



Control Number: 49386



Item Number: 14

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DOCKET NO. 49386

APPLICATION OF LAS LOMAS	§	PUBLIC UTILITY COMMISSION
MUNICIPAL UTILITY DISTRICT NO.	§	
4A OF KAUFMAN COUNTY,	§	OF TEXAS
FORMERLY KNOWN AS LAS LOMAS	§	
MUNICIPAL UTILITY DISTRICT NO. 4	§	
OF KAUFMAN COUNTY AND LAS	§	
LOMAS MUNICIPAL UTILITY	§	
DISTRICT NO. 4B OF KAUFMAN	§	
COUNTY FOR SALE, TRANSFER, OR	§	
MERGER OF SEWER FACILITIES	§	
AND CERTIFICATE RIGHTS IN	§	
KAUFMAN COUNTY		

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PUBLIC UTILITY COMMISSION
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**SUPPLEMENTAL INFORMATION IN RESPONSE TO COMMISSION STAFF'S
SUPPLEMENTAL RECOMMENDATION ON ADMINISTRATIVE COMPLETENESS**

COMES NOW, Las Lomas Municipal Utility District No. 4A of Kaufman County (formerly, Las Lomas Municipal Utility District No. 4 of Kaufman County) and Las Lomas Municipal Utility District No. 4B of Kaufman County (collectively, the “Applicants”), and files this Supplemental Information in Response to Commission Staff’s Supplemental Recommendation on Administrative Completeness in the above-referenced proceeding, and in support thereof, respectfully shows the following:

I. BACKGROUND

On March 28, 2019, Applicant submitted an application for approval of a sale, transfer, or merger of sewer facilities and certificate rights in Kaufman County.

On May 1, the Commission Staff filed a Recommendation on Administrative Completeness and Proposed Procedural Schedule, including a memorandum from Roshan Pokhrel identifying certain deficiencies in the application content, financial and technical information (the “First Memo”).

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On June 21, 2019, the Applicants filed Supplemental Information in Response to Commission Staff's Recommendation on Administrative Completeness, attempting to cure the deficiencies described in the First Memo.

On July 22, 2019, the Commission Staff filed a Supplemental Recommendation on Administrative Completeness and Proposed Procedural Schedule, including a memorandum from Roshan Pokhrel identifying additional deficiencies in the application content (the "Second Memo").

II. SUPPLEMENTAL INFORMATION

Application Content

The Applicants hereby amend the application for approval of a sale, transfer, or merger of sewer facilities and certificate rights in Kaufman County filed on March 28, 2019 to change the Transferor name from "Las Lomas Municipal Utility District No. 4A, formerly known as Las Lomas Municipal Utility District No. 4 of Kaufman County" to "Las Lomas Municipal Utility District No. 4 of Kaufman County." The mailing address, phone number, and all other contact information shall remain the same for the amended Transferor. Any and all references to Las Lomas Municipal Utility District No. 4A of Kaufman County throughout the above-referenced proceeding shall now refer to Las Lomas Municipal Utility District No. 4 of Kaufman County instead.

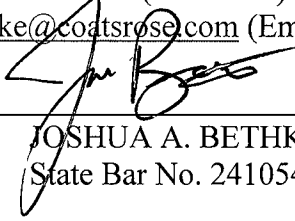
Attached hereto as Exhibit "A" is a fully executed Facilities and Operating Costs Reimbursement Agreement between the Developer and the Board of Directors of Las Lomas Municipal Utility District No. 4B of Kaufman County, as requested by the Second Memo.

Attached hereto as Exhibit "B" is proof that Water Quality Discharge Permit No. 14803001 is now held in the name of Las Lomas Municipal Utility District No. 4B, as requested by the Second Memo.

Respectfully submitted,

COATS ROSE, P.C.

14755 Preston Road, Suite 600
Dallas, Texas 75254
(972) 982-8454 (Telephone)
(972) 702-0662 (Facsimile)
jbethke@coatsrose.com (Email)

By: 
JOSHUA A. BETHKE
State Bar No. 24105465

ATTORNEYS FOR APPLICANTS

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document will be served on all parties of record on September 9, 2019 in accordance with Public Utility Commission Procedural Rule 22.74.

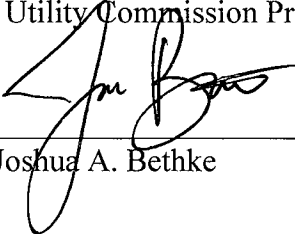

Joshua A. Bethke

EXHIBIT "A"
FACILITIES AND OPERATING COSTS
REIMBURSEMENT AGREEMENT
(Operations, Water, Sewer, Drainage, and Roads)

THE STATE OF TEXAS §
 §
COUNTY OF KAUFMAN §

THIS FACILITIES AND OPERATING COSTS REIMBURSEMENT AGREEMENT (the "Agreement") is made and entered into as of the 16 day of Aug., 2019, by and between AP DUPONT LIMITED PARTNERSHIP, a Texas limited partnership ("Owner"), and LAS LOMAS MUNICIPAL UTILITY DISTRICT NO. 4B OF KAUFMAN COUNTY (the "District"), a political subdivision of the State of Texas, operating under the provisions of Article III, Section 52, and Article XVI, Section 59, of the Texas Constitution and Chapters 49 and 54, Texas Water Code, as amended. Owner and the District may be individually referred to as a "Party" or collectively as the "Parties."

RECITALS:

WHEREAS, the District was created for the purpose of providing water, sanitary sewer and drainage facilities, and certain roads to serve the land within its boundaries; and

WHEREAS, Owner is the owner of the approximately 3,432 acres in the District described in the attached Exhibit "A" ("Owner's Land"); and

WHEREAS, Owner wishes the District to finance the construction or other acquisition of the water, sanitary sewer and drainage facilities or capacities, and roads necessary to serve Owner's Land (collectively, the "Facilities"), as Owner's development schedule dictates; and

WHEREAS, the District wishes Owner to proceed with the development of Owner's Land, as Owner's development schedule dictates, but the District does not have any funds which could be used to construct the Facilities, nor does the District have the ability, at this time, to issue its bonds to construct such Facilities;

WHEREAS, pursuant to the laws of the State of Texas, including Local Government Code, Section 375.092, the District is authorized to enter into agreements whereby a landowner constructs certain facilities on behalf of the District so that land in the District can be served with public facilities or whereby a landowner advances funds to allow the operation of the district.

AGREEMENT:

FOR AND IN CONSIDERATION of the mutual promises, covenants, benefits and obligations hereinafter set forth, the receipt and sufficiency of which is hereby acknowledged by both Parties, the District and Owner hereby agree and contract as follows:

- A. Provision of Facilities and Operating Costs. Owner, acting on behalf of the District, shall, from time to time as Owner's development schedule dictates, purchase, construct or otherwise cause the construction or acquisition of the Facilities or capacities needed for

development of Owner's Land in the manner provided by the general law for municipal utility districts and in full compliance with the applicable rules and regulations of the Texas Commission on Environmental Quality (the "TCEQ"), the provisions of the Texas Water Code, the applicable regulations of Kaufman County, Texas, and all other regulatory bodies having jurisdiction over such construction or acquisition. In addition, from time to time, as needed, Owner has already or in the future will loan to the District or pay on behalf of the District the costs to properly create, operate and maintain the District, such costs being hereinafter referred to as the "District's Operating Costs."

- B. Project Management. The District's engineer, or such engineer chosen by Owner and reasonably acceptable to the District, shall serve as "Project Engineer" for the construction of the Facilities. The Project Engineer shall prepare plans and specifications for the Facilities; advise and make recommendations to the Board of Directors upon the award of construction contracts on the Facilities; shall make monthly reports, if requested, to the Board and Owner on the progress of construction; approve all pay estimates and change orders and shall submit the same to the Board and Owner for approval; and provide the appropriate level of inspection and observation during the construction of the Facilities to assure construction in substantial compliance with the approved plans, and shall recommend final acceptance of the Facilities to the Board when appropriate. No changes to the plans and specifications or change orders to any construction contracts shall be made without approval by the Board of Directors of the District and Owner, which approvals shall not be unreasonably withheld.
- C. Contracts. The Board of Directors of the District shall review all bids received for the construction of the Facilities and shall authorize the award of the construction contracts in accordance with state laws related to competitive bidding requirements for municipal utility districts, provided that Owner authorizes such award. If Owner fails to authorize award of the construction contracts, the District shall reject all bids, and the District and Owner shall jointly determine whether to re-bid the project or postpone construction. Construction contracts shall include payment and performance bonds and maintenance guarantees after completion, all as required by law for municipal utility districts.
- D. Payment of Costs. Owner shall make, in a timely fashion, all payments on the contracts awarded by the Owner on behalf of the District or by the District for the construction or other acquisition of the Facilities. Such contracts shall provide that the contractor shall look solely to the Owner for payment of all claims. Owner shall, upon making any payment, provide copies of all invoices and certifications recommending payment to the District.
- E. District Reimbursement. The District shall reimburse Owner for the monies heretofore and hereafter funded by Owner for the Facilities with the proceeds of its bonds in accordance with the terms of this Agreement. The amount to be reimbursed for the Facilities shall be an amount equal to the maximum amount allowed by law, and, if applicable, the TCEQ under its then current rules, including, but not limited to, land, engineering fees, reports, studies and interest on the monies expended by Owner through the date such monies are repaid to Owner. In addition, the District shall repay Owner, to the maximum extent allowed under the rules of the TCEQ for the District's Operating

Costs upon approval of such repayment by the TCEQ. To the extent the TCEQ determines in reviewing the District's bond application (if applicable) that the cost of any portion of the Facilities or any portion of the District's Operating Costs may not be reimbursed or interest paid under the rules of such agency, then the amount of payment or reimbursement shall be appropriately reduced. Owner shall provide the District with such information and documentation as the District may reasonably request to enable it to calculate interest and verify payments. The District's obligation to repay Owner for the Facilities and the District's Operating Costs is subject to the following:

- 1) Owner shall cause to be dedicated to the District, Kaufman County, or other applicable governmental entity all easements, sites and rights-of-way necessary for the installation of the Facilities. If required by TCEQ, Owner shall dedicate such easements, sites, or rights-of-way without cost to the District. The District agrees to exercise its right of eminent domain if Owner cannot acquire such real property rights from third parties by negotiation.
- 2) Owner shall include in any street and road construction contract a provision that places the responsibility on the contractor for repair and clean-up of broken manholes, buried valve boxes, broken sewer pipes, and any and all other damage to District Facilities caused by the construction of such streets and roads.
- 3) Prior to the initiation of development within the District, Owner and all holders of a lien on Owner's Land shall enter into an agreement whereby, as to taxes levied by the District, Owner and any subsequent owner of all or any portion of Owner's Land permanently waive the right to claim agricultural, open space, wildlife management, timberland, or inventory valuations for any land, homes, or buildings owned by Owner within the District, unless such reduced valuation is in effect at the time the District issues its first series of bonds. Nothing herein shall prevent (a) Owner from maintaining an agricultural exemption over Owner's Land for any taxing jurisdiction other than the District, or (b) a residential homeowner from qualifying for any lawfully available exemption from any taxing jurisdiction, including the District.
- 4) Approval by the TCEQ (if required) of the issuance and sale by the District of bonds for the purchase of, or reimbursement of Owner for, the Facilities and repayment of the District's Operating Costs (the "Bonds").
- 5) Approval of the Bonds by the Attorney General of the State of Texas.
- 6) Registration of the Bonds by the Comptroller of Public Accounts of the State.
- 7) The receipt of a bid and awarding of sale of the Bonds by the District, and the receipt of the proceeds from the sale of such Bonds.

F. Order and Amount of Payment. Unless otherwise agreed by the District and Owner, the District shall include in its bond application the first monies expended by Owner pursuant to this Agreement and shall thereafter proceed to reimburse Owner for monies owed

hereunder on a first in/first out basis. In the event there is a disagreement between Owner and the District as to whether an expenditure or advance of money by Owner is owed hereunder or eligible to be reimbursed under state law or the rules of the TCEQ, the District shall include such amount in the bond application (if applicable) and shall provide Owner with the opportunity to submit information and appear before the TCEQ in support of the reimbursement. The District and Owner shall be bound by the decision of the TCEQ.

G. Bond Issuance Activities. The District shall use its reasonable best efforts to:

- 1) Apply to the TCEQ for approval of the issuance of the Bonds, if required, at such time as Owner requests, and upon the District's financial advisor determining that it is feasible for the District to issue its Bonds to repay Owner. Unless otherwise agreed by Owner, in no event shall the District file its application for the issuance of its Bonds at a date later than eight (8) months prior to the date Owner projects that the tax rate necessary to retire the District's outstanding indebtedness, including the Bonds, will be feasible. For purposes hereof, a bond issue will be considered "feasible" if it can be amortized with a tax rate of \$1.00 per \$100 valuation, based upon the taxable value of Owner's Land (and taxable improvements thereon) on a "stand alone" basis. "Stand alone" basis means that only the taxable value of Owner's Land (and taxable improvements thereon) may be considered in determining the amount of reimbursement allowable to Owner (taking into consideration previously issued bonds sold to fund Facilities serving Owner's Land). Owner may request that the Bonds be issued in more than one series, provided that the District shall not be required to issue any series of bonds in an initial principal amount of less than \$1,500,000, unless it is the last series of bonds to be issued by the District.
- 2) Following TCEQ approval (if required), market and sell the Bonds at the earliest time or times advised by the District's financial advisor; provided, however, that the District is only obligated to sell the Bonds at a rate which is acceptable under state law.
- 3) Obtain the Attorney General's approval of the Bonds.
- 4) Obtain registration of the Bonds by the Comptroller of Public Accounts and the State of Texas.
- 5) Reimburse Owner as soon as possible upon both receipt by the District of (a) the funds from the sale of Bonds, and (b) a reimbursement audit and approval by the Board of Directors.

H. Applicable Law. This Agreement and the obligations of the Parties hereunder are subject to all rules, regulations and laws which may be applicable by the United States, the State of Texas, or any regulatory agency having jurisdiction, including the applicable rules of the TCEQ. Venue shall lie solely in Kaufman County.

- I. Parties in Interest. This Agreement shall be for the sole and exclusive benefit of the District and Owner and shall not be construed to confer any benefit or right upon any other party.
- J. Modification. This Agreement shall be subject to change or modification only with the mutual written consent of Owner and the District; provided, however, the term "Owner's Land" shall automatically be amended to include any land subsequently purchased by Owner and annexed into the District.
- K. Recitals. The "Recitals" set forth in this Agreement are true and correct and are incorporated as part of this Agreement.
- L. Entire Agreement. This Agreement constitutes the entire Agreement between the Parties relative to the subject matter hereof. There have not been and are no agreements, covenants, representations or warranties between the Parties other than those expressly stated or provided for herein.
- M. Good Faith Cooperation. The Parties agree to use good faith in the performance of their respective duties and obligations under this Agreement such that the intent of the Parties shall be fulfilled. The Parties further agree to take such additional actions, from time to time, as may be necessary to fully carry out the purposes and intent of this Agreement including, but not limited to, the execution of further documentation.
- N. Default and Remedies. No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has had a reasonable time to cure the alleged failure (such reasonable time determined based on the nature of the alleged failure). In addition, no Party shall be in default under this Agreement if within the applicable reasonable cure period the Party to whom the default notice was given begins performance and thereafter uses its good faith efforts to diligently and continuously pursue performance until the alleged failure has been cured. If a Party is in default under this Agreement, then the non-defaulting Party shall be entitled to all remedies available under applicable law including, but not limited to, specific performance, injunctive relief, mandamus relief, and damages; provided, however, (i) the District does not have the right to terminate this Agreement prior to the expiration of its term, and (ii) once Owner advances money to the District, the obligation of the District to issue and sell Bonds to reimburse for such monies shall not be affected by any alleged default by Owner that is unrelated to the advancing of such monies. The failure of any Party to insist, in one or more instances, upon performance by another Party of any provision of this Agreement shall not be construed as a waiver of future performance of such provision. If any Party hereto is the prevailing Party in any legal proceedings against the other brought under or with relation to this Agreement, such prevailing Party shall additionally be entitled to recover court costs and reasonable attorney's fees from the non-prevailing Party to such proceedings.

The District acknowledges that this Agreement is for the providing of goods and services and, pursuant to Section 271.151, Texas Local Government Code, the District has waived its immunity from suit solely for the purpose of Owner enforcing this Agreement.

- O. Merger of District. In the event the District should consolidate or otherwise merge with another utility district or another public entity, such merger shall not act in any way impair or diminish Owner's rights hereunder.
- P. Assignment. In the event Owner sells, conveys, or otherwise transfers ownership of Owner's Land to any person or entity other than a homebuilder or end-user homeowner, Owner may, upon written notice to the District, assign Owner's rights and obligations under this Agreement to the new owner, provided that the new owner executes a joinder to this Agreement or otherwise agrees in writing to be bound by the terms of this Agreement. Upon written notice to the District, Owner may assign its rights to funds reimbursed hereunder to any lender providing monies to Owner for development of Owner's Land. Owner shall obtain from such lender and deliver to the District written releases and/or subordination agreements, in a form reasonably satisfactory to the District, evidencing that such lender has not taken a lien on any portion of the Facilities and that in the event such lienholder should foreclose on any portion of Owner's Land, such lienholder shall not have any title to the Facilities and takes title to Owner's Land subject to the terms and conditions of this Agreement. The District's acknowledgment of notice of any assignment hereunder shall not be deemed a waiver of the District's rights hereunder, and the Parties hereto acknowledge and agree that any subsequent assignments shall be subject to all of the terms hereof.
- Q. Severability. The provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, section, or other part of this Agreement, or the application thereof to any person or circumstance, shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Agreement to other persons or circumstances shall be not be affected thereby.
- R. Consideration. Each Party hereto hereby finds, determines and represents that the benefits provided to it and the obligations hereunder are binding upon it constitute due consideration for its execution of this Agreement. In particular, Owner's commitment to advance monies to the District results in certain material benefits being provided to the District and constitute adequate consideration for the District's obligations to issue bonds from time to time, impose an ad valorem operation and maintenance tax, or otherwise reimburse Owner. Owner hereby represents that the District's commitment to reimburse it for monies expended pursuant to this Agreement constitutes adequate consideration for its commitment to perform its obligations hereunder.
- S. Force Majeure. If a Party is prevented from performing, in whole or in part, its obligations under this Agreement by reason of "force majeure" that could not have been avoided by the exercise of due diligence by such Party, then performance by such Party may be suspended to the limited extent and during the limited period that performance is

made impossible by the force majeure; provided, however, such Party must use its best efforts to diligently and continuously pursue a course of action that will eliminate the force majeure and allow such Party to resume full performance at the earliest possible time. As an express condition precedent to suspending performance, however, immediately after the occurrence of any force majeure, the Party whose performance is rendered impossible shall give notice and full details of the force majeure to the other Party. For purposes of this Agreement, "force majeure" means any of the following: floods; earthquakes; acts of God; acts of war; acts of terrorism; acts of public enemies; insurrection; riot; labor strikes; the inability to procure labor or materials in the open market; the interruption of utility services by an entity other than the District; the issuance of a restraining order by any court having jurisdiction; and no other.

- T. Notice. All notices provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States mail, addressed to the Party to be notified, postage prepaid and registered or certified with return receipt requested; by delivering the same in person to such Party; or by facsimile copy transmission. Notice given by mail shall be effective upon deposit in the United States mail. Notice given in any other manner shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the Parties shall be as follows:

If to the District: Las Lomas Municipal Utility District No. 4B of Kaufman County
 c/o Coats Rose, P.C.
 14755 Preston Road, Suite 600
 Dallas, Texas 75254
 Attention: Mindy L. Koehne

If to Owner: AP Du Pont Limited Partnership
 12770 Coit Road, Suite 970
 Dallas, Texas 75251
 Attention: Ross Anthony

Either Party hereto may change its address for notice by giving three (3) days prior written notice to the other Party.

- U. Required Verifications. As required by Chapter 2270, Government Code, the Developer hereby verifies that neither it, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, boycotts Israel and will not boycott Israel through the term of this Agreement. For purposes of this verification, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. Pursuant to Chapter 2252, Texas Government Code, Developer represents and certifies that, at the time of execution of this Agreement neither Developer, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same (i) engages in business with Iran, Sudan, or any foreign terrorist organization as described in Chapter 2270 of the Texas Government Code, or Subchapter F of Chapter 2252 of the Texas Government Code, or (ii) is a company listed

by the Texas Comptroller of Public Accounts under Sections 2270.0102, 2270.0052, or 2252.153 of the Texas Government Code. The term “foreign terrorist organization” in this paragraph has the meaning assigned to such term in Section 2252.151 of the Texas Government Code.

- V. Term. This Agreement shall remain in effect for a term of forty (40) years.

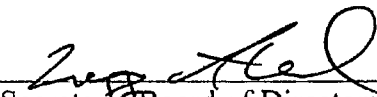
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IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date and year first written above.

DISTRICT:

LAS LOMAS MUNICIPAL UTILITY
DISTRICT NO. 4B OF KAUFMAN COUNTY

ATTEST:


Secretary, Board of Directors

By: 
President, Board of Directors

(DISTRICT SEAL)



OWNER:

AP DUPONT LIMITED PARTNERSHIP,
a Texas limited partnership

By: AP Land Management, Inc.,
a Texas corporation
its General Partner


By: 
Name: Jay Anthony
Title: President

EXHIBIT "A"

LAS LOMAS MUNICIPAL UTILITY DISTRICT No. 4B OF KAUFMAN COUNTY DESCRIPTION

TRACT 1

BEING A TRACT OF LAND SITUATED IN THE J. R. LEATH SURVEY, ABSTRACT NO. 305, THE W. C. MOODY SURVEY, ABSTRACT NO. 321, THE RICHARD MEAD SURVEY, ABSTRACT NO. 326, THE LEWIS PEARCE SURVEY, ABSTRACT NO. 373, THE WILLIAM SIMPSON SURVEY, ABSTRACT NO. 453, THE J. W. WARD SURVEY, ABSTRACT NO. 596, AND THE T. A. WALDROP SURVEY, ABSTRACT NO. 597 IN KAUFMAN COUNTY, TEXAS, AND BEING ALL OF A CALLED 1012.488 ACRE TRACT OF LAND DESCRIBED AS TRACT 1 IN A DEED TO AP DUPONT LIMITED PARTNERSHIP RECORDED IN VOLUME 2502, PAGE 77 OF THE DEED RECORDS OF KAUFMAN COUNTY, TEXAS, PART OF A CALLED 1406.504 ACRE TRACT OF LAND DESCRIBED AS TRACT 2 IN SAID DEED, ALL OF A CALLED 57.77 ACRE TRACT OF LAND DESCRIBED AS TRACT 5 IN SAID DEED, ALL OF A CALLED 38.410 ACRE TRACT OF LAND DESCRIBED AS TRACT 6A IN SAID DEED, ALL OF A CALLED 46.324 ACRE TRACT OF LAND DESCRIBED AS TRACT 6B IN SAID DEED, ALL OF A CALLED 146.491 ACRE TRACT OF LAND DESCRIBED AS TRACT 6C IN SAID DEED, ALL OF A CALLED 418.350 ACRE TRACT OF LAND DESCRIBED AS TRACT 6D IN SAID DEED, ALL OF A CALLED 210.082 ACRE TRACT OF LAND DESCRIBED AS TRACT 7 IN SAID DEED, ALL OF A CALLED 3.09 ACRE TRACT OF LAND DESCRIBED AS TRACT 8 IN SAID DEED, ALL OF A CALLED 20.575 ACRE TRACT OF LAND DESCRIBED AS TRACT 9 IN SAID DEED, ALL OF A CALLED 242.39 ACRE TRACT OF LAND DESCRIBED AS TRACT 10 IN SAID DEED, AND ALL OF A CALLED 55.848 ACRE TRACT OF LAND DESCRIBED AS TRACT 11 IN SAID DEED, ALL OF A CALLED 40.186 ACRE TRACT OF LAND DESCRIBED IN A DEED AP DUPONT LIMITED PARTNERSHIP RECORDED IN VOLUME 2489, PAGE 481 OF SAID DEED RECORDS, ALL OF A CALLED 20.000 ACRE TRACT DESCRIBED IN A DEED TO THE TEXAS VETERANS LAND BOARD RECORDED IN VOLUME 1070, PAGE 332 AND IN A CONTRACT OF SALE BETWEEN THE TEXAS VETERANS LAND BOARD AND MELVIN EARL DUKE RECORDED IN VOLUME 1070, PAGE 336 OF SAID DEED RECORDS, AND ALL OF A CALLED 20.000 ACRE TRACT OF LAND DESCRIBED IN A DEED TO ROBERT A. BROOKS AND BARBARA M. BROOKS RECORDED IN VOLUME 1277, PAGE 618 OF SAID DEED RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHWEST RIGHT-OF-WAY LINE OF SPUR 557 (VARIABLE RIGHT-OF-WAY) FOR THE MOST EASTERLY CORNER OF SAID 1012.488 ACRE TRACT (TRACT 1) AND THE NORTHWEST CORNER OF A CALLED 131.36 ACRE TRACT OF LAND DESCRIBED AS TRACT V IN A DEED TO 148/I-20 TERRELL PARTNERSHIP, LTD., RECORDED IN VOLUME 1939, PAGE 341 OF SAID DEED RECORDS;

THENCE SOUTH 45 DEGREES 16 MINUTES 35 SECONDS WEST, ALONG THE SOUTHEASTERLY BOUNDARY OF SAID TRACT 1 AND THE NORTHWEST LINES OF SAID TRACT V AND A CALLED 120.00 ACRE TRACT OF LAND DESCRIBED AS TRACT IV IN SAID DEED TO 148/I-20 TERRELL PARTNERSHIP, LTD., A DISTANCE OF 2141.57 FEET TO A POINT FOR THE MOST WESTERLY CORNER OF SAID TRACT IV;

THENCE SOUTH 45 DEGREES 02 MINUTES 34 SECONDS EAST, ALONG THE SOUTHWEST LINE OF SAID TRACT IV, A DISTANCE OF 99.72 FEET TO A POINT FOR A RE-ENTRANT CORNER IN SAID TRACT 1 AND THE NORTH CORNER OF A CALLED 80.083 ACRE TRACT OF LAND DESCRIBED IN A DEED TO C. L. HAMILTON, JR., RECORDED IN VOLUME 528, PAGE 759 OF SAID DEED RECORDS;

THENCE SOUTH 45 DEGREES 05 MINUTES 40 SECONDS WEST, CONTINUING ALONG THE SOUTHEASTERLY BOUNDARY OF SAID TRACT 1 AND ALONG THE NORTHWEST LINE OF SAID HAMILTON TRACT, A DISTANCE OF 1795.83 FEET TO A POINT IN THE NORTHEAST LINE OF A CALLED 288.239 ACRE TRACT OF LAND DESCRIBED AS TRACT 1 IN A DEED TO AP TERRELL LIMITED PARTNERSHIP RECORDED IN VOLUME 2324, PAGE 267 OF SAID DEED RECORDS FOR THE WEST CORNER OF SAID HAMILTON TRACT AND A RE-ENTRANT CORNER OF SAID TRACT 1;

THENCE NORTH 44 DEGREES 23 MINUTES 07 SECONDS WEST, CONTINUING ALONG THE SOUTHEASTERLY BOUNDARY OF SAID TRACT 1 AND THE NORTHEAST LINE OF SAID 288.239 ACRE TRACT, A DISTANCE OF 99.93 FEET TO A POINT FOR THE MOST NORTHERLY CORNER OF SAID 288.239 ACRE TRACT;

THENCE SOUTH 45 DEGREES 29 MINUTES 35 SECONDS WEST, ALONG THE COMMON LINE BETWEEN SAID TRACT 1 AND SAID 288.239 ACRE TRACT, A DISTANCE OF 6060.97 FEET TO A POINT FOR AN ANGLE POINT;

THENCE SOUTH 45 DEGREES 28 MINUTES 26 SECONDS WEST, CONTINUING ALONG SAID COMMON LINE, A DISTANCE OF 1601.11 FEET TO A POINT FOR THE WEST CORNER OF SAID 288.239 ACRE TRACT AND THE NORTH CORNER OF SAID TRACT 9;

THENCE SOUTH 44 DEGREES 25 MINUTES 44 SECONDS EAST, ALONG THE NORTHEAST LINE OF SAID TRACT 9 AND THE SOUTHWEST LINE OF SAID 288.239 ACRE TRACT, A DISTANCE OF 898.56 FEET TO A POINT IN THE NORTHERLY RIGHT-OF-WAY OF INTERSTATE HIGHWAY 20 (VARIABLE RIGHT-OF-WAY) FOR THE SOUTH CORNER OF SAID 288.239 ACRE TRACT AND THE EAST CORNER OF SAID TRACT 9;

THENCE ALONG THE NORTHERLY RIGHT-OF-WAY OF INTERSTATE HIGHWAY 20 THE FOLLOWING COURSES AND DISTANCES:

SOUTH 63 DEGREES 04 MINUTES 03 SECONDS WEST, A DISTANCE OF 631.14 FEET TO A POINT FOR CORNER;

SOUTH 75 DEGREES 45 MINUTES 02 SECONDS WEST, A DISTANCE OF 1122.84 FEET TO A POINT FOR CORNER;

SOUTH 77 DEGREES 15 MINUTES 22 SECONDS WEST, A DISTANCE OF 2160.34 FEET TO A POINT FOR CORNER;

SOUTH 87 DEGREES 10 MINUTES 56 SECONDS WEST, A DISTANCE OF 406.08 FEET TO A POINT FOR CORNER;

SOUTH 77 DEGREES 15 MINUTES 22 SECONDS WEST, A DISTANCE OF 1593.39 FEET TO A POINT FOR THE MOST SOUTHERLY SOUTHWEST CORNER OF SAID TRACT 1;

THENCE NORTH 44 DEGREES 55 MINUTES 22 SECONDS WEST, ALONG THE SOUTHWEST LINE OF SAID TRACT 1, A DISTANCE OF 1236.59 FEET TO THE WEST CORNER THEREOF AND THE SOUTH CORNER OF A CALLED 226.262 ACRE TRACT OF LAND DESCRIBED IN A DEED TO STEPHEN EDWARD CUMMINGS AND WIFE TAMARA CANNON CUMMINGS RECORDED IN VOLUME 1105, PAGE 405 OF SAID DEED RECORDS;

THENCE NORTH 44 DEGREES 40 MINUTES 05 SECONDS EAST, ALONG THE MOST SOUTHERLY NORTHWEST LINE OF SAID TRACT 1 AND THE SOUTHEAST LINE OF SAID CUMMINGS TRACT, A DISTANCE OF 2494.90 FEET TO A POINT IN THE APPROXIMATE CENTER OF BIG BRUSHY CREEK;

THENCE ALONG THE APPROXIMATE CENTER OF BIG BRUSHY CREEK THE FOLLOWING COURSES AND DISTANCES;

NORTH 06 DEGREES 12 MINUTES 18 SECONDS WEST, A DISTANCE OF 345.93 FEET;

NORTH 09 DEGREES 55 MINUTES 23 SECONDS WEST, A DISTANCE OF 554.42 FEET;

NORTH 08 DEGREES 46 MINUTES 10 SECONDS WEST, A DISTANCE OF 381.09 FEET;

NORTH 05 DEGREES 35 MINUTES 18 SECONDS EAST, A DISTANCE OF 162.78 FEET;

NORTH 22 DEGREES 31 MINUTES 18 SECONDS WEST, A DISTANCE OF 166.93 FEET;

NORTH 09 DEGREES 47 MINUTES 43 SECONDS WEST, A DISTANCE OF 320.94 FEET;

NORTH 05 DEGREES 05 MINUTES 10 SECONDS WEST, A DISTANCE OF 140.62 FEET;

NORTH 23 DEGREES 45 MINUTES 30 SECONDS EAST, A DISTANCE OF 76.71 FEET;

NORTH 11 DEGREES 46 MINUTES 42 SECONDS WEST, A DISTANCE OF 70.46 FEET;

NORTH 03 DEGREES 51 MINUTES 18 SECONDS WEST, A DISTANCE OF 166.62 FEET;

NORTH 13 DEGREES 06 MINUTES 48 SECONDS WEST, A DISTANCE OF 273.76 FEET;

NORTH 12 DEGREES 55 MINUTES 02 SECONDS EAST, A DISTANCE OF 79.03 FEET;

NORTH 05 DEGREES 00 MINUTES 55 SECONDS WEST, A DISTANCE OF 192.13 FEET;

NORTH 07 DEGREES 15 MINUTES 15 SECONDS EAST, A DISTANCE OF 69.36 FEET;

NORTH 05 DEGREES 47 MINUTES 42 SECONDS WEST, A DISTANCE OF 88.93 FEET;

NORTH 19 DEGREES 00 MINUTES 10 SECONDS EAST, A DISTANCE OF 143.40 FEET;

NORTH 07 DEGREES 53 MINUTES 29 SECONDS EAST, A DISTANCE OF 76.28 FEET;

NORTH 18 DEGREES 45 MINUTES 36 SECONDS EAST, A DISTANCE OF 63.08 FEET;

NORTH 09 DEGREES 31 MINUTES 32 SECONDS EAST, A DISTANCE OF 132.11 FEET;

NORTH 02 DEGREES 16 MINUTES 10 SECONDS WEST, A DISTANCE OF 71.67 FEET;

NORTH 14 DEGREES 29 MINUTES 56 SECONDS WEST, A DISTANCE OF 124.10 FEET;

NORTH 31 DEGREES 34 MINUTES 04 SECONDS WEST, A DISTANCE OF 80.42 FEET;

NORTH 20 DEGREES 56 MINUTES 55 SECONDS WEST, A DISTANCE OF 85.21 FEET;

NORTH 02 DEGREES 03 MINUTES 48 SECONDS EAST, A DISTANCE OF 66.26 FEET;

NORTH 04 DEGREES 20 MINUTES 07 SECONDS WEST, A DISTANCE OF 107.71 FEET;

NORTH 25 DEGREES 55 MINUTES 20 SECONDS WEST, A DISTANCE OF 126.58 FEET;

NORTH 33 DEGREES 42 MINUTES 49 SECONDS WEST, A DISTANCE OF 66.57 FEET;

NORTH 48 DEGREES 30 MINUTES 57 SECONDS WEST, A DISTANCE OF 45.41 FEET;

NORTH 75 DEGREES 33 MINUTES 32 SECONDS WEST, A DISTANCE OF 35.14 FEET TO THE WEST CORNER OF SAID TRACT 4 AND THE NORTH CORNER OF SAID CUMMINGS TRACT, SAID POINT BEING IN THE SOUTHEASTERLY BOUNDARY OF SAID TRACT 2;

THENCE SOUTH 45 DEGREES 08 MINUTES 13 SECONDS WEST, ALONG THE NORTHWESTERLY BOUNDARY OF SAID CUMMINGS TRACT AND THE SOUTHEASTERLY BOUNDARY OF SAID TRACT 2, A DISTANCE OF 636.24 FEET TO A POINT FOR CORNER;

THENCE SOUTH 25 DEGREES 51 MINUTES 12 SECONDS WEST, CONTINUING ALONG THE NORTHWESTERLY BOUNDARY OF SAID CUMMINGS TRACT AND THE SOUTHEASTERLY BOUNDARY OF SAID TRACT 2, A DISTANCE OF 1632.88 FEET TO A POINT FOR CORNER;

THENCE SOUTH 44 DEGREES 51 MINUTES 12 SECONDS WEST, CONTINUING ALONG THE NORTHWESTERLY BOUNDARY OF SAID CUMMINGS TRACT AND THE SOUTHEASTERLY BOUNDARY OF SAID TRACT 2, A DISTANCE OF 864.04 FEET TO THE EAST CORNER OF A CALLED 10.0 ACRE TRACT OF LAND DESCRIBED IN A DEED TO FLOYD DARDEN AND JOHN DARDEN RECORDED IN VOLUME 1033, PAGE 384 OF SAID DEED RECORDS;

THENCE NORTH 00 DEGREES 51 MINUTES 17 SECONDS WEST, A DISTANCE OF 10481.50 FEET TO A POINT IN THE SOUTH LINE OF THE UNION PACIFIC RAILWAY (100' RIGHT-OF-WAY) AND IN THE NORTH LINE OF SAID TRACT 2;

THENCE SOUTH 88 DEGREES 06 MINUTES 52 SECONDS EAST, ALONG THE NORTH LINE OF SAID TRACT 2 AND THE SOUTH LINE OF THE RAILWAY, A DISTANCE OF 7,277.69 FEET TO A POINT FOR CORNER;

THENCE SOUTH 02 DEGREES 52 MINUTES 47 SECONDS WEST, A DISTANCE OF 98.14 FEET TO A POINT FOR THE NORTHEAST CORNER OF SAID TRACT 8;

THENCE SOUTH 10 DEGREES 52 MINUTES 20 SECONDS WEST, ALONG THE MOST NORTHERLY EAST LINE OF SAID TRACT 8, A DISTANCE OF 191.83 FEET TO A POINT FOR CORNER;

THENCE SOUTH 78 DEGREES 58 MINUTES 12 SECONDS EAST, A DISTANCE OF 18.76 FEET TO A POINT IN THE APPROXIMATE CENTER OF COUNTY ROAD 238 (UNDEDICATED PUBLIC ROAD) AND THE WEST LINE OF SAID TRACT 6A;

THENCE NORTH 09 DEGREES 34 MINUTES 14 SECONDS EAST, ALONG THE APPROXIMATE CENTER OF COUNTY ROAD 238 AND THE WEST LINE OF SAID TRACT 6A, A DISTANCE OF 194.23 FEET TO A POINT FOR THE NORTHWEST CORNER OF SAID TRACT 6A;

THENCE SOUTH 88 DEGREES 13 MINUTES 07 SECONDS EAST, ALONG THE NORTH LINE OF SAID TRACT 6A, A DISTANCE OF 439.54 FEET TO A POINT FOR THE NORTHEAST CORNER OF SAID TRACT 6A AND THE NORTHWEST CORNER OF A 40.186 ACRE TRACT OF LAND DESCRIBED IN A DEED TO AP DUPONT LIMITED PARTNERSHIP RECORDED IN VOLUME 2489, PAGE 481 OF SAID DEED RECORDS;

THENCE ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF SPUR 557 AS FOLLOWS:

SOUTH 62 DEGREES 14 MINUTES 39 SECONDS EAST, A DISTANCE OF 239.63 FEET TO A POINT FOR CORNER;

SOUTH 56 DEGREES 59 MINUTES 45 SECONDS EAST, A DISTANCE OF 398.38 FEET TO A POINT FOR CORNER;

SOUTH 61 DEGREES 40 MINUTES 02 SECONDS EAST, A DISTANCE OF 801.48 FEET TO A POINT FOR CORNER;

SOUTH 58 DEGREES 29 MINUTES 39 SECONDS EAST, A DISTANCE OF 1701.26 FEET TO A POINT FOR CORNER;

SOUTH 60 DEGREES 45 MINUTES 58 SECONDS EAST, A DISTANCE OF 399.56 FEET TO A POINT FOR CORNER;

SOUTH 58 DEGREES 10 MINUTES 40 SECONDS EAST, A DISTANCE OF 197.28 FEET TO A POINT FOR CORNER;

SOUTH 58 DEGREES 08 MINUTES 34 SECONDS EAST, A DISTANCE OF 1002.54 FEET TO A POINT FOR CORNER;

SOUTH 54 DEGREES 48 MINUTES 28 SECONDS EAST, A DISTANCE OF 901.01 FEET TO A POINT AT A CUT-BACK CORNER FOR COUNTY ROAD 305;

SOUTH 00 DEGREES 24 MINUTES 39 SECONDS EAST, ALONG SAID CUT-BACK, A DISTANCE OF 306.16 FEET TO A POINT FOR CORNER;

SOUTH 48 DEGREES 51 MINUTES 21 SECONDS EAST, A DISTANCE OF 139.01 FEET TO A POINT FOR CORNER;

NORTH 68 DEGREES 37 MINUTES 22 SECONDS EAST, ALONG A CUT-BACK LINE FOR COUNTY ROAD 305, A DISTANCE OF 369.51 FEET TO A POINT FOR CORNER;

SOUTH 62 DEGREES 55 MINUTES 42 SECONDS EAST, A DISTANCE OF 908.33 FEET TO A POINT FOR CORNER;

SOUTH 62 DEGREES 41 MINUTES 47 SECONDS EAST, A DISTANCE OF 1218.13 FEET TO A POINT FOR CORNER;

SOUTH 62 DEGREES 58 MINUTES 31 SECONDS EAST, A DISTANCE OF 65.33 FEET TO THE POINT OF BEGINNING AND CONTAINING 3,152.439 ACRES OF LAND, SAVE AND EXCEPT THE FOLLOWING TWO (2) TRACTS OF LAND:

SAVE AND EXCEPT TRACT 1

BEING A TRACT OF LAND SITUATED IN THE LEWIS PEARCE SURVEY, ABSTRACT NO. 373, IN KAUFMAN COUNTY, TEXAS, AND BEING ALL OF A CALLED 10.000 ACRE TRACT OF LAND DESCRIBED IN A DEED TO ROBERT A. KAUS AND WIFE MARTHA LEE KAUS RECORDED IN VOLUME 1050, PAGE 120 OF THE DEED RECORDS OF KAUFMAN COUNTY, TEXAS, AND ALL OF A CALLED 30.000 ACRE TRACT DESCRIBED IN A DEED TO ROBERT A. KAUS AND WIFE MARTHA LEE KAUS RECORDED IN VOLUME 1050, PAGE 124 OF SAID DEED RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE APPROXIMATE CENTER OF COUNTY ROAD 238 (UNDEDICATED PUBLIC ROAD) FOR THE NORTH CORNER OF SAID 30.000 TRACT AND THE WEST CORNER OF A CALLED 46.324 ACRE TRACT OF LAND DESCRIBED AS TRACT 6B IN A DEED TO AP DUPONT LIMITED PARTNERSHIP RECORDED IN VOLUME 2502, PAGE 77 OF SAID DEED RECORDS;

THENCE SOUTH 45 DEGREES 11 MINUTES 54 SECONDS EAST, ALONG THE NORTHEAST LINE OF SAID 30.000 ACRE TRACT AND THE SOUTHWEST LINE OF SAID TRACT 6B, A DISTANCE OF 3,261.17 FEET TO A POINT FOR THE EAST CORNER OF SAID 30.000 ACRE TRACT AND THE SOUTH CORNER OF SAID TRACT 6B, SAID

POINT ALSO BEING LOCATED IN THE NORTHWEST LINE OF A CALLED 242.39 ACRE TRACT OF LAND DESCRIBED AS TRACT 10;

THENCE SOUTH 44 DEGREES 50 MINUTES 02 SECONDS WEST, ALONG THE SOUTHEAST LINES OF SAID 30.000 ACRE TRACT AND SAID 10.000 ACRE TRACT, AND THE NORTHWEST LINE OF SAID TRACT 10, A DISTANCE OF 534.82 FEET TO A POINT FOR THE SOUTH CORNER OF SAID 10.000 ACRE TRACT AND THE EAST CORNER OF A CALLED 55.84 ACRE TRACT DESCRIBED AS TRACT 11 IN SAID AP DUPONT DEED;

THENCE NORTH 45 DEGREES 11 MINUTES 25 SECONDS WEST, ALONG THE SOUTHWEST LINE OF SAID 10.00 ACRE TRACT AND THE NORTHEAST LINE OF SAID TRACT 11, A DISTANCE OF 3262.61 FEET TO A POINT IN THE APPROXIMATE CENTER OF COUNTY ROAD 238 FOR THE WEST CORNER OF SAID 10.000 ACRE TRACT AND THE NORTH CORNER OF SAID TRACT 11;

THENCE NORTH 44 DEGREES 59 MINUTES 17 SECONDS EAST, ALONG THE APPROXIMATE CENTER OF COUNTY ROAD 238 AND THE NORTHWEST LINES OF SAID 10.000 ACRE TRACT AND SAID 30.000 ACRE TRACT; A DISTANCE OF 534.37 FEET TO THE POINT OF BEGINNING AND CONTAINING 40.032 ACRES OF LAND, MORE OR LESS.

SAVE AND EXCEPT TRACT 2

BEING A TRACT OF LAND SITUATED IN THE LEWIS PEARCE SURVEY, ABSTRACT NO. 373, IN KAUFMAN COUNTY, TEXAS, AND BEING ALL OF A CALLED 20.000 ACRE TRACT OF LAND DESCRIBED IN A DEED TO JAMES EDGAR CRAWFORD, SR., AND WIFE EARLENA FAYE CRAWFORD RECORDED IN VOLUME 1056, PAGE 531 OF THE DEED RECORDS OF KAUFMAN COUNTY, TEXAS, AND ALL OF A CALLED 20.000 ACRE TRACT DESCRIBED IN A DEED TO THE TEXAS VETERANS LAND BOARD RECORDED IN VOLUME 1070, PAGE 352 OF SAID DEED RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE APPROXIMATE CENTER OF COUNTY ROAD 238 (UNDEDICATED PUBLIC ROAD) FOR THE NORTH CORNER OF SAID TEXAS VETERANS LAND BOARD TRACT AND THE WEST CORNER OF A CALLED 55.84 ACRE TRACT OF LAND DESCRIBED AS TRACT 11 IN A DEED TO AP DUPONT LIMITED PARTNERSHIP RECORDED IN VOLUME 2502, PAGE 77 OF SAID DEED RECORDS;

THENCE SOUTH 45 DEGREES 13 MINUTES 34 SECONDS EAST, ALONG THE COMMON LINE BETWEEN SAID LAND BOARD TRACT AND SAID TRACT 11, A DISTANCE OF 1291.85 FEET TO A POINT FOR THE MOST NORTHERLY EAST CORNER OF SAID LAND BOARD TRACT AND A RE-ENTRANT CORNER IN SAID TRACT 11;

THENCE SOUTH 00 DEGREES 11 MINUTES 46 SECONDS EAST, ALONG THE MOST SOUTHERLY WEST LINE OF SAID TRACT 11 AND THE EAST LINES OF SAID LAND BOARD TRACT AND SAID CRAWFORD TRACT, A DISTANCE OF 1381.15 FEET TO A POINT FOR THE SOUTH CORNER OF SAID CRAWFORD TRACT AND THE MOST NORTHERLY EAST CORNER OF A CALLED 418.609 ACRE TRACT OF LAND DESCRIBED AS TRACT 6D IN SAID AP DUPONT DEED;

THENCE NORTH 45 DEGREES 16 MINUTES 57 SECONDS WEST, ALONG THE SOUTHWEST LINE OF SAID CRAWFORD TRACT AND THE NORTHEAST LINE OF SAID TRACT 6D, A DISTANCE OF 2274.35 FEET TO A POINT IN THE APPROXIMATE CENTER OF COUNTY ROAD 238 FOR THE WEST CORNER OF SAID CRAWFORD TRACT AND THE NORTH CORNER OF SAID TRACT 6D;

THENCE NORTH 45 DEGREES 08 MINUTES 53 SECONDS EAST, ALONG THE APPROXIMATE CENTER OF COUNTY ROAD 238 AND THE NORTHWEST LINE OF SAID TRACT 6D, A DISTANCE OF 979.39 FEET TO THE POINT OF BEGINNING AND CONTAINING 40.057 ACRES OF LAND, MORE OF LESS, LEAVING A TOTAL AREA OF 3072.350 ACRES, MORE OR LESS.

TRACT 2

BEING A TRACT OF LAND SITUATED IN THE WILLIAM SIMPSON SURVEY, ABSTRACT NO. 453, IN KAUFMAN COUNTY, TEXAS, AND BEING ALL OF A CALLED 362.357 ACRE TRACT OF LAND DESCRIBED AS TRACT 3 IN A DEED TO AP DUPONT LIMITED PARTNERSHIP RECORDED IN VOLUME 2502, PAGE 77 OF THE DEED RECORDS OF KAUFMAN COUNTY, TEXAS, SAID LAND CONTAINING A PORTION OF A CALLED 76 ACRE TRACT OF LAND DESCRIBED AS TRACT 4 IN A DEED TO MAHER PROPERTIES ONE RECORDED IN VOLUME 694, PAGE 167 OF SAID DEED RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER OF F. M. 148 (80' RIGHT-OF-WAY) FOR THE EAST CORNER OF SAID TRACT 3;

THENCE SOUTH 45 DEGREES 32 MINUTES 14 SECONDS WEST, ALONG THE CENTER OF F. M. 148 AND THE SOUTHEAST LINE OF SAID TRACT 3, PASSING A POINT FOR THE BEGINNING OF A CURVE TO THE LEFT AT 2741.39 FEET, 38.24 FEET RIGHT, A TOTAL DISTANCE OF 3002.67 FEET TO A POINT FOR THE EASTERLY SOUTHEAST CORNER OF SAID TRACT 3;

THENCE SOUTH 83 DEGREES 54 MINUTES 51 SECONDS WEST, ALONG THE SOUTHERLY BOUNDARY OF SAID TRACT 3 AND THE NORTHERLY BOUNDARY OF A CALLED 155 ACRE TRACT OF LAND DESCRIBED AS TRACT 1 IN A DEED TO JERRY R. SIMS AND WIFE MARGIE SIMS RECORDED IN VOLUME 1124, PAGE 103 OF SAID DEED RECORDS, A DISTANCE OF 1129.08 FEET TO A POINT FOR CORNER;

THENCE NORTH 79 DEGREES 01 MINUTE 39 SECONDS WEST, CONTINUING ALONG THE SOUTHERLY BOUNDARY OF SAID TRACT 3 AND THE NORTHERLY BOUNDARY OF SAID 155 ACRE TRACT, A DISTANCE OF 929.89 FEET TO A POINT FOR CORNER;

THENCE NORTH 79 DEGREES 03 MINUTES 39 SECONDS WEST, CONTINUING ALONG THE SOUTHERLY LINE OF SAID TRACT 3 AND THE NORTHERLY LINE OF SAID 155 ACRE TRACT, DISTANCE OF 360.00 FEET TO A POINT FOR CORNER;

THENCE NORTH 77 DEGREES 41 MINUTES 39 SECONDS WEST, CONTINUING ALONG THE SOUTHERLY LINE OF SAID TRACT 3 AND THE NORTHERLY LINE OF SAID 155 ACRE TRACT, A DISTANCE OF 205.00 FEET TO A POINT FOR CORNER;

THENCE NORTH 85 DEGREES 30 MINUTES 59 SECONDS WEST, CONTINUING ALONG THE SOUTHERLY LINE OF SAID TRACT 3 AND THE NORTHERLY LINE OF SAID 155 ACRE TRACT, A DISTANCE OF 289.63 FEET TO A POINT IN THE APPROXIMATE CENTER OF BIG BRUSHY CREEK;

THENCE ALONG THE APPROXIMATE CENTER OF BIG BRUSHY CREEK THE FOLLOWING COURSES AND DISTANCES:

NORTH 23 DEGREES 14 MINUTES 25 SECONDS WEST, A DISTANCE OF 54.89 FEET;

NORTH 04 DEGREES 05 MINUTES 31 SECONDS WEST, A DISTANCE OF 216.07 FEET;

SOUTH 51 DEGREES 10 MINUTES 14 SECONDS EAST, A DISTANCE OF 171.26 FEET;

NORTH 41 DEGREES 26 MINUTES 55 SECONDS EAST, A DISTANCE OF 167.67 FEET;

NORTH 76 DEGREES 53 MINUTES 55 SECONDS EAST, A DISTANCE OF 118.88 FEET;

NORTH 25 DEGREES 24 MINUTES 54 SECONDS EAST, A DISTANCE OF 196.89 FEET;

NORTH 49 DEGREES 32 MINUTES 49 SECONDS WEST, A DISTANCE OF 195.65 FEET;

NORTH 18 DEGREES 50 MINUTES 34 SECONDS WEST, A DISTANCE OF 237.39 FEET;

NORTH 23 DEGREES 34 MINUTES 39 SECONDS EAST, A DISTANCE OF 165.47 FEET;

NORTH 03 DEGREES 20 MINUTES 51 SECONDS EAST, A DISTANCE OF 101.63 FEET;

NORTH 40 DEGREES 18 MINUTES 31 SECONDS WEST, A DISTANCE OF 172.48 FEET;

NORTH 17 DEGREES 35 MINUTES 08 SECONDS WEST, A DISTANCE OF 97.88 FEET;

NORTH 08 DEGREES 29 MINUTES 33 SECONDS EAST, A DISTANCE OF 76.51 FEET;

NORTH 13 DEGREES 52 MINUTES 15 SECONDS WEST, A DISTANCE OF 69.50 FEET;

NORTH 21 DEGREES 42 MINUTES 00 SECONDS EAST, A DISTANCE OF 69.26 FEET;

NORTH 21 DEGREES 26 MINUTES 22 SECONDS WEST, A DISTANCE OF 146.39 FEET;

NORTH 00 DEGREES 08 MINUTES 09 SECONDS WEST, A DISTANCE OF 158.73 FEET;

NORTH 09 DEGREES 54 MINUTES 29 SECONDS WEST, A DISTANCE OF 77.56 FEET TO A POINT IN THE WESTERLY BOUNDARY OF SAID TRACT 3, SAID POINT ALSO BEING LOCATED IN THE NORTHWEST LINE OF SAID MAHER TRACT AND THE SOUTHEAST LINE OF A CALLED 100 ACRE TRACT OF LAND DESCRIBED AS TRACT 1 IN A DEED TO KENNETH L. CLEAVER AND WIFE CYNTHIA L. CLEAVER RECORDED IN VOLUME 1173, PAGE 351 OF SAID DEED RECORDS;

THENCE NORTH 45 DEGREES 27 MINUTES 16 SECONDS EAST, ALONG THE NORTHWEST LINE OF MAHER TRACT AND THE SOUTHEAST LINE OF SAID CLEAVER TRACT, A DISTANCE OF 54.41 FEET TO A POINT FOR CORNER;

THENCE NORTH 44 DEGREES 51 MINUTES 27 SECONDS WEST, ALONG THE SOUTHWEST LINE OF SAID TRACT 3 AND THE NORTHEAST LINE OF SAID CLEAVER 100 ACRE TRACT AND THE NORTHEAST LINE OF THE REMAINDER OF A CALLED 117.93 ACRE TRACT DESCRIBED AS TRACT 2 IN SAID CLEAVER DEED, A DISTANCE OF 1535.89 FEET TO A POINT IN THE SOUTHERLY RIGHT-OF-WAY LINE OF I. H. 20 (VARIABLE RIGHT-OF-WAY) FOR THE WEST CORNER OF SAID TRACT 3;

THENCE ALONG THE SOUTHERLY RIGHT-OF-WAY OF I. H. 20 THE FOLLOWING COURSES AND DISTANCES:

NORTH 77 DEGREES 15 MINUTES 22 SECONDS EAST, A DISTANCE OF 1291.15 FEET TO A POINT FOR CORNER;

NORTH 68 DEGREES 43 MINUTES 31 SECONDS EAST, A DISTANCE OF 404.48 FEET TO A POINT FOR CORNER;

NORTH 77 DEGREES 15 MINUTES 22 SECONDS EAST, A DISTANCE OF 2377.18 FEET TO A POINT FOR THE NORTH CORNER OF SAID TRACT 3;

THENCE SOUTH 44 DEGREES 39 MINUTES 40 SECONDS EAST, ALONG THE NORTHEAST LINE OF SAID TRACT 3 AND THE SOUTHWEST LINE OF A CALLED 26.796 ACRE TRACT OF LAND DESCRIBED IN A DEED TO MILOWE JUNGJOHANN AND WIFE JANICE JUNGJOHANN RECORDED IN VOLUME 764, PAGE 444 AND THE SOUTHWEST LINE OF A CALLED 23.017 ACRE TRACT DESCRIBED IN A DEED TO MILOWE EUGENE JUNGJOHANN RECORDED IN VOLUME 729, PAGE 680, A DISTANCE OF 2908.97 FEET TO THE POINT OF BEGINNING AND CONTAINING 362.394 ACRES OF LAND, MORE OR LESS, 2.780 ACRES OF WHICH ARE WITHIN THE RIGHT-OF-WAY OF F. M. 148, LEAVING AN AREA OF 359.614 ACRES OF LAND, MORE OR LESS.

EXHIBIT "B"



TPDES PERMIT NO.
WQ0014803001
*[For TCEQ office use only - EPA I.D.
No. TX0129623]*

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

This is a renewal that replaces TPDES
Permit No. WQ0014803001 issued on
July 14, 2016.

PERMIT TO DISCHARGE WASTES
under provisions of
Section 402 of the Clean Water Act
and Chapter 26 of the Texas Water Code

Las Lomas Municipal Utility District 4B of Kaufman County

whose mailing address is

14755 Preston Road, Suite 600
Dallas, Texas 75254

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

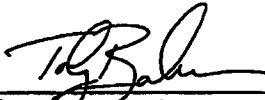
located approximately 950 northwest of Farm-to-Market Road 148 and 1,450 feet southwest of the
intersection of Farm-to-Market Road 148 and Norton Drive, in Kaufman County, Texas 75160

to Terry Creek, thence to Big Brushy Creek, thence to Kings Creek, thence to Cedar Creek Reservoir in
Segment No. 0818 of the Trinity River Basin

only according to effluent limitations, monitoring requirements, and other conditions set forth in this
permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ), the laws of the
State of Texas, and other orders of the TCEQ. The issuance of this permit does not grant to the
permittee the right to use private or public property for conveyance of wastewater along the discharge
route described in this permit. This includes, but is not limited to, property belonging to any individual,
partnership, corporation or other entity. Neither does this permit authorize any invasion of personal
rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the
permittee to acquire property rights as may be necessary to use the discharge route.

This permit shall expire at midnight, **five years from the date of issuance.**

ISSUED DATE: **August 12, 2019**



For the Commission

INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTSOutfall Number 001

- During the period beginning upon the date of issuance and lasting through the completion of expansion to the 0.50 million gallons per day (MGD) facility, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.25 million gallons per day (MGD), nor shall the average discharge during any two-hour period (2-hour peak) exceed 672 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Min. Self-Monitoring Requirements</u>	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Single Grab Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous	Instantaneous
Carbonaceous Biochemical Oxygen Demand (5-day)	7 (15)	12	22	32	One/week	Grab
Total Suspended Solids	15 (31)	25	40	60	One/week	Grab
Ammonia Nitrogen	2 (4.2)	5	10	15	One/week	Grab
<i>E. coli</i> , colony-forming units or most probable number per 100 ml	126	N/A	N/A	399	One/month	Grab

- The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow), and shall be monitored five times per week by grab sample. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.
- The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units and shall be monitored once per month by grab sample.
- There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
- Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.
- The effluent shall contain a minimum dissolved oxygen of 4.0 mg/l and shall be monitored once per week by grab sample.

FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**Outfall Number 001**

1. During the period beginning upon the completion of expansion to the 0.50 million gallons per day (MGD) facility and lasting through the date of expiration, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.50 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 2,352 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Min. Self-Monitoring Requirements</u>	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Daily Max. Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	5 (21)	10	20	30	One/week	Composite
Total Suspended Solids	5 (21)	10	20	30	One/week	Composite
Ammonia Nitrogen	1 (4.2)	2	4	6	One/week	Composite
<i>E. coli</i> , colony-forming units or most probable number per 100 ml	126	N/A	399	N/A	One/month	Grab

2. The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow), and shall be monitored daily by grab sample at each chlorine contact chamber. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.
3. The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units and shall be monitored twice per month by grab sample.
4. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
5. Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.
6. The effluent shall contain minimum dissolved oxygen of 4.0 mg/l and shall be monitored once per week by grab sample.

DEFINITIONS AND STANDARD PERMIT CONDITIONS

As required by Title 30 Texas Administrative Code (TAC) Chapter 305, certain regulations appear as standard conditions in waste discharge permits. 30 TAC § 305.121 - 305.129 (relating to Permit Characteristics and Conditions) as promulgated under the Texas Water Code (TWC) §§ 5.103 and 5.105, and the Texas Health and Safety Code (THSC) §§ 361.017 and 361.024(a), establish the characteristics and standards for waste discharge permits, including sewage sludge, and those sections of 40 Code of Federal Regulations (CFR) Part 122 adopted by reference by the Commission. The following text includes these conditions and incorporates them into this permit. All definitions in TWC § 26.001 and 30 TAC Chapter 305 shall apply to this permit and are incorporated by reference. Some specific definitions of words or phrases used in this permit are as follows:

1. Flow Measurements

- a. Annual average flow - the arithmetic average of all daily flow determinations taken within the preceding 12 consecutive calendar months. The annual average flow determination shall consist of daily flow volume determinations made by a totalizing meter, charted on a chart recorder and limited to major domestic wastewater discharge facilities with one million gallons per day or greater permitted flow.
- b. Daily average flow - the arithmetic average of all determinations of the daily flow within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily flow, the determination shall be the arithmetic average of all instantaneous measurements taken during that month. Daily average flow determination for intermittent discharges shall consist of a minimum of three flow determinations on days of discharge.
- c. Daily maximum flow - the highest total flow for any 24-hour period in a calendar month.
- d. Instantaneous flow - the measured flow during the minimum time required to interpret the flow measuring device.
- e. 2-hour peak flow (domestic wastewater treatment plants) - the maximum flow sustained for a two-hour period during the period of daily discharge. The average of multiple measurements of instantaneous maximum flow within a two-hour period may be used to calculate the 2-hour peak flow.
- f. Maximum 2-hour peak flow (domestic wastewater treatment plants) - the highest 2-hour peak flow for any 24-hour period in a calendar month.

2. Concentration Measurements

- a. Daily average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar month, consisting of at least four separate representative measurements.
 - i. For domestic wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values in the previous four consecutive month period consisting of at least four measurements shall be utilized as the daily average concentration.

- ii. For all other wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values taken during the month shall be utilized as the daily average concentration.
- b. 7-day average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar week, Sunday through Saturday.
- c. Daily maximum concentration - the maximum concentration measured on a single day, by the sample type specified in the permit, within a period of one calendar month.
- d. Daily discharge - the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the sampling day.

The daily discharge determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the daily discharge determination of concentration shall be the arithmetic average (weighted by flow value) of all samples collected during that day.

- e. Bacteria concentration (*E. coli* or Enterococci) - Colony Forming Units (CFU) or Most Probable Number (MPN) of bacteria per 100 milliliters effluent. The daily average bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month. The geometric mean shall be determined by calculating the n th root of the product of all measurements made in a calendar month, where n equals the number of measurements made; or, computed as the antilogarithm of the arithmetic mean of the logarithms of all measurements made in a calendar month. For any measurement of bacteria equaling zero, a substituted value of one shall be made for input into either computation method. If specified, the 7-day average for bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
- f. Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as (Flow, MGD x Concentration, mg/l x 8.34).
- g. Daily maximum loading (lbs/day) - the highest daily discharge, in terms of mass (lbs/day), within a period of one calendar month.

3. Sample Type

- a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (b).

- b. Grab sample - an individual sample collected in less than 15 minutes.
- 4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.
- 5. The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids that have not been classified as hazardous waste separated from wastewater by unit processes.
- 6. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

MONITORING AND REPORTING REQUIREMENTS

1. Self-Reporting

Monitoring results shall be provided at the intervals specified in the permit. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall conduct effluent sampling and reporting in accordance with 30 TAC §§ 319.4 - 319.12. Unless otherwise specified, effluent monitoring data shall be submitted each month, to the Enforcement Division (MC 224), by the 20th day of the following month for each discharge which is described by this permit whether or not a discharge is made for that month. Monitoring results must be submitted online using the NetDMR reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver. Monitoring results must be signed and certified as required by Monitoring and Reporting Requirements No. 10.

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

2. Test Procedures

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

3. Records of Results

- a. Monitoring samples and measurements shall be taken at times and in a manner so as to be representative of the monitored activity.

- b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, records of all data used to complete the application for this permit, and the certification required by 40 CFR § 264.73(b)(9) shall be retained at the facility site, or shall be readily available for review by a TCEQ representative for a period of three years from the date of the record or sample, measurement, report, application or certification. This period shall be extended at the request of the Executive Director.
- c. Records of monitoring activities shall include the following:
 - i. date, time and place of sample or measurement;
 - ii. identity of individual who collected the sample or made the measurement.
 - iii. date and time of analysis;
 - iv. identity of the individual and laboratory who performed the analysis;
 - v. the technique or method of analysis; and
 - vi. the results of the analysis or measurement and quality assurance/quality control records.

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

4. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit using approved analytical methods as specified above, all results of such monitoring shall be included in the calculation and reporting of the values submitted on the approved self-report form. Increased frequency of sampling shall be indicated on the self-report form.

5. Calibration of Instruments

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

6. Compliance Schedule Reports

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later

than 14 days following each schedule date to the Regional Office and the Enforcement Division (MC 224).

7. Noncompliance Notification

- a. In accordance with 30 TAC § 305.125(9) any noncompliance which may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ. Except as allowed by 30 TAC § 305.132, report of such information shall be provided orally or by facsimile transmission (FAX) to the Regional Office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the Regional Office and the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. For Publicly Owned Treatment Works (POTWs), effective September 1, 2020, the permittee must submit the written report for unauthorized discharges and unanticipated bypasses that exceed any effluent limit in the permit using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.
 - b. The following violations shall be reported under Monitoring and Reporting Requirement 7.a.:
 - i. Unauthorized discharges as defined in Permit Condition 2(g).
 - ii. Any unanticipated bypass that exceeds any effluent limitation in the permit.
 - iii. Violation of a permitted maximum daily discharge limitation for pollutants listed specifically in the Other Requirements section of an Industrial TPDES permit.
 - c. In addition to the above, any effluent violation which deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the Regional Office and the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.
 - d. Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Enforcement Division (MC 224) as promptly as possible. For effluent limitation violations, noncompliances shall be reported on the approved self-report form.
8. In accordance with the procedures described in 30 TAC §§ 35.301 - 35.303 (relating to Water Quality Emergency and Temporary Orders) if the permittee knows in advance of the need for a bypass, it shall submit prior notice by applying for such authorization.
9. Changes in Discharges of Toxic Substances

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

- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant listed at 40 CFR Part 122, Appendix D, Tables II and III (excluding Total Phenols) which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - i. One hundred micrograms per liter (100 µg/L);
 - ii. Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
 - iii. Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
 - iv. The level established by the TCEQ.
- b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - i. Five hundred micrograms per liter (500 µg/L);
 - ii. One milligram per liter (1 mg/L) for antimony;
 - iii. Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
 - iv. The level established by the TCEQ.

10. Signatories to Reports

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

11. All POTWs must provide adequate notice to the Executive Director of the following:
 - a. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to CWA § 301 or § 306 if it were directly discharging those pollutants;
 - b. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit; and
 - c. For the purpose of this paragraph, adequate notice shall include information on:
 - i. The quality and quantity of effluent introduced into the POTW; and
 - ii. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

PERMIT CONDITIONS

1. General

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

2. Compliance

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

- f. A permit may be amended, suspended and reissued, or revoked for cause in accordance with 30 TAC §§ 305.62 and 305.66 and TWC§ 7.302. The filing of a request by the permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- g. There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Other Requirements section of this permit.
- h. In accordance with 30 TAC § 305.535(a), the permittee may allow any bypass to occur from a TPDES permitted facility which does not cause permitted effluent limitations to be exceeded or an unauthorized discharge to occur, but only if the bypass is also for essential maintenance to assure efficient operation.
- i. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under TWC §§ 7.051 - 7.075 (relating to Administrative Penalties), 7.101 - 7.111 (relating to Civil Penalties), and 7.141 - 7.202 (relating to Criminal Offenses and Penalties) for violations including, but not limited to, negligently or knowingly violating the federal CWA §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under the CWA § 402, or any requirement imposed in a pretreatment program approved under the CWA §§ 402 (a)(3) or 402 (b)(8).

3. Inspections and Entry

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

4. Permit Amendment and/or Renewal

- a. The permittee shall give notice to the Executive Director as soon as possible of any planned physical alterations or additions to the permitted facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements. Notice shall also be required under this paragraph when:
 - i. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in accordance with 30 TAC § 305.534 (relating to New Sources and New Dischargers); or
 - ii. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations in the permit, nor to notification requirements in Monitoring and Reporting Requirements No. 9;
 - iii. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
- b. Prior to any facility modifications, additions, or expansions that will increase the plant capacity beyond the permitted flow, the permittee must apply for and obtain proper authorization from the Commission before commencing construction.
- c. The permittee must apply for an amendment or renewal at least 180 days prior to expiration of the existing permit in order to continue a permitted activity after the expiration date of the permit. If an application is submitted prior to the expiration date of the permit, the existing permit shall remain in effect until the application is approved, denied, or returned. If the application is returned or denied, authorization to continue such activity shall terminate upon the effective date of the action. If an application is not submitted prior to the expiration date of the permit, the permit shall expire and authorization to continue such activity shall terminate.
- d. Prior to accepting or generating wastes which are not described in the permit application or which would result in a significant change in the quantity or quality of the existing discharge, the permittee must report the proposed changes to the Commission. The permittee must apply for a permit amendment reflecting any necessary changes in permit conditions, including effluent limitations for pollutants not identified and limited by this permit.
- e. In accordance with the TWC § 26.029(b), after a public hearing, notice of which shall be given to the permittee, the Commission may require the permittee, from time to time, for good cause, in accordance with applicable laws, to conform to new or additional conditions.
- f. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under CWA § 307(a) for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be

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

5. Permit Transfer

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

6. Relationship to Hazardous Waste Activities

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

7. Relationship to Water Rights

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

8. Property Rights

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

9. Permit Enforceability

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

10. Relationship to Permit Application

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

11. Notice of Bankruptcy

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

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

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

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

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

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

- b. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the Commission and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and each day is an additional violation until approval has been secured.
 - c. Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment, and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.
9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.
10. For Publicly Owned Treatment Works (POTWs), the 30-day average (or monthly average) percent removal for BOD and TSS shall not be less than 85%, unless otherwise authorized by this permit.
11. Facilities that generate industrial solid waste as defined in 30 TAC § 335.1 shall comply with these provisions:
- a. Any solid waste, as defined in 30 TAC § 335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.
 - b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.
 - c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC § 335.8(b)(1), to the Environmental Cleanup Section (MC 127) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.

- d. Construction of any industrial solid waste management unit requires the prior written notification of the proposed activity to the Registration and Reporting Section (MC 129) of the 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

SLUDGE PROVISIONS

The permittee is authorized to dispose of sludge only at a Texas Commission on Environmental Quality (TCEQ) authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge. **The disposal of sludge by land application on property owned, leased or under the direct control of the permittee is a violation of the permit unless the site is authorized with the TCEQ. This provision does not authorize Distribution and Marketing of Class A or Class AB Sewage 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 Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30th of each year. Effective September 1, 2020, the permittee must submit this annual report using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver.

2. 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 must be treated by one of the following methods to ensure that the sludge meets either the Class A, Class AB or Class B pathogen requirements.

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

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

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

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

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

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

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

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

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.

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

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

Alternative 1

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

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

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

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

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

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

- i. Food crops with harvested parts that touch the sewage sludge/soil mixture and are totally above the land surface shall not be harvested for 14 months after application of sewage sludge.
- ii. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of sewage sludge when the sewage sludge remains on the land surface for 4 months or longer prior to incorporation into the soil.
- iii. Food crops with harvested parts below the surface of the land shall not be harvested for 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.

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

defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.

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

Alternative 9 -

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

C. Monitoring Requirements

Toxicity Characteristic Leaching Procedure (TCLP) Test	- 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

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

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

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

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

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

A. Pollutant Limits

Table 2

<u>Pollutant</u>	<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, Class AB or Class B pathogen reduction requirements as defined above in Section I.B.3.

C. Management Practices

1. Bulk sewage sludge shall not be applied to agricultural land, forest, a public contact site, or a reclamation site that is flooded, frozen, or snow-covered so that the bulk sewage sludge enters a wetland or other waters in the State.
2. Bulk sewage sludge not meeting Class A requirements shall be land applied in a manner which complies with Applicability in accordance with 30 TAC §312.41 and 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

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

1. The concentration (mg/kg) in the sludge of each pollutant listed in Table 3 above and the applicable pollutant concentration criteria (mg/kg), or the applicable cumulative pollutant loading rate and the applicable cumulative pollutant loading rate limit (lbs/ac) listed in Table 2 above.
2. A description of how the pathogen reduction requirements are met (including site restrictions for Class AB and Class B 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.

- 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 Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30th of each year the following information. Effective September 1, 2020, the permittee must submit this annual report using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver.

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

14. Identify each of the analytic methods used by the facility to analyze enteric viruses, fecal coliforms, helminth ova, *Salmonella sp.*, and other regulated parameters.
15. Vector attraction reduction alternative used as listed in Section I.B.4.
16. Amount of sludge transported in dry tons/year.
17. The certification statement listed in either 30 TAC § 312.47(a)(4)(A)(ii) or 30 TAC § 312.47(a)(5)(A)(ii) as applicable to the permittee's sludge treatment activities, shall be attached to the annual reporting form.
18. When the amount of any pollutant applied to the land exceeds 90% of the cumulative pollutant loading rate for that pollutant, as described in Table 2, the permittee shall report the following information as an attachment to the annual reporting form.
 - a. The location, by street address, and specific latitude and longitude.
 - b. The number of acres in each site on which bulk 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.

**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 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.

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

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

G. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 4) and Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30th of each year the following information. Effective September 1, 2020, the permittee must submit this annual report using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver.

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

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

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

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

A. General Requirements

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

B. Record Keeping Requirements

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

C. Reporting Requirements

The permittee shall report the following information annually to the TCEQ Regional Office (MC Region 4) and Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30th of each year. Effective September 1, 2020, the permittee must submit this annual report using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver.

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

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OTHER REQUIREMENTS

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

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

2. The facility is not located in the Coastal Management Program boundary.
3. The permittee shall comply with the requirements of 30 TAC § 309.13(a) through (d). In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC § 309.13(e).
4. The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.
5. In accordance with 30 TAC § 319.9, a permittee that has at least twelve months of uninterrupted compliance with its bacteria limit may notify the commission in writing of its compliance and request a less frequent measurement schedule. To request a less frequent schedule, the permittee shall submit a written request to the TCEQ Wastewater Permitting Section (MC 148) for each phase that includes a different monitoring frequency. The request must contain all of the reported bacteria values (Daily Avg. and Daily Max/Single Grab) for the twelve consecutive months immediately prior to the request. If the Executive Director finds that a less frequent measurement schedule is protective of human health and the environment, the permittee may be given a less frequent measurement schedule. For this permit, 1/month may be reduced to 1/quarter in the Interim and Final phases. **A violation of any bacteria limit by a facility that has been granted a less frequent measurement schedule will require the permittee to return to the standard frequency schedule and submit written notice to the TCEQ Wastewater Permitting Section (MC 148).** The permittee may not apply for another reduction in measurement frequency for at least 24 months from the date of the last violation. The Executive Director may establish a more frequent measurement schedule if necessary to protect human health or the environment.
6. Prior to construction of the treatment facilities, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) a summary transmittal letter in accordance with the requirements in 30 TAC § 217.6(d). If requested by the Wastewater Permitting Section, the permittee shall submit plans, specifications, and a final engineering design report which comply with 30 TAC Chapter 217, Design Criteria for Domestic Wastewater Systems. The permittee shall clearly show how the treatment system will meet the effluent limitations

required on Pages 2 and 2a of this permit. A copy of the summary transmittal letter shall be available at the plant site for inspection by authorized representatives of the TCEQ.

7. Reporting requirements according to 30 TAC §§ 319.1-319.11 and any additional effluent reporting requirements contained in this permit are suspended from the effective date of the permit until plant startup or discharge, whichever occurs first, from the facility described by this permit. The permittee shall provide written notice to the TCEQ Regional Office (MC Region 4) and the Applications Review and Processing Team (MC 148) of the Water Quality Division at least forty-five (45) days prior to plant startup or anticipated discharge, whichever occurs first, and prior to completion of each additional phase on Notification of Completion Form 20007.

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 flash point of less than 140° Fahrenheit (60° 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 a 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., biochemical oxygen demand or 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° Fahrenheit (40° Celsius) unless the Executive Director, upon request of the POTW, approves alternate temperature limits;
 - f. Petroleum oil, nonbiodegradable 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.

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