at that time in the same manner as applied to other municipal wholesale water customers of Frisco, subject to the controlling terms of Section 2.

Payment of the minimum annual service charge listed above shall be made each year by Hackberry to Frisco in twelve (12) equal monthly installments, each of which shall be due and payable on or before the tenth (10th) day of the month following the service. Payment of water delivered in any year in excess of the volume allowed for the minimum annual payment effective for that year, shall be made by Hackberry to Frisco at the rates specified herein when in accordance with the following method:

When Hackberry exceeds 100% of the annual minimum amount during any Water Year, excess water will be billed, on the first month following the month in which the 100% level was reached, for the excess water delivered in the month prior to the month being billed, and this procedure would continue to

the end of the Annual Payment Period with Hackberry making payment for all excess not previously paid for on or before the tenth (10th) day of the month following the end of such Water Year.

Liability for making payments, as herein set forth, shall commence on the date of the first tender of delivery of water to Hackberry by Frisco at the Point of Delivery, provided, however, Frisco shall first tender delivery of water to Hackberry within forty-five (45) days after the completion of the Additional Facilities and acceptance of same by Frisco, with such acceptance not to be unreasonably withheld or delayed.

(c) In the event that Hackberry shall fail to make any such monthly payment of the Annual Payment within the time herein in this section specified, interest on such amount shall accrue at the rate of 10% per annum from the date such payment becomes due until paid in full with the interest as herein specified. In the event such payment is not made within thirty (30) days from the date such payment becomes due, Frisco may, at its option, discontinue delivery of water to Hackberry until the amount due Frisco is paid in full with interest as herein specified.

(d) Not more than once per year, Frisco shall have the right to adjust the water transmission fee identified in Section 8 (a) above to reflect increases in the cost in transmitting the water. Frisco will provide thirty (30) days written notice to Hackberry of any change in the transmission fee prior to its effective date.

**Section 9. RESALE.** The water delivered by Frisco to Hackberry pursuant to the terms and provisions of this Contract may not be resold to other persons or entities reselling or distributing the delivered water for use outside of the Service Area without the written consent of Frisco.

**Section 10. TERM OF CONTRACT.** This Contract shall continue in force and effect for a period of ten (10) years from the date of this Contract; which Contract may be extended for three (3) additional ten (10) year terms upon written notice from Hackberry to Frisco of its intent to extend such Contract; said notice to be provided one hundred eighty (180) days prior to the termination of each extension.

**Section 11. MODIFICATION.** This Contract may be changed or modified only by written agreement of the parties and only after having obtained approval from the governing bodies of both Frisco and Hackberry. No change or modification shall be made to this Contract, which will affect adversely the prompt payment when due of all moneys required to be paid by Hackberry under the terms of this Contract.

**Section 12. FORCE MAJEURE.** If, by reason of force majeure, any party hereto shall be rendered unable to wholly or in part to carry out its obligations under this Contract, other than the obligation of Hackberry to make the payments required under Section 8 of this Contract which is not relieved in the event of force majeure, then if such party shall give notice and full particulars of such force majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it is affected by such force majeure, shall be suspended during

the continuance of the inability then claimed, but for no longer period, and any such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "Force Majeure" as employed herein shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of public enemy, orders of any kind of the government of the United States of America or the State of Texas, or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply, inability on the part of Frisco or NTMWD to deliver treated water, or on account of any other causes not reasonably within the control of the party claiming such inability.

**Section 13. REGULATORY BODIES AND LAWS.** This Contract is subject to all applicable Federal and State Laws and any applicable permits, ordinances, rules, orders and regulations of any local, state or federal governmental authority having or asserting jurisdiction.

**Section 14. NOTICES.** Unless otherwise provided herein, any notice, communication, request, reply or advice (herein severally and collectively, for convenience, called "Notice") herein provided or permitted to be given, made, or accepted by any party to any other party must be in writing and may be given or served by depositing the same in the United States mail postage prepaid, certified and addressed to the party to be notified, with return receipt requested, or by certificated delivery to an officer of such party, or by facsimile with confirmation of delivery when appropriate, addressed to the party to be notified. Notice deposited in the mail in the manner described above shall be conclusively deemed to be effective, unless otherwise stated herein, from and after the expiration of three (3) days after it is so deposited. Notice given in any other manner shall be effective only if and when received by the party to be notified. For the purposes of notice, the addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to Frisco: City of Frisco  
Attn: City Manager  
6891 Main Street  
Frisco, TX 75034

If to Hackberry: City of Hackberry  
Attn: City Administrator  
P.O. Box 217  
119 Maxwell Road  
Hackberry, TX 75034

The parties hereto shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify as its address any other addresses by at least fifteen (15) days written notice to the other parties hereto.

**Section 15. SEVERABILITY.** The parties hereto specifically agree that in case any one or more of the sections, subsections, provisions, clauses, or words of this Contract or

Attachment No. 8 - Question 5, H, iv  
City of Hackberry, Texas

the application of such sections, subsections, provisions, clauses, or words to any situation or circumstance should be, or should be held to be, for any reason, invalid or unconstitutional, under the laws or constitutions of the State of Texas or the United States of America, or in contravention of any such laws or constitutions, such invalidity, unconstitutionality, or contravention shall not affect any other sections, subsections, provisions, clauses, or words to any other situation or circumstance, and it is intended that this Contract shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, subsection, provision, clause, or word had not been included herein, and the rights and obligations of the parties hereto shall be construed, and remain in force accordingly.

**Section 16. VENUE.** All amounts due under this Contract, including, but not limited to, payments due under this Contract or damages for the breach of this Contract, shall be paid and be due in Collin County, Texas, which is the County in which the principal administrative offices of Frisco are located. In the event of a lawsuit, the parties agree that exclusive venue for such lawsuit shall be in a state district court in Collin County, Texas.

**Section 17. OTHER CONDITIONS AND PROVISIONS.**

(a) Operation and Maintenance of System. Frisco assumes no responsibility for the operation and maintenance of any portion of Hackberry's water system.

(b) Title to Water; Indemnification. Title to all water supplied to Hackberry shall be in Frisco up to the Point of Delivery as set forth in Section 5 herein, at which point title shall pass to Hackberry. Frisco shall not be liable for any causes of action or damages arising from the quality, transportation, delivery and/or treatment of the water after title to the water furnished by Frisco passes to Hackberry. Hackberry shall pay all damages assessed against Frisco for any claims made after title to the water furnished by Frisco passes to Hackberry. Frisco and Hackberry (to the extent permitted by applicable law) shall save and hold each other harmless from all claims, demands, and causes of action which may be asserted by anyone on account of the transportation and delivery of said water while title remains in such party, said indemnification shall include all costs and attorneys fees associated with the defense of said claims. Hackberry (to the extent permitted by applicable law) expressly agrees to indemnify and hold harmless Frisco from all said claims, demands, and causes of action which may be asserted by any customer, or other person to whom Hackberry supplied water, or otherwise arising from Frisco's delivery, or failure to deliver, water to Hackberry; any breach of contract between Frisco and Hackberry; or from any party's negligence or breach of duty related to performance of any duty at common law or any law, regulation, or statute of the State of Texas or United States of America, or otherwise arising by virtue of any contract between those parties with regard to furnishing of treated water by Frisco to Hackberry pursuant to the terms and provisions of this Contract.

(c) Operating Expenses at Hackberry. Hackberry represents and covenants that all payments to be made by it under this Contract shall constitute reasonable and necessary "operating expenses" of its water system, as defined in Chapter 971 of the Government Code, and that all such payments will be made from the revenues of its water system.

Hackberry represents and has determined that the treated water supply to be obtained from Frisco's System, is absolutely necessary and essential to the present and future operation of its water system and is the only available and adequate source of supply of treated water. Accordingly, all payments required by this Contract to be made by Hackberry shall constitute reasonable and necessary operating expenses of its respective system as described above, with the effect that the obligation to make such payments from revenues (whether of principal, interest, or otherwise) with respect to all bonds or other obligations heretofore or hereafter issued by Hackberry.

(d) Hackberry's Rate for Waterworks System. Hackberry agrees throughout the term of this Contract to continuously operate and maintain its water system, and to fix and collect such rates and charges for water services to be supplied by its water system to produce revenues in an amount equal to at least (i) all of its payments under this Contract, and (ii) all other amounts required to be paid from said revenues by the provisions of the ordinances or resolutions authorizing its revenue bonds or other obligations now or hereafter outstanding and file appropriate financial reports related to Hackberry's water system including annual audits.

(e) Utilization of Ground Water Sources. Frisco acknowledges that Hackberry currently utilizes ground water sources for its water supply. Nothing contained in this Contract shall preclude Hackberry from continuing to utilize and develop its ground water sources; provided, however, Hackberry shall not allow any contaminants into the water being furnished by Frisco. Hackberry agrees to install and maintain adequate equipment and controls to assure Hackberry's groundwater source does not contaminate the treated water furnished by Frisco. Hackberry agrees to indemnify and hold Frisco harmless of, from and against any and all claims, actions, causes of actions, proceedings, fines, penalties, cost or expenses (including, but not limited to, reasonable cost of suit and attorneys' fees) arising out of or relating to the utilization by Hackberry of groundwater sources for its water supply, the "blending" of the treated water supplied by Frisco pursuant to the terms and provisions of this Contract with such groundwater sources and/or any leakage or seepage of such groundwater sources from the water system of Hackberry into Frisco's system.

**Section 18. WATER CONSERVATION.** Hackberry agrees to adopt and enforce all ordinances related to water conservation as may be required by TCEQ and/or may be reasonably required by NTMWD or Frisco.

**Section 19. SPECIAL CONDITIONS.** The meter size, location and any quantity set forth in this Contract are intended to meet the water needs of Hackberry for the Contract Period. The needs of Hackberry are independently determined by Hackberry, and Frisco has conducted no independent evaluation of Hackberry's water system.

IN WITNESS WHEREOF, the parties hereto acting under authority or their respective governing bodies have caused this Contract to be duly executed in several counterparts, each of which shall constitute an original, all as of the day and year first above written, which is the date of this Contract.



CITY OF FRISCO, TEXAS

By: George Purefoy  
 George Purefoy, City Manager

ATTEST:

Kathryn Wingo Jar  
 Kathryn Wingo Jar, Secretary

(SEAL)

CITY OF HACKBERRY, TEXAS

By: Brenda Lewallen  
 Brenda Lewallen, Mayor

ATTEST:

Sharon Harper  
 Sharon Harper, Secretary

(SEAL)

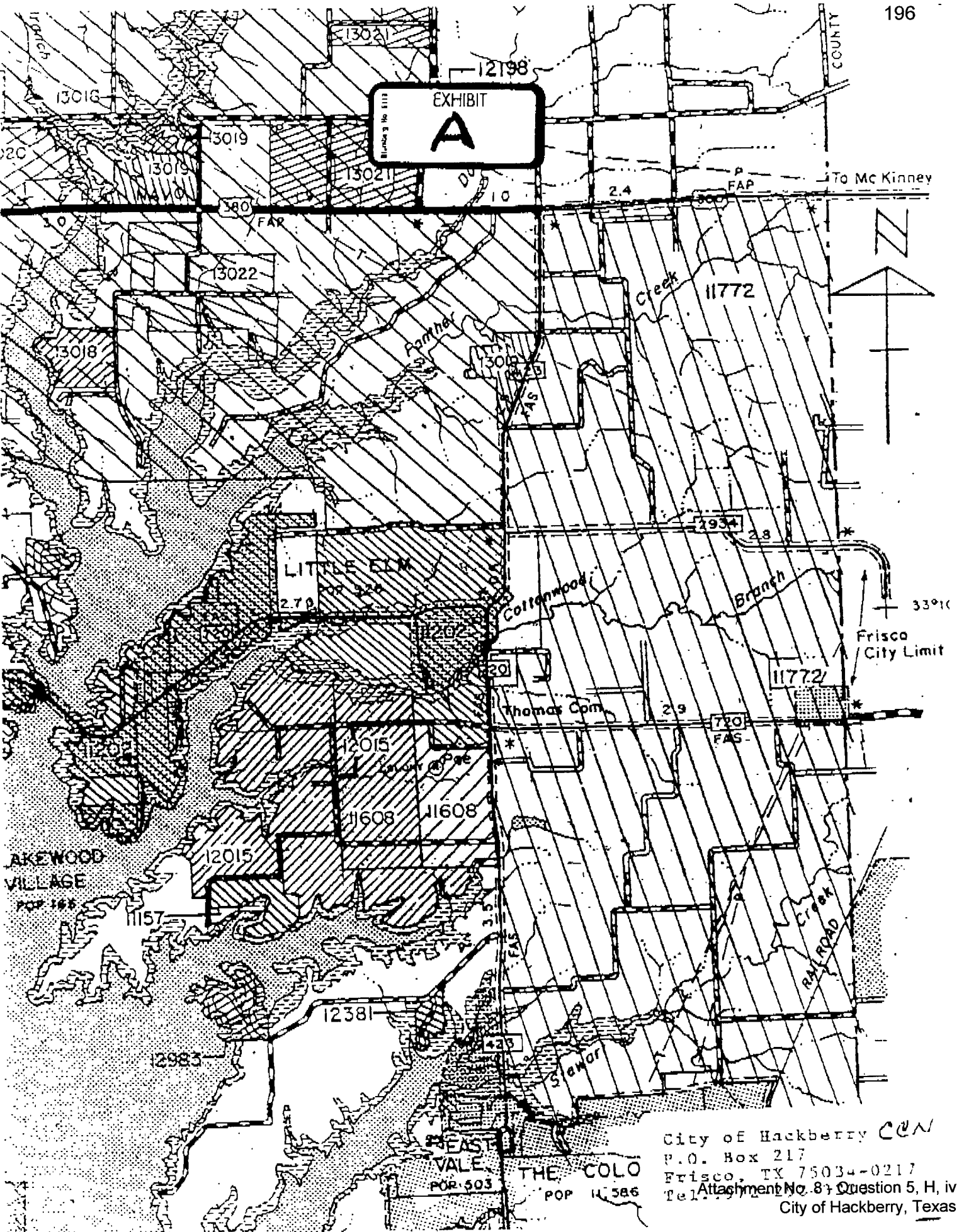


EXHIBIT  
A

City of Hackberry *CUN*  
 P.O. Box 217  
 Frisco, TX 75034-0217  
 Attachment No. 8 + Question 5, H, iv  
 City of Hackberry, Texas



### Attachment No. 9

The City of Hackberry's wastewater collection and treatment facilities has been sized to accommodate the projected build out of approximately 2,664 services (1,035 acres). The only undeveloped areas consist of approximately 30-40 acres or 3-4% of the gross CCN acreage. The remaining area is currently in service, platted or planned as part of a larger development. It is anticipated these areas will be residential based upon current land use and zoning. The build-out wastewater projections provided include all developed and undeveloped areas within the CCN boundary. All facilities have been designed in accordance with all TCEQ requirements.

