



Filing Receipt

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Application to Obtain or Amend a Water or Sewer Certificate of Convenience and Necessity (CCN)

*Pursuant to 16 Texas Administrative Code (TAC) Chapter 24, Substantive Rules Applicable to Water and Sewer
Service Providers, Subchapter G: Certificates of Convenience and Necessity*

CCN Application Instructions

- I. **COMPLETE:** In order for the Commission to find the application sufficient for filing, you should adhere to the following:
- Answer every question and submit all required attachments.
 - Use attachments or additional pages if needed to answer any question. If you use attachments or additional pages, reference their inclusion in the form.
 - Provide all mapping information as detailed in Part F: Mapping & Affidavits.
 - Provide any other necessary approvals from the Texas Commission on Environmental Quality (TCEQ), or evidence that a request for approval is being sought at the time of filing with the Commission.
- II. **FILE:** Seven (7) copies of the completed application with numbered attachments. One copy should be filed with no permanent binding, staples, tabs, or separators; and 7 copies of the portable electronic storage medium containing the digital mapping data.
- SEND TO:** Public Utility Commission of Texas, Attention: Filing Clerk, 1701 N. Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326 (NOTE: Electronic documents may be sent in advance of the paper copy; however, they will not be processed and added to the Commission's on-line Interchange until the paper copy is received and file-stamped in Central Records).
- III. The application will be assigned a docket number, and an administrative law judge (ALJ) will issue an order requiring Commission Staff to file a recommendation on whether the application is sufficient. The ALJ will issue an order after Staff's recommendation has been filed:
- DEFICIENT (Administratively Incomplete):** Applicant will be ordered to provide information to cure the deficiencies by a certain date (usually 30 days from ALJ's order). *Application is not accepted for filing.*
 - SUFFICIENT (Administratively Complete):** Applicant will be ordered by the ALJ to give appropriate notice of the application using the notice prepared by Commission Staff. *Application is accepted for filing.*
- IV. Once the Applicant issues notice, a copy of the actual notice sent (including any map) and an affidavit attesting to notice should be filed in the docket assigned to the application. Recipients of notice may choose to take one of the following actions:
- HEARING ON THE MERITS:** an affected party may request a hearing on the application. The request must be made within 30 days of notice. If this occurs, the application may be referred to the State Office of Administrative Hearings (SOAH) to complete this request.
 - LANDOWNER OPT-OUT:** A landowner owning a qualifying tract of land (25+ acres) may request to have their land removed from the requested area. The Applicant will be requested to amend its application and file new mapping information to remove the landowner's tract of land, in conformity with this request.
- V. **PROCEDURAL SCHEDULE:** Following the issuance of notice and the filing of proof of notice in step 4, the application will be granted a procedural schedule for final processing. During this time the Applicant must respond to hearing requests, landowner opt-out requests, and requests for information (RFI). The Applicant will be requested to provide written consent to the proposed maps, certificates, and tariff (if applicable) once all other requests have been resolved.
- VI. **FINAL RECOMMENDATION:** After receiving all required documents from the Applicant, Staff will file a recommendation on the CCN request. The ALJ will issue a final order after Staff's recommendation is filed.

FAQ:

Who can use this form?

Any retail public utility that provides or intends to provide retail water or wastewater utility service in Texas.

Who is required to use this form?

A retail public utility that is an investor owned utility (IOU) or a water supply corporation (WSC) must use this form to obtain or amend a CCN prior to providing retail water or sewer utility service in the requested area.

What is the purpose of the application?

A CCN Applicant is required to demonstrate financial, managerial, and technical (FMT) capability to provide continuous and adequate service to any requested area. The questions in the application are structured to support an Applicant's FMT capabilities, consistent with the regulatory requirements.

Application Summary

Applicant: City of Donna, Texas

CCN No. to be amended: 20825

or ☐ Obtain NEW CCN ☐ Water ☒ Sewer

County(ies) affected by this application: Hidalgo

Dual CCN requested with: N/A

CCN No.: N/A

(name of retail public utility)

☐ Portion or ☐ All of requested area

Decertification of CCN for: N/A

CCN No.: N/A

(name of retail public utility)

☐ Portion or ☐ All of requested area

Table of Contents

CCN Application Instructions	1
Part A: Applicant Information.....	3
Part B: Requested Area Information	4
Part C: CCN Obtain or Amend Criteria Considerations	6
Part D: TCEQ Public Water System or Sewer (Wastewater) Information	7
Part E: Financial Information	9
Part F: Mapping & Affidavits.....	10
Part G: Notice Information.....	11
Appendix A: Historical Financial Information (Balance Sheet and Income Schedule).....	13
Appendix B: Projected Information.....	16

Please mark the items included in this filing

<input type="checkbox"/> Partnership Agreement	Part A: Question 4
<input type="checkbox"/> Articles of Incorporation and By-Laws (WSC)	Part A: Question 4
<input type="checkbox"/> Certificate of Account Status	Part A: Question 4
<input type="checkbox"/> Franchise, Permit, or Consent letter	Part B: Question 7
<input checked="" type="checkbox"/> Existing Infrastructure Map	Part B: Question 8
<input checked="" type="checkbox"/> Customer Requests For Service in requested area	Part B: Question 9
<input type="checkbox"/> Population Growth Report or Market Study	Part B: Question 10
<input type="checkbox"/> TCEQ Engineering Approvals	Part B: Question 11
<input type="checkbox"/> Requests & Responses For Service to ½ mile utility providers	Part B: Question 12.B
<input type="checkbox"/> Economic Feasibility (alternative provider) Statement	Part B: Question 12.C
<input type="checkbox"/> Alternative Provider Analysis	Part B: Question 12.D
<input type="checkbox"/> Enforcement Action Correspondence	Part C: Question 16
<input type="checkbox"/> TCEQ Compliance Correspondence	Part D: Question 20
<input type="checkbox"/> Purchased Water Supply or Treatment Agreement	Part D: Question 23
<input type="checkbox"/> Rate Study (new market entrant)	Part E: Question 28
<input type="checkbox"/> Tariff/Rate Schedule	Part E: Question 29
<input checked="" type="checkbox"/> Financial Audit	Part E: Question 30
<input type="checkbox"/> Application Attachment A & B	Part E: Question 30
<input type="checkbox"/> Capital Improvement Plan	Part E: Question 30
<input type="checkbox"/> Disclosure of Affiliated Interests	Part E: Question 31
<input checked="" type="checkbox"/> Detailed (large scale) Map	Part F: Question 32
<input checked="" type="checkbox"/> General Location (small scale) Map	Part F: Question 32
<input checked="" type="checkbox"/> Digital Mapping Data	Part F: Question 32
<input checked="" type="checkbox"/> Signed & Notarized Affidavit	Page 12

Part A: Applicant Information

1. A. Name: City of Donna, Texas
(individual, corporation, or other legal entity)
☐ Individual ☐ Corporation ☐ WSC ☒ Other: municipality
- B. Mailing Address: 307 S. 12th Street, Donna, Texas 78537

Phone No.: 956-464-3314 Email: rmorales@cityofdonna.org
- C. Contact Person. Please provide information about the person to be contacted regarding this application. Indicate if this person is the owner, operator, engineer, attorney, accountant, or other title.
Name: Chanel Borrego, MPA Title: Director
Mailing Address: 307 S. 12th Street, Donna, Texas 78537
Phone No.: 956-464-6917 Email: cborrego@cityofdonna.org
2. If the Applicant is someone other than a municipality, is the Applicant currently paid in full on the Regulatory Assessment Fees (RAF) remitted to the TCEQ?
☐ Yes ☐ No ☒ N/A
3. If the Applicant is an Investor Owned Utility (IOU), is the Applicant current on Annual Report filings with the Commission?
☐ Yes ☐ No If no, please state the last date an Annual Report was filed: N/A
4. The legal status of the Applicant is:
☐ Individual or sole proprietorship
☐ Partnership or limited partnership (*attach* Partnership agreement)
☐ Corporation: Charter number (recorded with the Texas Secretary of State): _____
☐ Non-profit, member-owned, member controlled Cooperative Corporation [Article 1434(a) Water Supply or Sewer Service Corporation, incorporated under TWC Chapter 67]
Charter number (as recorded with the Texas Secretary of State): _____
☐ Articles of Incorporation and By-Laws established (*attach*)
☒ Municipally-owned utility
☐ District (MUD, SUD, WCID, FWSD, PUD, etc.)
☐ County
☐ Affected County (a county to which Subchapter B, Chapter 232, Local Government Code, applies)
☐ Other (please explain): _____
5. If the Applicant operates under an assumed name (i.e., any d/b/a), provide the name below:
Name: N/A

Part B: Requested Area Information

6. Provide details on the existing or expected land use in the requested area, including details on requested actions such as dual certification or decertification of service area.

The subject area is located within the ETJ of and has been or is being annexed into the City of Donna. The area is within the water CCN 10553 service area of North Alamo Water Supply Corporation, and is being developed into a residential subdivision. City of Donna is requesting to amend its sewer CCN 20825 to also include the subject land area. *

* See Exhibits A, B, & C to Agreement for Buyout of Service Area at EXHIBIT 2.

7. The requested area (check all applicable):

☐ Currently receives service from the Applicant ☒ Is being developed with no current customers

☐ Overlaps or is within municipal boundaries ☐ Overlaps or is within district boundaries

Municipality: City of Donna - (sewer) District: _____

Provide a copy of any franchise, permit, or consent granted by the city or district. If not available please explain:

The additional sewer CCN Area requested in this application is not located within a currently certificated sewer CCN service area. SEE Proof of Active Status . . . at EXHIBIT 3. SEE Notice of Application and Preliminary Decision . . . at EXHIBIT 4. SEE location maps and CCN service areas at Exhibit 6.

8. Describe the circumstances (economic, environmental, etc.) driving the need for service in the requested area:

The City of Donna, Texas is experiencing growth and is requesting that its sewer CCN area expand to encompass the subject area within its ETJ. The subject area is not currently included in a certificated sewer service area.

9. Has the Applicant received any requests for service within the requested area? SEE EXHIBIT 1 (M.O.U.)

☒ Yes* ☐ No *Attach copies of all applicable requests for service and show locations on a map

10. Is there existing or anticipated growth in the requested area? SEE EXHIBIT 1 (M.O.U.)

☒ Yes* ☐ No *Attach copies of any reports and market studies supporting growth

11. A. Will construction of any facilities be necessary to provide service to the requested area?

☐ Yes* ☒ No *Attach copies of TCEQ approval letters

B. Date Plans & Specifications or Discharge Permit App. submitted to TCEQ: _____

C. Summarize an estimated timeline for construction for any required facilities to serve the requested area:

The Applicant

and the Developer of the area have entered into a MOU setting out their agreement to install a new lift station for the new development and to update the City's existing lift station #7 due to absorption of waste from the new development. A copy of the MOU is attached as Exhibit 1

D. Describe the source and availability of funds for any required facilities to serve the requested area:

Developer is constructing a new subdivision which covers the majority of the area.

Note: Failure to provide applicable TCEQ construction or permit approvals, or evidence showing that the construction or permit approval has been filed with the TCEQ may result in the delay or possible dismissal of the application.

12. A. If construction of a physically separate water or sewer system is necessary, provide a list of all retail public water and/or sewer utilities within one half mile from the outer boundary of the requested area below:

A new sewer system is not necessary, however, the City's current system will be enhanced to accommodate the new service area. North Alamo Water Supply Corporation holds the water CCN 10553 for the subject area. RE: 12. B. A copy of the Agreement for Amendment of Service Area is attached as Exhibit 2.

B. Did the Applicant request service from each of the above water or sewer utilities?

☐ Yes*

☒ No

*Attach copies of written requests and copies of the written response

C. Attach a statement or provide documentation explaining why it is not economically feasible to obtain retail service from the water or sewer retail public utilities listed above.

D. If a neighboring retail public utility agreed to provide service to the requested area, attach documentation addressing the following information:

- (A) A description of the type of service that the neighboring retail public utility is willing to provide and comparison with service the applicant is proposing;
- (B) An analysis of all necessary costs for constructing, operating, and maintaining the new facilities for at least the first five years of operations, including such items as taxes and insurance; and
- (C) An analysis of all necessary costs for acquiring and continuing to receive service from the neighboring retail public utility for at least the first five years of operations.

13. Explain the effect of granting the CCN request on the Applicant, any retail public utility of the same kind serving in the proximate area, and any landowners in the requested area. The statement should address, but is not limited to, regionalization, compliance, and economic effects.

Granting the City's request to amend its existing sewer CCN service area to add the currently uncertificated subject service area allows the City to properly serve the anticipated increase in customers resulting from the development of the subject area. No detrimental affect on other retail sewer service providers or landowners in the proximate area are anticipated.

Part C: CCN Obtain or Amend Criteria Considerations

14. Describe the anticipated impact and changes in the quality of retail utility service for the requested area:

The development of the area will naturally result in increased demand for sewer service to be provided by the City of Donna. PUC's approval of this additional sewer service area and facilities aids the City of Donna in meeting the anticipated demand with quality sewer service.

15. Describe the experience and qualifications of the Applicant in providing continuous and adequate retail service:

Donna provides continous and adequate sewer service to its customers. This application requests that PUC allow City to expand its sewer CCN service area by adding the currently uncertificated area to City's existing sewer CCN area; thereby allowing City to continue providing continuous and adequate sewer service to those customers locating within the new area.

16. Has the Applicant been under an enforcement action by the Commission, TCEQ, Texas Department of Health (TDH), the Office of the Attorney General (OAG), or the Environmental Protection Agency (EPA) in the past five (5) years for non-compliance with rules, orders, or state statutes?

☐ Yes* ☒ No

*Attach copies of any correspondence with the applicable regulatory agency concerning any enforcement actions, and attach a description of any actions or efforts the Applicant has taken to comply with these requirements.

17. Explain how the environmental integrity of the land will or will not be impacted or disrupted as a result of granting the CCN as requested:

The environmental integrity of the land will not be impacted or disrupted as a result of PUC granting the requested amendment to the City of Donna's sewer CCN.

18. Has the Applicant made efforts to extend retail water or sewer utility service to any economically distressed area located within the requested area?

N/A

19. List all neighboring water or sewer retail public utilities, cities, districts (including ground water conservation districts), counties, or other political subdivisions (including river authorities) providing the same service located within two (2) miles from the outer boundary of the requested area:

City of Donna sewer CCN boundary is adjacent on the south and east sides;

North

Alamo Water Supply Corporation sewer CCN boundary is adjacent on the north and west sides;

City of Alamo sewer CCN boundary is 1.75 miles east.

Part D: TCEQ Public Water System or Sewer (Wastewater) Information

20. A. Complete the following for all Public Water Systems (PWS) associated with the Applicant's CCN:

TCEQ PWS ID:	Name of PWS:	Date of TCEQ inspection*:	Subdivisions served:
TX1080002	City of Donna	-	El Encantado Estates

* SEE EXHIBIT 3

*Attach evidence of compliance with TCEQ for each PWS

- B. Complete the following for all TCEQ Water Quality (WQ) discharge permits associated with the Applicant's CCN:

TCEQ Discharge Permit No:	Date Permit expires:	Date of TCEQ inspection*:	Subdivisions served:
WQ- 0010504001	10/07/25		El Encantado Estates
WQ-			
WQ-			
WQ-			

* SEE EXHIBIT 4

*Attach evidence of compliance with TCEQ for each Discharge Permit

- C. The requested CCN service area will be served via: PWS ID: TX1080002
WQ - 0010504001

21. List the number of existing connections for the PWS & Discharge Permit indicated above (Question 20. C.):

Water				Sewer	
4	Non-metered	85	2"	4505	Residential
49	5/8" or 3/4"	12	3"	355	Commercial
59	1"	4	4"		Industrial
2	1 1/2"	3	Other	362	Other
Total Water Connections:		5718		Total Sewer Connections:	5222

22. List the number of additional connections projected for the requested CCN area:

N/A *					
Water				Sewer	
N/A	Non-metered		2"	324	Residential
N/A	5/8" or 3/4"		3"		Commercial
N/A	1"		4"		Industrial
N/A	1 1/2"		Other	1	Other
Total Water Connections:		Alamo WSC Area		Total Sewer Connections:	325

23. A. Will the system serving the requested area purchase water or sewer treatment capacity from another source?

☐ Yes* ☒ No *Attach a copy of purchase agreement or contract.

Capacity is purchased from:

Water: N/A

Sewer: N/A

B. Are any of the Applicants PWS's required to purchase water to meet the TCEQ's minimum capacity requirements or TCEQ's drinking water standards?

☐ Yes ☒ No

C. What is the amount of supply or treatment purchased, per the agreement or contract? What is the percent of overall demand supplied by purchased water or sewer treatment (if any)?

	Amount in Gallons	Percent of demand
Water:	N/A	0%
Sewer:	N/A	0%

24. Does the PWS or sewer treatment plant have adequate capacity to meet the current and projected demands in the requested area?

☒ Yes ☐ No

25. List the name, class, and TCEQ license number of the operators that will be responsible for the operations of the water or sewer utility service provided to the requested area:

Name (as it appears on license)	Class	License No.	Water/Sewer
Reuben Garza	B	WWW0015460	sewer
Jonas A. Gonzalez	C	WWW0055237	sewer
Hector Sanchez Moreno	A	WWW0064190	sewer
Adrian Villagomez	D	WWW0069853	sewer

26. A. Are any improvements required for the existing PWS or sewer treatment plant to meet TCEQ or Commission standards?

☐ Yes ☒ No

B. Provide details on each required major capital improvement necessary to correct deficiencies to meet the TCEQ or Commission standards (attach any engineering reports or TCEQ approval letters):

Description of the Capital Improvement:	Estimated Completion Date:	Estimated Cost:
None		

27. Provide a map (or maps) showing all facilities for production, transmission, and distribution, and the location of existing or proposed customer connections, in the requested area. Facilities should be identified on subdivision plats, engineering planning maps, or other large scale maps. Color coding can be used, and is encouraged, to distinguish types of facilities.

See Exhibit 6 attached.

Part E: Financial Information

28. If the Applicant seeking to obtain a CCN for the first time is an Investor Owned Utility (IOU) and under the original rate jurisdiction of the Commission, a proposed tariff must be attached to the application. The proposed rates must be supported by a rate study, which provides all calculations and assumptions made. Once a CCN is granted, the Applicant must submit a rate filing package with the Commission within 18 months from the date service begins. The purpose of this rate filing package is to revise a utility's tariff to adjust the rates to a historic test year and to true up the new tariff rates to the historic test year. It is the Applicant's responsibility in any future rate proceeding to provide written evidence and support for the original cost and installation date of all facilities used and useful for providing utility service. Any dollar amount collected under the rates charged during the test year in excess of the revenue requirement established by the Commission during the rate change proceeding shall be reflected as customer contributed capital going forward as an offset to rate base for ratemaking purposes.

29. If the Applicant is an existing IOU, please attach a copy of the current tariff and indicate:

A. Effective date for most recent rates: N/A

B. Was notice of this increase provided to the Commission or a predecessor regulatory authority?

☐ No

☐ Yes

Application or Docket Number: N/A

C. If notice was not provided to the Commission, please explain why (ex: rates are under the jurisdiction of a municipality)

N/A

If the Applicant is a Water Supply or Sewer Service Corporation (WSC/SSC) and seeking to obtain a CCN, attach a copy of the current tariff.

30. **Financial Information**

Applicants must provide accounting information typically included within a balance sheet, income statement, and statement of cash flows. If the Applicant is an existing retail public utility, this must include historical financial information and projected financial information. However, projected financial information is only required if the Applicant proposes new service connections and new investment in plant, or if requested by Commission Staff. If the Applicant is a new market entrant and does not have its own historical balance sheet, income statement, and statement of cash flows information, then the Applicant should establish a five-year projection.

Historical Financial Information may be shown by providing any combination of the following that includes necessary information found in a balance sheet, income statement, and statement of cash flows:

1. Completed Appendix A;
2. Documentation that includes all of the information required in Appendix A in a concise format; or
3. Audited financial statements issued within 18 months of the application filing date. This may be provided electronically by providing a uniform resource locator (URL) or a link to a website portal.

Projected Financial Information may be shown by providing any of the following:

1. Completed Appendix B;
2. Documentation that includes all of the information required in Appendix B in a concise format;
3. A detailed budget or capital improvement plan, which indicates sources and uses of funds required, including improvements to the system being transferred; or
4. A recent budget and capital improvements plan that includes information needed for analysis of the operations test for the system being transferred and any operations combined with the system. This may be provided electronically by providing a uniform resource locator (URL) or a link to a website portal.

31. Attach a disclosure of any affiliated interest or affiliate. Include a description of the business relationship between all affiliated interests and the Applicant.

DO NOT INCLUDE ATTACHMENTS A OR B IF LEFT BLANK

Part F: Mapping & Affidavits

32. Provide the following mapping information with each of the seven (7) copies of the application:
1. A general location (small scale) map identifying the requested area in reference to the nearest county boundary, city, or town. The Applicant should adhere to the following guidance:
 - i. If the application includes an amendment for both water and sewer certificated service areas, separate maps must be provided for each.
 - ii. A hand drawn map, graphic, or diagram of the requested area is not considered an acceptable mapping document.
 - iii. To maintain the integrity of the scale and quality of the map, copies must be exact duplicates of the original map. Therefore, copies of maps cannot be reduced or enlarged from the original map, or in black and white if the original map is in color.
 2. A detailed (large scale) map identifying the requested area in reference to verifiable man-made or natural landmarks such as roads, rivers, and railroads. The Applicant should adhere to the following guidance:
 - i. The map should be clearly labeled and the outer boundary of the requested area should be marked in reference to the verifiable man-made or natural landmarks. These verifiable man-made and/or natural landmarks must be labeled and marked on the map as well.
 - ii. If the application includes an amendment for both water and sewer certificated service area, separate maps need to be provided for each.
 - iii. To maintain the integrity of the scale and quality of the map, copies must be exact duplicates of the original map. Therefore, copies of maps cannot be reduced or enlarged from the original map, or in black and white if the original map is in color.
 3. One of the following identifying the requested area:
 - i. A metes and bounds survey sealed or embossed by either a licensed state land surveyor or a registered professional land surveyor. Please refer to the mapping guidance in part 2 (above);

SEE EXHIBIT 5-a AND EXHIBIT 5-b ATTACHED

- ii. A recorded plat. If the plat does not provide sufficient detail, Staff may request additional mapping information. Please refer to the mapping guidance in part 2 (above); or
- iii. Digital mapping data in a shapefile (SHP) format georeferenced in either NAD 83 Texas State Plane Coordinate System (US Feet) or in NAD 83 Texas Statewide Mapping System (Meters). The digital mapping data shall include a single, continuous polygon record. The following guidance should be adhered to:
 - a. The digital mapping data must correspond to the same requested area as shown on the general location and detailed maps. The requested area must be clearly labeled as either the water or sewer requested area.
 - b. A shapefile should include six files (.dbf, .shp, .shx, .sbx, .sbn, and the projection (.prj) file).
 - c. The digital mapping data shall be filed on a data disk (CD or USB drives), clearly labeled, and filed with Central Records. Seven (7) copies of the digital mapping data is also required.

Part G: Notice Information

The following information will be used to generate the proposed notice for the application.
DO NOT provide notice until the application is deemed sufficient for filing and the Applicant is ordered to provide notice.

33. Complete the following using verifiable man-made and/or natural landmarks such as roads, rivers, or railroads to describe the requested area (to be stated in the notice documents). Measurements should be approximated from the outermost boundary of the requested area:

The total acreage of the requested area is approximately: 79.929

Number of customer connections in the requested area: 324

The closest city or town: Donna, TX

Approximate mileage to closest city or town center: Adjacent to city limits

Direction to closest city or town: South to Expressway IH2

The requested area is generally bounded on the North by: Ramsey Rd.

on the East by: Hutto Rd.

on the South by: W. Mile 9 North Rd.

on the West by: Goolie Rd.

34. A copy of the proposed map will be available at Melden & Hunt, Inc.

Applicant's Oath

STATE OF TEXAS

COUNTY OF HIDALGO

I, Ricardo L. Morales being duly sworn, file this application to
obtain or amend a water or sewer CCN, as Authorized Representative
(owner, member of partnership, title as officer of corporation, or authorized representative)

I attest that, in such capacity, I am qualified and authorized to file and verify such application, am personally familiar with the documents filed with this application, and have complied with all the requirements contained in the application; and, that all such statements made and matters set forth therein with respect to Applicant are true and correct. Statements about other parties are made on information and belief. I further state that the application is made in good faith and that this application does not duplicate any filing presently before the Commission.

I further represent that the application form has not been changed, altered, or amended from its original form.

I further represent that the Applicant will provide continuous and adequate service to all customers and qualified applicants within its certificated service area should its request to obtain or amend its CCN be granted.

Ricardo L. Morales

AFFIANT

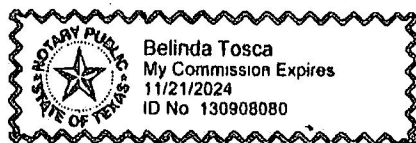
(Utility's Authorized Representative)

If the Affiant to this form is any person other than the sole owner, partner, officer of the Applicant, or its attorney, a properly verified Power of Attorney must be enclosed.

SUBSCRIBED AND SWORN BEFORE ME, a Notary Public in and for the State of Texas

this day the 20th of March, 2023

SEAL



Belinda Tosca

NOTARY PUBLIC IN AND FOR THE
STATE OF TEXAS

Belinda Tosca

PRINT OR TYPE NAME OF NOTARY

My commission expires: 11/21/2024

Appendix A: Historical Financial Information (Balance Sheet and Income Schedule)

(Audited financial statements may be substituted for this schedule – see item 29 of the instructions)

HISTORICAL BALANCE SHEETS (ENTER DATE OF YEAR END)	CURRENT(A) (- -)	A-1 YEAR (- -)	A-2 YEAR (- -)	A-3 YEAR (- -)	A-4 YEAR (- -)	A-5 YEAR (- -)
CURRENT ASSETS						
Cash						
Accounts Receivable			SEE			
Inventories			TACHED			
Other			F/S			
A. Total Current Assets						
FIXED ASSETS						
Land						
Collection/Distribution System						
Buildings						
Equipment						
Other						
Less: Accum. Depreciation or Reserves						
B. Total Fixed Assets						
C. TOTAL Assets (A + B)						
CURRENT LIABILITIES						
Accounts Payable						
Notes Payable, Current						
Accrued Expenses						
Other						
D. Total Current Liabilities						
LONG TERM LIABILITIES						
Notes Payable, Long-term						
Other						
E. Total Long Term Liabilities						
F. TOTAL LIABILITIES (D + E)						
OWNER'S EQUITY						
Paid in Capital						
Retained Equity						
Other						
Current Period Profit or Loss						
G. TOTAL OWNER'S EQUITY						
TOTAL LIABILITIES+EQUITY (F + G) = C						
WORKING CAPITAL (A – D)						
CURRENT RATIO (A / D)						
DEBT TO EQUITY RATIO (E / G)						

DO NOT INCLUDE ATTACHMENTS A OR B IF LEFT BLANK

HISTORICAL NET INCOME INFORMATION

(ENTER DATE OF YEAR END)	CURRENT(A) (- -)	A-1 YEAR (- -)	A-2 YEAR (- -)	A-3 YEAR (- -)	A-4 YEAR (- -)	A-5 YEAR (- -)
METER NUMBER						
Existing Number of Taps						
New Taps Per Year						
Total Meters at Year End						
METER REVENUE						
Revenue per Meter (use for projections)						
Expense per Meter (use for projections)						
Operating Revenue Per Meter						
GROSS WATER REVENUE						
Revenues- Base Rate & Gallonage Fees						
Other (Tap, reconnect, transfer fees, etc.)						
Gross Income						
EXPENSES						
General & Administrative (see schedule)						
Operating (see schedule)						
Interest						
Other (list)						
NET INCOME						

HISTORICAL EXPENSE INFORMATION (ENTER DATE OF YEAR END)	CURRENT(A) (- -)	A-1 YEAR (- -)	A-2 YEAR (- -)	A-3 YEAR (- -)	A-4 YEAR (- -)	A-5 YEAR (- -)
GENERAL/ADMINISTRATIVE EXPENSES						
Salaries & Benefits–Office/Management						
Office (services, rentals, supplies, electricity)						
Contract Labor						
Transportation						
Insurance						
Telephone						
Utilities						
Property Taxes						
Professional Services/Fees (recurring)						
Regulatory- other						
Other (describe)						
Interest						
Other						
Total General Admin. Expenses (G&A)						
% Increase Per Year	0%	0%	0%	0%	0%	0%
OPERATIONS & MAINTENANCE EXPENSES						
Salaries & Benefits (Employee, Management)						
Materials & Supplies						
Utilities Expense-office						
Contract Labor						
Transportation Expense						
Depreciation Expense						
Other(describe)						
Total Operational Expenses (O&M)						
Total Expense (Total G&A + O&M)						
Historical % Increase Per Year	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
ASSUMPTIONS						
Interest Rate/Terms						
Depreciation Schedule (attach)						
Other assumptions/information (List all)						

Appendix B: Projected Information

HISTORICAL BALANCE SHEETS (ENTER DATE OF YEAR END)	CURRENT(A) (- -)	A-1 YEAR (- -)	A-2 YEAR (- -)	A-3 YEAR (- -)	A-4 YEAR (- -)	A-5 YEAR (- -)
CURRENT ASSETS						
Cash						
Accounts Receivable						
Inventories						
Income Tax Receivable						
Other						
A. Total Current Assets						
FIXED ASSETS						
Land						
Collection/Distribution System						
Buildings						
Equipment						
Other						
Less: Accum. Depreciation or Reserves						
B. Total Fixed Assets						
C. TOTAL Assets (A + B)						
CURRENT LIABILITIES						
Accounts Payable						
Notes Payable, Current						
Accrued Expenses						
Other						
D. Total Current Liabilities						
LONG TERM LIABILITIES						
Notes Payable, Long-term						
Other						
E. Total Long Term Liabilities						
F. TOTAL LIABILITIES (D + E)						
OWNER'S EQUITY						
Paid in Capital						
Retained Equity						
Other						
Current Period Profit or Loss						
G. TOTAL OWNER'S EQUITY						
TOTAL LIABILITIES+EQUITY (F + G) = C						
WORKING CAPITAL (A – D)						
CURRENT RATIO (A / D)						
DEBT TO EQUITY RATIO (F / G)						

PROJECTED NET INCOME INFORMATION						
(ENTER DATE OF YEAR END)	CURRENT(A) (- -)	A-1 YEAR (- -)	A-2 YEAR (- -)	A-3 YEAR (- -)	A-4 YEAR (- -)	A-5 YEAR (- -)
METER NUMBER						
Existing Number of Taps						
New Taps Per Year						
Total Meters at Year End						
METER REVENUE						
Revenue per Meter (use for projections)						
Expense per Meter (use for projections)						
Operating Revenue Per Meter						
GROSS WATER REVENUE						
Revenues- Base Rate & Gallonage Fees						
Other (Tap, reconnect, transfer fees, etc.)						
Gross Income						
EXPENSES						
General & Administrative (see schedule)						
Operating (see schedule)						
Interest						
Other (list)						
NET INCOME						

PROJECTED EXPENSE DETAIL	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	TOTALS
GENERAL/ADMINISTRATIVE EXPENSES						
Salaries						
Office						
Computer						
Auto						
Insurance						
Telephone						
Utilities						
Depreciation						
Property Taxes						
Professional Fees						
Other						
Total						
% Increase Per projected Year	0%	0%	0%	0%	0%	0%
OPERATIONAL EXPENSES						
Salaries						
Auto						
Utilities						
Depreciation						
Repair & Maintenance						
Supplies						
Other						
Total						

PROJECTED SOURCES AND USES OF CASH STATEMENTS	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	TOTALS
SOURCES OF CASH						
Net Income						
Depreciation (If funded by revenues of system)						
Loan Proceeds						
Other						
Total Sources						
USES OF CASH						
Net Loss						
Principle Portion of Pmts.						
Fixed Asset Purchase						
Reserve						
Other						
Total Uses						
NET CASH FLOW						
DEBT SERVICE COVERAGE						
Cash Available for Debt (CADS)						
A: Net Income (Loss)						
B: Depreciation, or Reserve Interest						
C: Total CADS (A + B = C)						
D: DEBT SERVICE						
Annual Principle Plus Interest						
E: DEBT SERVICE COVERAGE RATIO						
CADS Divided by DS (E = C / D)						

EXHIBIT 1

M.O.U.

MEMORANDUM OF UNDERSTANDING

BETWEEN

CAYETANO DEVELOPMENT, LLC

AND

CITY OF DONNA, TEXAS

This Memorandum of Understanding (the "MOU") is an agreement by and between **CAYETANO DEVELOPMENT, LLC**, a Texas limited liability company, and its successors and assigns ("Cayetano") and **CITY OF DONNA, TEXAS** ("Donna") (individually each is a "Party" and collectively, they are referred to as the "Parties").

I. PURPOSE & SCOPE

The purpose of this MOU is to clearly define the roles and responsibilities of each Party as they relate to the services to be performed by the Parties in relation to the connection of sewer service to Property (as described on Exhibit "A") by the City following the development of the Property as a subdivision to be known as El Encantado Estates (the "Subdivision") by Cayetano and the construction and installation of a lift station thereon by Cayetano.

II. BACKGROUND

Cayetano is a real estate development company that has significant experience developing residential subdivisions throughout South Texas. Donna is a home-rule municipality located in Hidalgo County, Texas. Donna operates a water and sewer utility that provides water and/or sewer services to property within the area defined by its certificate of convenience and necessity (its "CCN"). Once developed by Cayetano, the Subdivision will be located with Donna's CCN for sewer service, and the Subdivision will be located within North Alamo Water Supply Company's CCN for water service.

III. CAYETANO'S RIGHTS AND RESPONSIBILITIES UNDER THIS MOU

- Cayetano will develop the Property as a residential subdivision to be known as El Encantado Estates.
- Cayetano will construct and install an appropriate lift station within the Subdivision in conjunction with specifications approved by the city engineer for Donna.
- Cayetano will build a park (the "Park") located in the Subdivision and donate the Park to the City of Donna. The Park will be as shown on Exhibit "C".
- Cayetano will impose covenants and restrictions on the Subdivision in a form similar to those attached hereto as Exhibit "B".
- Cayetano will construct and install lift station, update lift station # 7 due to absorption of waste from new development. The Parties have agreed that the upgrade to Lift station 7 shall not exceed \$100,000 and such cost shall be shared equally by the City of Donna and Cayetano.
- Cayetano will request annexation for lots occupied by park and lift station on the plat

- Cayetano will complete application and pay any fees associated with city obtaining sewer CCN for the Subdivision.

IV. DONNA'S RIGHTS AND RESPONSIBILITIES UNDER THIS MOU

- Donna shall provide sewer service to any portion of the Subdivision located within Donna's CCN in accordance with the applicable provisions of Chapters 551 and 552 of the Texas Local Government Code, Title 30, §291.114 of the Texas Administrative Code, and any applicable ordinances of the City of Donna, that require Donna to provide sewer services to real property located within its CCN.

V. AGREEMENTS AND UNDERSTANDINGS AMONG THE PARTIES; ASSIGNMENT OF THE AGREEMENT

It is hereby agreed and understood that this MOU may be amended as necessary only by the unanimous written consent of the Parties. Further, the Parties agree that Cayetano may not assign its rights and obligations under this MOU to any other person or entity, except for an entity organized for the purpose of developing the Property as the Subdivision, which entity shall be owned or controlled by Cayetano.

VI. COMPLETE AGREEMENT

This MOU represents the entire agreement of the Parties and supersedes and prior written or verbal agreements of the Parties.

VII. EFFECTIVE DATE; TERM

This MOU shall be effective as of the last date that the MOU has been executed by an authorized representative of each of the Parties. This MOU shall remain in full force and effect from the Effective Date until the date that is five (5) years following the Effective Date, unless sooner terminated by written agreement of the Parties.

[Signature page follows.]

CAYETANO:

CAYETANO DEVELOPMENT, LLC, a Texas limited liability company

By:

John R. Mays
JOHN R. MAYS, Vice-President & Development Director

Date:

4/27/21

DONNA:

THE CITY OF DONNA, TEXAS

By:

Ricardo L. Morales

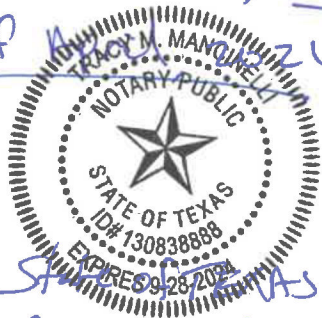
Name:

Ricardo L. Morales

Date:

4/20/21

Before me, John R Mays, on this 27th day
of April, 2021



State of Texas
County of Travis

Notary: Tracy M Mancinelli
Comm Exp: 09/28/2024

Exhibit "A"
The Property

Tract 1:

All of Block Thirty (30) and the the North One-Half (N. 1/2) of the West 19.24 acres of the East 34.24 acres of Block Thirty-One (31), LOTT TOWN AND IMPROVEMENT CO., Hidalgo County, Texas, according to the map recorded in Volume 4, Page 462, Deed Records in the Office of the County Clerk of Hidalgo County, Texas, reference to which is here made for all purposes.

Tract 2:

The East Fifteen (E. 15.0) acres; and the South One-Half (S. 1/2) of the West 19.24 acres of the East 34.24 acres of Block Thirty-One (31), LOTT TOWN AND IMPROVEMENT CO., Hidalgo County, Texas, according to the map recorded in Volume 4, Page 462, Deed Records in the Office of the County Clerk of Hidalgo County, Texas, reference to which is here made for all purposes.

EXHIBIT B

**DECLARATION OF
EASEMENTS, COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR THE EL ENCANTADO ESTATES SUBDIVISION**

THE STATE OF TEXAS

§

COUNTY OF HIDALGO

§

§

Preamble

This Declaration of Easements, Covenants, Conditions, and Restrictions (the "Declaration") is made on February 24, 2021, at Austin, Travis County, Texas, by El Encantado L.P., a Texas limited partnership ("Declarant"), whose mailing address is P.O. Box 365, La Blanca, Hidalgo County, Texas 78558.

Recitals

WHEREAS, Declarant is the owner of all that certain real property (the "Property") located in Hidalgo County, Texas, described as follows: *Aproximately 70 acres, Hidalgo County, Texas, further described on Exhibit A, incorporated herein, reference to which is here made for all purposes (the "Legal Description").*

WHEREAS, the Declarant has devised a general plan for the development of the Property as a whole, with specific provisions for particular parts and parcels of the Property. This general plan provides a common scheme of development designed to protect and safeguard the Property over a long period.

WHEREAS, this general plan will benefit the Property in general, the parcels and lots that constitute the Property, the Declarant, and each successive owner of an interest in the Property.

NOW, THEREFORE, it is hereby declared that the Property shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and shall be binding on all parties having any right, title, or interest in or to the Property or any part thereof, and their heirs, successors and assigns, and which easements, restrictions, covenants and conditions shall inure to the benefit of each Owner (as hereinafter defined) thereof.

**ARTICLE 1
DEFINITIONS**

1.01 The term "Lot" means each tract of land designated as a lot on the Plat.

1.02 The term "Owner" means every record Owner of a fee interest in a Lot.

1.03 The term "Residence" means a detached building designed for and used as a dwelling by a Single Family and constructed on one or more Lots. The term "Residence" includes the term "Manufactured Home."

1.04 The term "Single Family" means a group of individuals related by blood, adoption, or marriage or a number of unrelated roommates not exceeding the number of bedrooms in a Residence.

1.05 The term "Structure" means any improvement on a Lot (other than a Residence), including a fence, wall, tennis court, swimming pool, outbuilding, or recreational equipment.

1.06 The term "City" means the City of Donna.

1.07 The term "Manufactured Home" means a HUD-code manufactured home or a mobile home.

ARTICLE 2 EXTERIOR MAINTENANCE

Every Owner shall exercise reasonable care to keep buildings, streets, alleys, curbs, fences, sprinklers, signs, landscaping, lighting, and other related improvements and fixtures, whether enumerated or not, in neat and orderly condition, normal wear and tear excepted. If any Owner fails to perform any of the maintenance or repair obligations set forth in this Article, and if such failure continues for a period of thirty (30) days after written notice thereof is given to the defaulting Owner, the Declarant, any agent of the Declarant, or any other Owner shall have the right to perform the required maintenance and repair and to recover the reasonable cost thereof from the defaulting Owner. Specifically, but not in limitation of the preceding, such right to maintain and repair shall include the right to cut any overgrown grass or weedy vegetation. The costs of any such work performed due to the default of an Owner in its maintenance obligations set forth in this Article shall be charged as a continuing lien upon that Lot until paid in full by the defaulting Owner.

ARTICLE 3 EASEMENTS

2.0 All Lots. All easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat. No shrubbery, fence, or other obstruction shall be placed in any easement. Right of use for ingress and egress shall be available at all times over any dedicated easement for purposes of installing, operating, maintaining, repairing, or removing any utility or any obstruction placed in such easement or alleyway that would interfere with the installation, maintenance, operation, or removal of such utility. No utility company, water district, political subdivision, or other authorized entity using these easements shall be liable for any damage done by them or their assigns, agents, employees, or servants, to fences, shrubbery, trees, flowers, or to other property of the Owner situated within the easement.

(a) Maintenance and Repair. The Owners of each Lot benefited by a particular Access Drive shall be jointly responsibly for maintaining, at shared expense, the applicable Access Drive, which shall include, without limitation, cleaning and sweeping of the applicable Access Drive, trash removal, and resurfacing and re-striping of the applicable Access Drive. Whenever an Owner shall perform any construction, maintenance, repairs or replacements as permitted herein, such work shall be done expeditiously and in a good and workmanlike manner and in accordance with all applicable laws, codes, rules, statutes and regulations of governmental authorities having jurisdiction thereof. Such work shall be carried out in such manner so as to cause the least amount of disruption to any

business operations being conducted on the surrounding land as is reasonably practicable.

**ARTICLE 4
USE RESTRICTIONS AND ARCHITECTURAL STANDARDS**

3.01 Use

(a) **Residential Use Lots.** A Lot may only be used for an approved Residence or Manufactured Home. For residential lots no building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single family dwelling not to exceed two stories in height.

(b) **Commercial Use Lots.** Shall be used for commercial purposes; however, no junk yard, salvage yard, tavern or establishment which dispenses wine, beer or liquor for on-site premises consumption may be built on any of said Lots.

4.01 Building/Construction Restrictions.

(a) No used homes may be moved onto any Lot except a Manufactured Home with a minimum of 800 square feet of living area.

(b) Used homes or Manufactured Homes with a minimum of 800 square feet of living area may be moved onto a Lot with the written consent of Declarant.

(c) Any residential building constructed on any Lot shall be of masonry or frame construction and have a minimum of 800 square feet of living area.

(d) No Manufactured Home for which a manufacture's certificate of origin was first issued on or before ten (10) years prior to the date of installation may be installed on any Lot.

(e) Any Manufactured Home must be skirted within thirty (30) days of installation.

(f) Each home and fence shall adhere to the setback shown on the Plat. Any fencing located on a Lot shall be constructed out of new material.

(g) No Structure of temporary character, including but not limited to, a bus, tent, shack, garage, barn, travel trailer or other outbuildings may be used on any Lot as a Residence, either temporarily or permanently. In addition, no Structure of temporary character, including but not limited to, a bus, tent, shack, or travel trailer may be used on any Lot for storage, either temporarily or permanently.

(h) Before any building or other structure is erected on a Lot, a building permit must first be obtained from Hidalgo County for the construction of said improvement.

(i) In certain cases, exceptions to the aforementioned Building/Construction Restrictions may be allowed when approved in writing by the Declarant.

4.03 Noxious or Offensive Activities Prohibited/Maintenance. No noxious or offensive activity shall be conducted on any Lot, nor shall anything be done upon any Lot which may be or become an annoyance or nuisance to the neighborhood. No Lot shall be used or maintained as a dumping ground for rubbish or trash. No garbage or other waste material shall be kept on any Lot except in sanitary containers. All incinerators or other equipment for the storage or disposal of such waste materials shall be kept in a clean and sanitary condition. Lots shall be maintained in a neat and orderly condition. Weeds and grass on each Lot shall be mowed at regular intervals and the Lot shall be maintained in a neat and orderly manner. No junk cars shall be kept on any Lot.

4.04 Signs. No signs of any type shall be allowed on any Lot except one sign of not more than five (5) square feet advertising the property for sale or rent and political signage not prohibited by law. However, any person engaged in the construction and sale of a residence on a Lot shall have the right, during the construction and sales period, to construct and maintain signs larger than five (5) square feet for the purpose of advertising the construction and sale. Declarant or its assigns shall have the right to remove any sign, advertisement, or billboard structure that does not comply with the above, and in so doing shall not be subject to any liability for trespass or other sort in the connection therewith or arising with such removal. With the prior written consent of Declarant, a builder of a residence on any Lot may place a sign larger than five (5) square feet during the construction period.

4.05 Garbage, Equipment, Etc. No Lot shall be used or maintained as a dumping ground for rubbish or trash, and all garbage and other waste shall be kept in sanitary containers. There shall be no burning or incineration of trash, garbage, leaves, brush, or other debris. All equipment for the storage and disposal of such materials shall be kept in a clean and sanitary condition. All construction debris must be contained by the Owner and properly disposed of. All garbage cans, equipment, coolers, wood/brush piles or storage piles shall be walled or fenced in to conceal them from the view of the neighboring Lots, roads or streets. No clothes lines are permitted unless the clothes line is less than six feet (6') in height and is not visible from the street or adjacent Lots.

4.06 Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that a reasonable number of dogs, cats, or other household pets may be kept, provided they are not kept, bred, or maintained for any commercial purpose.

ARTICLE 5 GENERAL PROVISIONS

5.01 Enforcement. The Declarant, an agent of Declarant, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, and reservations imposed by this Declaration. In addition to the remedies for enforcement provided for above, the violation or attempted violation of the provisions of this Declaration, or any amendment hereto, by any Owner, his family, guests, lessees or licensees shall authorize any Owner, Declarant and/or an agent of Declarant, the right to seek injunctive or any other relief provided or allowed by law against such violation and to recover from such Owner all its expenses and costs in connection therewith, including but not limited to attorneys' fees and court costs. Failure to enforce any covenant or restriction shall not be deemed a waiver of the right of enforcement either with respect to the violation in question or any other violation. All waivers must be in writing and signed by the party to be bound. No Owner shall have the right to compel or require the filing of suit by Declarant.

5.02 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, and all other provisions shall remain in full force and effect.

5.03 Covenants Running with the Land. These easements, restrictions, covenants, and conditions are for the purpose of protecting the value and desirability of the Property. Consequently, they shall run with the real property and shall be binding on all parties having any right, title, or interest in the Property in whole or in part, and their heirs, successors, and assigns. These easements, covenants, conditions, and restrictions shall be for the benefit of the Property, each Lot, and each Lot Owner.

5.04 Duration and Amendment.

(a) The covenants, conditions, and restrictions of this Declaration shall be effective for a term of twenty-five (25) years from the date this Declaration is recorded, after which period the covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years.

5.05 Attorneys' Fees. If any controversy, claim, or dispute arises relating to this instrument, its breach, or enforcement, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorneys' fees, and costs.

5.06 Applicable law. This Declaration shall be construed in accordance with the laws of the State of Texas.

5.07 Captions. The captions employed in this Declaration are for convenience only and are not intended to limit or amplify the terms and provisions of this Declaration.

5.08 Effective Date. This Declaration shall become effective the date that it is filed of record in the Official Public Records of Real Property of Hidalgo County, Texas.

[Signature pages follow.]

This Declaration is executed this ____ day of _____, 2020, at Donna,
Hialgo County, Texas.

DECLARANT:

EI Encantado, L.P., a Texas limited partnership

By: EI Encantado Estates GP, LLC

Its: General Partner

**BY: FOR EXHIBIT PURPOSES ONLY
KYNDEL W. BENNETT, President**

THE STATE OF TEXAS

§
§
§

COUNTY OF HIDALGO

This instrument was acknowledged before me on the ____ day of _____, 20____, by
**KYNDEL W. BENNETT, President of POLANCO ESTATES GP, LLC, a Texas limited liability
company, the General Partner of POLANCO ESTATES, L.P., a Texas limited partnership, and
on behalf of said partnership.**

Notary Public, State of Texas

CONSENTED TO BY LIENHOLDER:

**El Encantado Investors, LLC, a Texas
limited liability company**

By: FOR EXHIBIT PURPOSES ONLY
KYNDEL W. BENNETT, Manager

THE STATE OF TEXAS

§
§
§

COUNTY OF HIDALGO

This instrument was acknowledged before me on the ____ day of _____, 20____, by
KYNDEL W. BENNETT acting in his capacity as Manager of **El Encantado ESTATES
INVESTORS, LLC, a Texas limited liability company.**

Notary Public, State of Texas

EXHIBIT 2

AGREEMENT FOR AMENDMENT OF SERVICE AREA

AGREEMENT FOR AMENDMENT OF SERVICE AREA

PARTIES

This Agreement for Amendment of Service Area, hereinafter referred to as “Amendment Agreement” is made by and between City of Donna, Texas (hereinafter referred to as “City”), and Cayetano Development, LLC, (hereinafter “Cayetano”, being collectively referred to hereinafter as the “Parties”, and further identified as follows:

- 1) Authorized Representative of City of Donna, Texas

Ricardo L. Morales, Mayor
City of Donna, Texas
307 S. 12th Street
Donna, Texas 78537

- 2) Authorized Representative of Cayetano Development, LLC,
a Texas limited liability company

Cayetano Development, LLC,
a Texas limited liability company
11410 N. FM 493
Donna, Texas 78537

RECITALS

WHEREAS, City currently holds Certificate of Convenience and Necessity (“CCN”) No. 20825 to provide sewer services in an area located within Hidalgo County, Texas, under the rules and regulations of the Texas Commission on Environmental Quality (“TCEQ”) and the Public Utility Commission of Texas (“PUC”) (the “City CCN Service Area”); and

WHEREAS, Cayetano is an owner and developer of the following described property:

All of Block Thirty (30) and the North One-Half (N. ½) of the West 19.24 acres of the East 34.24 acres of Block Thirty-One (31), LOTT TOWN AND IMPROVEMENT CO., Hidalgo County, Texas, according to the map recorded in Volume 4, Page 462, Deed Records in the Office of the County Clerk of Hidalgo County, Texas; and

The East Fifteen (E. 15.0) acres; and the South One-Half (S. ½) of the West 19.24 acres of the East 34.24 acres of Block Thirty-One (31), LOTT TOWN AND IMPROVEMENT CO., Hidalgo County, Texas, according to the map recorded in Volume 4, page 462, Deed Records in the Office of the County Clerk of Hidalgo County, Texas,

both of which tracts (the "Property") lie within the extraterritorial jurisdiction ("ETJ") of the City and outside the City's current sewer CCN Service Area; and

WHEREAS, no entity holds a sewer CCN over the area in which the Property is located; and

WHEREAS, City does not currently have infrastructure in place to provide sewer service to the Property; and

WHEREAS, Cayetano seeks the provision of sewer service for the Property; and

WHEREAS, the Parties intend and desire that the City be the retail provider of sewer service to the Property; and

WHEREAS, the City has determined that development of the Property within the City's ETJ as provided herein is beneficial to the City; and

WHEREAS, the Parties agree that City shall seek to amend its sewer CCN Service Area to include the Property which is hereinafter specifically identified and referred to as the "City Amendment Area" as shown on the map attached hereto as Exhibit "B;" and

WHEREAS, to accommodate Cayetano's request for sewer service, City agrees to pursue an amendment its CCN to include the City Amendment Area; and

WHEREAS, Cayetano agrees to pay all legal and administrative costs and fees incurred by City resulting from the City's pursuit of an amendment to its CCN area to include the City Amendment Area and consolidation into the City's sewer CCN Service Area and the proceedings before the PUC; and

WHEREAS, it is understood and agreed that no existing customers will be affected by this proper Amendment of the City's sewer CCN Service Area; and

WHEREAS, the Parties have authority to enter into this Agreement pursuant to Section 212.172, Texas Local Government Code, and pursuant to the City's home rule charter.

THEREFORE, in consideration of the mutual promises of the parties, in reliance on the representations, warranties, covenants, and conditions contained in this Amendment Agreement, and for other good and valuable consideration the Parties agree as follows:

ARTICLE I
AMENDMENT OF SEWER SERVICE AREA AND CUSTOMERS

1.01 The Parties agree that City will pursue the right to provide sewer service to customers within the City Amendment Area reflected in Exhibit "B."

1.02 Consideration for Amendment: For and in consideration of Cayetano's representations, warranties, covenants, and assignments, as set forth herein, the receipt, sufficiency, and adequacy of which are hereby acknowledged by the Parties, City agrees to pursue to acquisition and incorporation of the City Amendment Area into its CCN sewer service area.

1.03 Expenses/Responsibilities

(a) Attorney's Fees and Related Expenses – The actual and reasonable attorney's fees and expenses incurred related to this Amendment Agreement, and for obtaining releases of any security liens, including but not limited to any required forms, and further agreements which may be required to effectuate this Amendment Agreement, including but not limited to obtaining releases of any security liens against the City Amendment Area, shall be borne by Cayetano.

(b) City and Cayetano agree to join and support the application to the PUC requesting approval of the City's acquisition of the City Amendment Area by the City ("Application"). City and Cayetano have designated Richard Fryer of Fryer & Hansen, P.L.L.C. ("F&H") as their agent to represent them before the PUC. Beginning not more than forty-five (45) days after the date the last party signs this Amendment Agreement ("Effective Date"), F&H shall be responsible for filing the required Application with the PUC. All administrative costs and all attorney's fees relating thereto shall be paid fully and solely by Cayetano, as described in Section 1.03(a) above. Upon PUC's final approval of the Amendment Application and before final closing of the Amendment

of the City Amendment Area, all such administrative costs and attorney's fees shall be paid by Cayetano within ten (10) days of presentation of such amounts.

(c) City and Cayetano agree to cooperate in the PUC filing and to expeditiously pursue completion of the Amendment Application to PUC in pursuit of the City's acquisition of the City Amendment Area.

(d) City and Cayetano agree to cooperate in the application process by providing all required mapping and information required to complete the Application.

(e) All administrative costs and all attorney's fees relating thereto shall be paid fully and solely by Cayetano, as described in Section 1.03(a) above.

(f) Final closing with respect to the Amendment of the Amendment Area shall not be more than forty-five (45) days after all the following requirements to closing have been completed:

- (i) approval by the PUC has been obtained; and
- (ii) consent and/or release of any security agreement in favor of lienholders, if any, has been obtained by City.

ARTICLE II

CITY'S REPRESENTATIONS AND WARRANTIES

City hereby represents and warrants to Cayetano that the following facts and circumstances are true and correct:

Service Area

2.01 No other person or persons or entity has any claim, right, title, interest, or lien in, to, or on the City Amendment Area.

Customer Accounts

2.02 City does not have any customer accounts located within the City Amendment Area as of the effective date of this Amendment Agreement.

ARTICLE III

CAYETANO'S REPRESENTATIONS AND WARRANTIES

Cayetano hereby represents and warrants to City that the following facts and circumstances are true and correct:

3.01 Cayetano is the owner and developer of the Property. Except or unless otherwise modified by this Amendment Agreement, the Property will be developed in accordance with all applicable City, state, and federal regulations, the provisions of this Amendment Agreement, and such amendments to City ordinances and regulations as may be applied to the Property under Chapter 245, Texas Local Government Code (collectively the "Applicable Regulations"), as well as good engineering practices.

3.02 Cayetano will design, construct, and install all required wastewater facilities and improvements within the Property for service to the Property (collectively the "Subdivision Wastewater Improvements") at Cayetano's sole cost and expense, in compliance with this Amendment Agreement, the Applicable Regulations, plans and specifications approved by the City, the Memorandum of Understanding between Cayetano Development, LLC and the City, and good engineering practices.

ARTICLE IV

GENERAL PROVISIONS

4.01 Third-Party Beneficiary. No third-party beneficiary rights exist nor are they created by this Amendment Agreement.

4.02 Notices. Any notice of communication required or permitted to be given hereunder shall be sufficiently given when delivered to the respective Party's Authorized Representative who is

identified in this Amendment Agreement in the Paragraph entitled "Parties" at the listed address by means set forth below:

- (1) delivered by hand delivery to the Party's Authorized Representative; or
 - (2) mailed by certified or registered mail, postage prepaid, return receipt requested,
- to the Party's Authorized Representative at the address indicated in this Amendment Agreement or at such other addresses as may hereafter be furnished in writing by any Party to the other, and such notice shall be deemed to have been given as of the date received by the addressee as indicated by the return receipt or the records of the United States Postal Service. Notices sent by mail or hand delivery will be deemed delivered when received.

4.03 Construction and Place of Performance – This Amendment Agreement will be construed under and in accord with the laws of the State of Texas, and all obligations of the Parties created hereunder are performable in Hidalgo County, Texas.

4.04 Execution of Other Instruments – The Parties hereto agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate this Amendment Agreement.

4.05 Paragraph Headings – The paragraph headings used in this Amendment Agreement are for convenience only and are not to be considered in construing its terms.

4.06 Parties and Successors Bound – This Amendment Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns as may be applicable.

4.07 Prior Agreements – This Amendment Agreement supersedes any prior understandings or written or oral agreements between the Parties with respect to the subject matter of the Amendment Agreement and contains the entire agreement between the Parties as of the date of its execution.

4.08 Modification – This Amendment Agreement may be modified only in writing subscribed by the Parties hereto.

4.09 Effective Date – The Amendment Agreement is effective on the date last signed by a party.

4.10 Specific Performance – Either party hereto may demand specific performance of this Amendment Agreement.

4.11 Attorney's Fees and Expenses – In the event any litigation arises out of this Amendment Agreement between the Parties hereto, the non-prevailing Party shall pay the prevailing Party all reasonable and necessary attorney's fees, expert fees, expenses, and costs of court expended or incurred in connection with the litigation pursuant to Section 271.153 of the Texas Local Government Code or other authority.

4.12 Approval – This Amendment Agreement has been approved by the appropriate bodies of City and Cayetano as evidenced by appropriate minutes and/or resolutions of the governing bodies, copies of which are attached hereto as Exhibit "D" and "E", respectively, and are executed by the appropriate officers or officials of same.

4.13 Waiver – No waiver by the Parties hereto of any default or breach of any terms, condition, or covenant of this Amendment Agreement shall be deemed to be a waiver of any other breach of the same or other term, condition or covenant contained herein.

4.14 Release – Parties hereby release, acquit, cancel, and forever discharge each other and their respective directors, officers, agents, employees, attorneys, parents, predecessors, subsidiaries, affiliates, successors, and assigns from all claims, demands causes of action, debts, liabilities, or controversies of any kind whatsoever, which exists as of the Effective Date, with respect to the City Amendment Area decreed herein whether known or unknown, whether

liquidated or unliquidated that each together with its insurers, directors, officers, agents, employees, attorneys, parents, subsidiaries, affiliates and assigns may claim against the other, including but not limited to any alleged breach of contract, any alleged malicious prosecution or related claims, and any other claims that were, could have been, and/or might have been alleged, except for the obligations as set forth in Paragraph 1.03 (g) above.

4.15 Representations and Warranty – Each Party represents and warrants that (i) it has carefully reviewed this Amendment Agreement, (ii) it has at all times been represented by and consulted with legal counsel concerning this Amendment Agreement, (iii) any questions that it has pertaining to this Amendment Agreement have been answered and fully explained to it by its counsel, (iv) its decision to execute this Amendment Agreement was not based on any statement or representation either oral or written made by any person on behalf of the other party, (v) neither party has assigned, conveyed, hypothecated, or transferred any interest in any cause of action relating to the above described claims, and (vi) each Party understands that the other Party is relying upon these representations and warranties in entering into this Amendment Agreement.

4.16 Enforceability – If any part of this Amendment Agreement is declared unenforceable or invalid, the remainder will continue to be valid and enforceable.

[The remainder of this page was left blank intentionally.]

CITY OF DONNA, TEXAS

By: Ricardo L. Morales
Ricardo L Morales, Mayor

ATTEST:

BY: Norma Yanez
Printed Name: Norma Yanez
Title: City Secretary

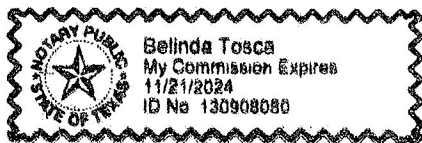
ACKNOWLEDGEMENT

STATE OF TEXAS §
§

COUNTY OF HIDALGO§

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Ricardo L. Morales, to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he is the Mayor of the City of Donna, Texas, a Texas home rule municipality, and that he executed the same as the act of City of Donna, Texas for the purposes and consideration therein expressed and in the capacity therein stated.

18th IN WITNESS WHEREOF, I have hereunto set by hand and affixed my official seal this day of October, 2022.



Belinda Tosca
Notary Public in and for the State of Texas

Notary Printed Name: Belinda Tosca

My Commission Expires: 11/21/2024

EXHIBIT "A"

CAYETANO PROPERTY

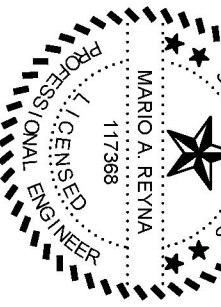


PLAT OF
EL ENCANTADO

BEING A SUBDIVISION OF A TRACT OF LAND CONTAINING 79.929 ACRES SITUATED IN
THE COUNTY OF HIDALGO, TEXAS, BEING A PART OR PORTION OUT OF BLOCKS 30
AND 31, LOT TOWN AND IMPROVEMENT CO. SUBDIVISION, ACCORDING TO THE PLAT
THEREOF RECORDED IN VOLUME 6, PAGES 86-87, HIDALGO COUNTY MAP RECORDS

DRAWN BY: CESAR DATE: 03/11/21
SURVEYED, CHECKED: _____
FINAL CHECK: _____ DATE: _____

MELDEN & HUNT INC.
CONSULTANTS • ENGINEERS • SURVEYORS
1115 W. AGENT STREET
DALLAS, TEXAS 75241
PHONE: (214) 750-1115
FAX: (214) 750-1115
WWW.MELDENANDHUNT.COM



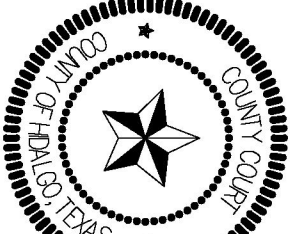
STATE OF TEXAS
COUNTY OF HIDALGO
I, THE UNDERSIGNED, MARIO A. REVINA, A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, DO
HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN TO THIS PLAT AND IS A
TRUE AND ACCURATE REPRESENTATION OF THE SUBDIVISION OF THE LANDS HEREBY DESCRIBED.

MARIO A. REVINA, P.E. # 19432.08
DATE PREPARED: 04/29/19 BY: CP DATE: _____



STATE OF TEXAS
COUNTY OF HIDALGO
I, THE UNDERSIGNED, FRED L. KIRTH, A REGISTERED PROFESSIONAL LAND SURVEYOR, IN THE STATE OF
TEXAS, DO HEREBY CERTIFY THAT THE HEREIN PRESENTED PLAT AND DESCRIPTION OF EL ENCANTADO
SUBDIVISION, WERE PREPARED FROM A SURVEY OF THE PROPERTY MADE ON THE GROUND BY ME OR
UNDER MY SUPERVISION ON 03/21/21 AND THAT IT IS A TRUE AND ACCURATE REPRESENTATION OF THE
SUBDIVISION OF THE LANDS HEREBY DESCRIBED.

FRED L. KIRTH, R.P.L.S. # 4750
DATE SURVEYED: 03-24-2021
SURVEY JOB NO. 19432.08



FILED FOR RECORD IN
HIDALGO COUNTY
ARURO GUJARDO, JR.
HIDALGO COUNTY CLERK

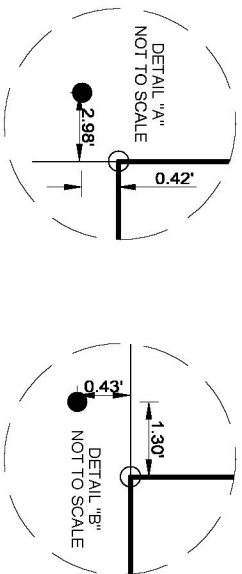
ON: _____ AT: _____ AM/PM
INSTRUMENT NUMBER _____
OF THE MAP RECORDS OF HIDALGO COUNTY, TEXAS
DEPUTY _____

LEGEND
● FOUND NO. 4 REBAR
● FOUND NO. 5 REBAR
○ SET NO. 4 REBAR WITH PLASTIC
○ CAP STAMPED MILDEN & HUNT
H.C.M.R. - HIDALGO COUNTY MAP RECORDS
H.C.O.R. - HIDALGO COUNTY OFFICIAL RECORDS
W.D. - WARRANTY DEED
O.C.D. - OIL CLAIM DEED
P.O.B. - POINT OF BEGINNING
NW COR. - NORTHWEST CORNER

JIS MCQUINRY AND TRUSTEES
DOCUMENT NO. 277189, H.C.O.R.

DISPOSAL AUCTION L.L.C.
VOLUME 37, PAGE 166, H.C.M.R.

SEE DETAIL "A"



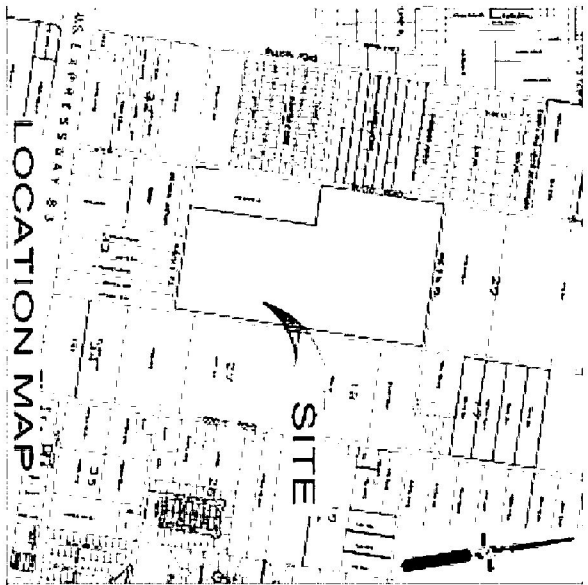
HIGHLAND FARMS
VOLUME 13, PAGE 30, H.C.M.R.

BROWN ACRES
VOLUME 13, PAGE 45, H.C.M.R.

WALSTON FARMS SUBDIVISION
VOLUME 14, PAGE 18, H.C.M.R.

CHICO SUBDIVISION
H.C.M.R.

P.O.B.
NW COR.
LOT 30



Drawn by	JESAO	DATE	02/02/18
Supervising Engineer		DATE	
Final Check		DATE	

M **MELDEN & HUNT INC.**
CONSULTANTS AND ENGINEERS
1000 WEST 10TH AVENUE, SUITE 100
DENVER, CO 80202
TEL: (303) 733-1000
FAX: (303) 733-1001
WWW.MELDENANDHUNT.COM

EXHIBIT “B”

CITY OF DONNA

“CITY AMENDMENT AREA” MAP

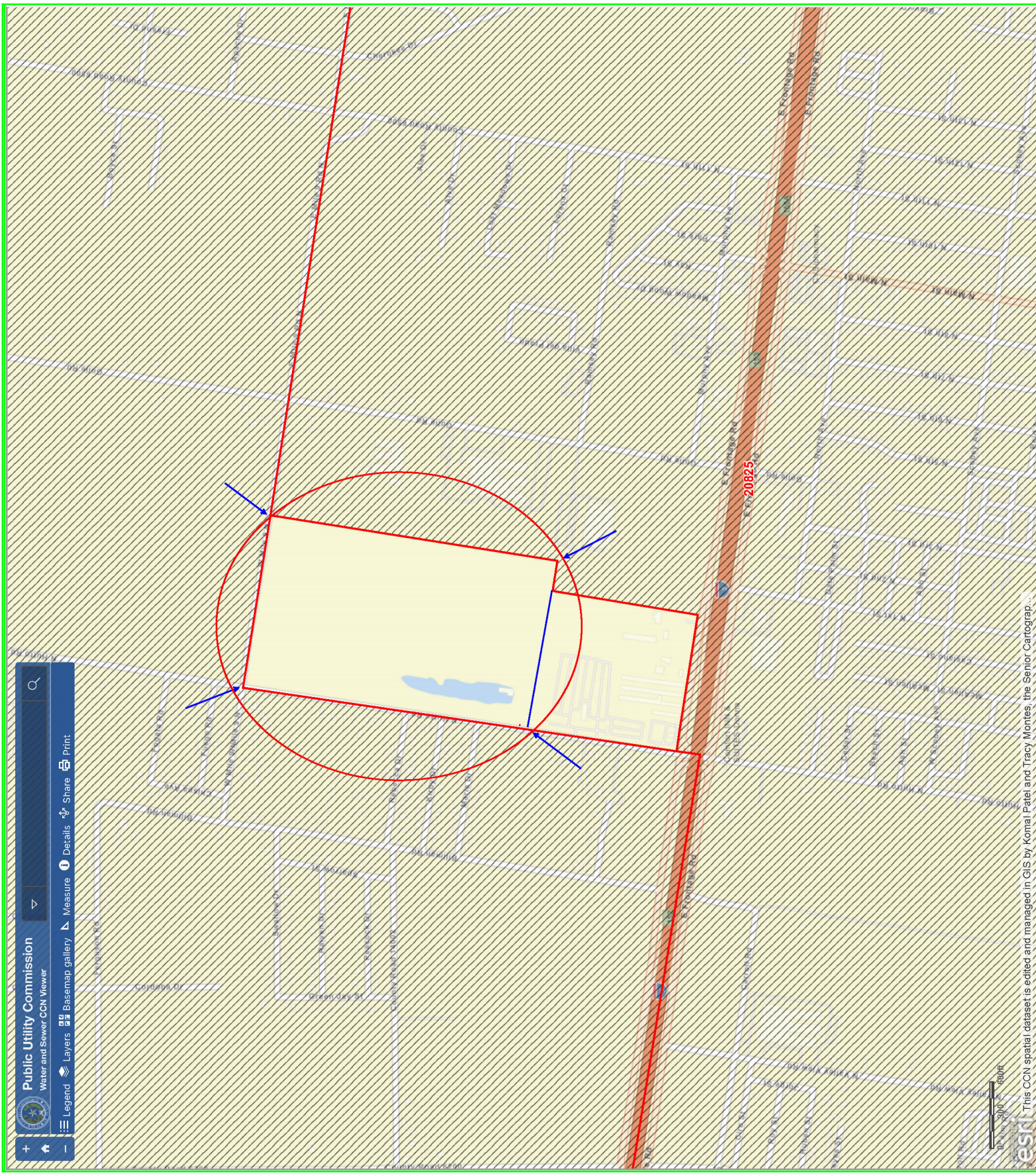
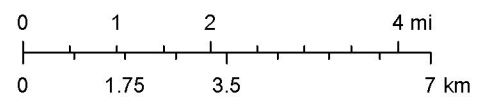


EXHIBIT "C"

CITY OF DONNA

CURRENT SEWER CCN AREA

1:144,448



Texas Parks & Wildlife, CONANP, Esri, HERE, Garmin, Foursquare, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, USDA

EXHIBIT “D”

CITY OF DONNA

MINUTES



STATE OF TEXAS

CERTIFICATION OF COPY
OF PUBLIC RECORD

CITY OF DONNA

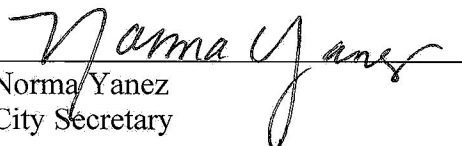
Before me, the undersigned authority, personally appeared Norma Yanez, who, being by me duly sworn deposed as follows:

My name is Norma Yanez. I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated.

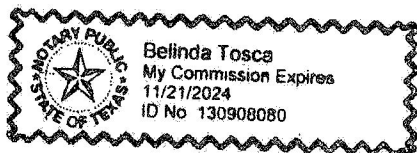
I am a custodian of the records of the City of Donna, Hidalgo County, Texas. Attached hereto is an excerpt of the minutes of the Donna City Council Regular Meeting held on October 18, 2022.


I further certify, in the performance of the functions of my office that said document is an official record from the public office of the City Secretary, City of Donna, Hidalgo County, Texas, and is public record, kept in said office and appear of record in said office.

In witness whereof, I have hereunto set my hand and affixed the official seal of said office this the 20th day of October 2022.


Norma Yanez
City Secretary

Sworn to and subscribed before me on the 20th day of October 2022.




Notary Public, State of Texas

My Commission Expires: 11/21/2024

State of Texas
County of Hidalgo
City of Donna

Regular City Council Meeting
Tuesday, October 18, 2022
5:30 PM

On this the 18th day of October, 2022 the Donna City Council convened in regular session at Donna City Hall located at 307 S. 12th St. Donna, TX with the following:

Present:	Ricardo L. Morales	Mayor
	David Moreno	Mayor Pro Tem
	Richie Moreno	Councilman
	Jose G. Garza, Jr.	Councilman
	Oscar Gonzales	Councilman
	Carlos Yerena	City Manager
	Javier Villalobos	City Attorney
	Channel Borrego	Planning Director
	Jonas Gonzalez	Utilities Director
	Belinda Tosca	Deputy City Secretary

Absent: N/A

Deputy City Secretary called roll and the aforementioned members of the City Council being present constituted a quorum at which time Mayor Morales called the meeting to order.

EXCERPT: Regular Agenda Item #9:

Consideration and possible action to approve the agreement for amendment of the wastewater service area for Encantado Estates Subdivision.

Ms. Channel Borrego, Planning Director stated the location of the 300-lot subdivision. She stated sewer services are not currently provided to location and the purpose of the agreement is to allow said services. Councilman Joey Garza motioned to approve. Before a second to the motion was received, Councilman Gonzalez asked if there would be a new lift station for the area. Mr. Jonas Gonzalez stated that they are constructing a lift station within the subdivision as well as including \$100,000 for the improvement of existing lift station that they will be discharging to. Councilman Moreno asked the location of the nearest lift station, to which Mr. Gonzalez replied it lift station 7 located on North Avenue and 7th Street. Councilman Gonzalez asked if that was the work that was being done recently in the area. Mr. Jonas Gonzalez confirmed it was the installation of the discharge line coming from their lift station.

With no further comments, Mayor Morales confirmed there had been a motion by Councilman Joey Garza, to which Councilman Oscar Gonzales seconded to approve.

The motion carried as follows:

For: Jose G. Garza Jr., Oscar Gonzalez, David Moreno, Richie Moreno, Ricardo L. Morales
Against: None
Absent: N/A

EXHIBIT “E”

CAYETANO DEVELOPMENT, LLC

RESOLUTION / MINUTES

EXHIBIT 3

EVIDENCE OF COMPLIANCE PUBLIC WATER SYSTEM

Customer Information

The Customer Name displayed may be different than the Customer Name associated to the Additional IDs related to the customer. This name may be different due to ownership changes, legal name changes, or other administrative changes.

Customer Role(s): RESPONSIBLE PARTY

Regulated Entity Information

Permits, Registrations, or Other Authorizations

There is 1 program and ID for this regulated entity and customer.

1-1 of 1 Records

[illegible]

Regulated Entity Information

RN Number: RN102080751

Name: CITY OF DONNA WASTEWATER TREATMENT PLANT [View Prior Names ...](#)

Primary Business: DOMESTIC

Street Address: No street address on file.

County: HIDALGO

Nearest City: DONNA

State: TX

Near ZIP Code: 78537

Physical Location: LOCATED IMMEDIATELY WEST OF FARM TO MARKET ROAD 493 AND APPROXIMATELY 1.5 MILES SOUTH OF US HIGHWAY 83 BUSINESS ROUTE IN HIDALGO COUNTY TEXAS

Affiliated Customers - Current

Your Search Returned **1** Current Affiliation Records ([View Affiliation History ...](#))

The Customer Name displayed may be different than the Customer Name associated to the Additional IDs related to the customer. This name may be different due to ownership changes, legal name changes, or other administrative changes.

1-1 of 1 Records

CN Number	Customer Name	Customer Role(s)	Details
CN600737886	CITY OF DONNA	OWNER OPERATOR	

Industry Type Codes

Code	Classification	Name
221320	NAICS	Sewage Treatment Facilities
4952	SIC	Sewerage Systems

Permits, Registrations, or Other Authorizations

There are a total of 3 programs and IDs for this regulated entity. Click on a column name to change the sort order.

1-3 of 3 Records

Program ▲	ID Type	ID Number	ID Status
WASTEWATER	EPA ID	TX0024660	CANCELLED
WASTEWATER	EPA ID	TX0132802	ACTIVE
WASTEWATER	PERMIT	WQ0010504001	ACTIVE

EXHIBIT 4

EVIDENCE OF COMPLIANCE PUBLIC WATER SYSTEM

Discharge Permit

Texas Commission on Environmental Quality



NOTICE OF APPLICATION AND PRELIMINARY DECISION FOR TPDES PERMIT FOR MUNICIPAL WASTEWATER

RENEWAL

PERMIT NO. WQ0010504001

APPLICATION AND PRELIMINARY DECISION. City of Donna, 307 South 12th Street, Donna, Texas 78537, has applied to the Texas Commission on Environmental Quality (TCEQ) for a renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010504001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,800,000 gallons per day. TCEQ received this application on December 9, 2019.

The facility is located 0.6 mile southwest of the intersection of Farm-to-Market Road 493 and Stites Road, in the City of Donna, Hidalgo County, Texas 78537. The treated effluent is discharged to an unnamed drainage ditch, thence to the Llano Grande portion of Arroyo Colorado Above Tidal in Segment No. 2202 of the Nueces-Rio Grande Coastal Basin. The unclassified receiving water use is minimal aquatic life use for the unnamed drainage ditch. The designated uses for Segment No. 2202 are primary contact recreation and intermediate aquatic life use. This link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application.

<https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=db5bac44afbc468bbddd360f8168250f&marker=-98.053333%2C26.148333&level=12>

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at Donna City Hall, 307 South 12th Street, Donna, Texas.

PUBLIC COMMENT / PUBLIC MEETING. You may submit public comments or request a public meeting about this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ holds a public meeting if the Executive Director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing.

OPPORTUNITY FOR A CONTESTED CASE HEARING. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. **Unless the application is directly referred for a contested case hearing, the response to comments will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting a contested case hearing or reconsideration of the Executive Director's decision.** A contested case hearing is a legal proceeding similar to a civil trial in a state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone number; applicant's name and proposed permit number; the location and distance of your property/activities relative to the proposed facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period; and the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the proposed facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn. **If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law relating to relevant and material water quality concerns submitted during the comment period. TCEQ may act on an application to renew a permit for discharge of wastewater without providing an opportunity for a contested case hearing if certain criteria are met.**

EXECUTIVE DIRECTOR ACTION. The Executive Director may issue final approval of the application unless a timely contested case hearing request or request for reconsideration is filed. If a timely hearing request or request for reconsideration is filed, the Executive Director will not issue final approval of the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

MAILING LIST. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

All written public comments and public meeting requests must be submitted to the Office of the Chief Clerk, MC 105, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, TX 78711-3087 or electronically at www14.tceq.texas.gov/epic/eComment/ within 30 days from the date of newspaper publication of this notice.

INFORMATION AVAILABLE ONLINE. For details about the status of the application, visit the Commissioners' Integrated Database at www.tceq.texas.gov/goto/cid. Search the database using the permit number for this application, which is provided at the top of this notice.

AGENCY CONTACTS AND INFORMATION. Public comments and requests must be submitted either electronically at www14.tceq.texas.gov/epic/eComment/, or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Any personal information you submit to the TCEQ will become part of the agency's record; this includes email addresses. For more information about this permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at 1-800-687-4040 or visit their website at www.tceq.texas.gov/goto/pep. Si desea información en Español, puede llamar al 1-800-687-4040.

Further information may also be obtained from City of Donna at the address stated above or by calling Ms. Laura Balderrama at 956-464-3314.

Issuance Date: May 29, 2020

FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

For draft Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010504001, EPA I.D. No. TX0132802, to discharge to water in the state.

Issuing Office: Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Applicant: City of Donna
307 South 12th Street
Donna, Texas 78537

Prepared By: Jonathan Nguyen
Municipal Permits Team
Wastewater Permitting Section (MC 148)
Water Quality Division
(512) 239-1444

Date: April 3, 2020

Permit Action: Renewal

1. EXECUTIVE DIRECTOR RECOMMENDATION

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The draft permit includes an expiration date of **five years from the date of issuance**.

2. APPLICANT ACTIVITY

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a renewal of the existing permit that authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1.8 million gallons per day (MGD). The existing wastewater treatment facility serves the City of Donna.

3. FACILITY AND DISCHARGE LOCATION

The plant site is located 0.6 mile southwest of the intersection of Farm-to-Market Road 493 and Stites Road, in the City of Donna, Hidalgo County, Texas 78537.

Outfall Location:

Outfall Number	Latitude	Longitude
001	26.147628 N	98.051751 W

The treated effluent is discharged to an unnamed drainage ditch, thence to the Llano Grande portion of Arroyo Colorado Above Tidal in Segment No. 2202 of the Nueces-Rio Grande Coastal Basin. The unclassified receiving water use is minimal aquatic life use for the unnamed drainage ditch. The designated uses for Segment No. 2202 are primary contact recreation and intermediate aquatic life use.

4. TREATMENT PROCESS DESCRIPTION AND SEWAGE SLUDGE DISPOSAL

The City of Donna Wastewater Treatment Facility is an activated sludge process plant operated in the extended aeration mode. Treatment units include bar screens, three aeration basins, three final clarifiers, eight sludge drying beds, a chlorine contact chamber and a dechlorination chamber. The facility is in operation.

Sludge generated from the treatment facility is hauled by a registered transporter and disposed of at a TCEQ-authorized land application site, Reavis McCook South, Permit No. WQ0004924000, in Hidalgo County. The draft permit also authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

5. INDUSTRIAL WASTE CONTRIBUTION

The draft permit includes pretreatment requirements that are appropriate for a facility of this size and complexity. The facility does not appear to receive significant industrial wastewater contributions.

6. SUMMARY OF SELF-REPORTED EFFLUENT ANALYSES

The following is a summary of the applicant's effluent monitoring data for the period of December 2017 through November 2019. The average of Daily Average value is computed by the averaging of all 30-day average values for the reporting period for each parameter: flow, five-day carbonaceous biochemical oxygen demand (CBOD₅), total suspended solids (TSS), and ammonia nitrogen (NH₃-N). The average of Daily Average value for *Escherichia coli* in colony-forming units (CFU) or most probable number (MPN) per 100 ml is calculated via geometric mean.

<u>Parameter</u>	<u>Average of Daily Avg</u>
Flow, MGD	1.4
CBOD ₅ , mg/l	7.9
TSS, mg/l	3.3
NH ₃ -N, mg/l	0.4
<i>E. coli</i> , CFU or MPN per 100 ml	2

7. DRAFT PERMIT CONDITIONS AND MONITORING REQUIREMENTS

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

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The annual average flow of effluent shall not exceed 1.8 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 3,750 gallons per minute (gpm).

<u>Parameter</u>	<u>30-Day Average</u>		<u>7-Day</u>	<u>Daily</u>
	<u>mg/l</u>	<u>lbs/day</u>	<u>Average</u> <u>mg/l</u>	<u>Maximum</u> <u>mg/l</u>
CBOD ₅	10	150	15	25
TSS	15	225	25	40
NH ₃ -N	3	45	6	10
DO (minimum)	4.0	N/A	N/A	N/A
<i>E. coli</i> , CFU or MPN per 100 ml	126	N/A	N/A	399

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

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

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

B. SEWAGE SLUDGE REQUIREMENTS

The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal, and Transportation. Sludge generated from the treatment facility is hauled by a registered transporter and disposed of at a TCEQ-authorized land application site, Reavis McCook South, Permit No. WQ0004924000, in Hidalgo County. The draft permit also authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

C. PRETREATMENT REQUIREMENTS

Permit requirements for pretreatment are based on TPDES regulations contained in 30 TAC Chapter 315, which references 40 Code of Federal Regulations (CFR) Part 403, "General Pretreatment Regulations for Existing and New Sources of Pollution" [*rev. Federal Register/ Vol. 70/ No. 198/ Friday, October 14, 2005/ Rules and Regulations, pages 60134-60798*]. The permit includes specific requirements that establish responsibilities of local government, industry, and the public to implement the standards to control pollutants which pass through or interfere with treatment processes in publicly owned treatment works or which

may contaminate the sewage sludge. This permit has appropriate pretreatment language for a facility of this size and complexity.

D. WHOLE EFFLUENT TOXICITY (BIOMONITORING) REQUIREMENTS

- (1) The draft permit includes 48-hour acute freshwater biomonitoring requirements as follows. The permit requires five dilutions in addition to the control (0% effluent) to be used in the toxicity tests. These additional effluent concentrations shall be 32%, 42%, 56%, 75%, and 100%. The low-flow effluent concentration (critical dilution) is defined as 100% effluent.
 - (a) Acute static renewal 48-hour definitive toxicity tests using the water flea (*Daphnia pulex*) or (*Ceriodaphnia dubia*). The frequency of the testing is once per quarter for at least the first year of testing, after which the permittee may apply for a testing frequency reduction.
 - (b) Acute static renewal 48-hour definitive toxicity test using the fathead minnow (*Pimephales promelas*). The frequency of the testing is once per quarter for at least the first year of testing, after which the permittee may apply for a testing frequency reduction.
- (2) The draft permit includes the following minimum 24-hour acute freshwater biomonitoring requirements at a frequency of once per six months:
 - (a) Acute 24-hour static toxicity test using the water flea (*Daphnia pulex* or *Ceriodaphnia dubia*).
 - (b) Acute 24-hour static toxicity test using the fathead minnow (*Pimephales promelas*).

E. BUFFER ZONE REQUIREMENTS

The draft permit includes a requirement for the permittee to obtain legal restrictions prohibiting residential structures within the part of the buffer zone not owned by the permittee according to 30 TAC § 309.13(e)(3). This provision is continued from the permit issued on November 6, 2015 which has not been complied with to date.

F. SUMMARY OF CHANGES FROM APPLICATION

None.

G. SUMMARY OF CHANGES FROM EXISTING PERMIT

The Standard Permit Conditions, Sludge Provisions, Other Requirements, and Biomonitoring sections of the draft permit have been updated.

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.

Effective September 1, 2020, the permittee must submit the annual sludge report using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver. The Reporting Requirements of the Sludge Provisions have also been updated.

Certain accidental discharges or spills of treated or untreated wastewater from wastewater treatment facilities or collection systems owned or operated by a local government may be reported on a monthly basis in accordance with 30 TAC § 305.132.

Other Requirement No. 4 in the existing permit has been removed because this provision is covered under 30 TAC § 305.62(d), which authorizes the TCEQ to reopen an issued permit when necessary.

Other Requirement Nos. 5 and 8 in the existing permit have been carried over to the draft permit. These provisions are continued from the permit issued on November 6, 2015 which has not been complied with to date.

The permittee was notified via letter on January 9, 2020 that the facility has reached 75% of the permitted daily average flow for three or more consecutive months. The operational requirements of the existing permit specify that whenever flow measurements for any domestic sewage treatment facility reach 75% of the permitted daily average flow for three consecutive months, the permittee must initiate engineering and financial planning for expansion and/or upgrading the domestic wastewater treatment and/or collection facilities. A response was received on January 31, 2020 from the permittee. The permittee indicated that they are looking into seeking funds for possible expansion of the facility. After discussion at the Executive Review Committee (ERC) on March 13, 2020, it had been determined that Other Requirement No. 8, which relates to progress reports, be added into the draft permit.

8. DRAFT PERMIT RATIONALE

A. TECHNOLOGY-BASED EFFLUENT LIMITATIONS/CONDITIONS

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

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

B. WATER QUALITY SUMMARY AND COASTAL MANAGEMENT PLAN

(1) WATER QUALITY SUMMARY

The treated effluent is discharged to an unnamed drainage ditch, thence to the Llano Grande portion of Arroyo Colorado Above Tidal in Segment No. 2202 of the Nueces-Rio Grande Coastal Basin. The unclassified receiving water use is minimal aquatic life use for the unnamed drainage ditch. The designated uses for Segment No. 2202 are primary contact recreation and intermediate aquatic life use. The effluent limitations in the draft permit will maintain and protect the existing instream uses. All determinations are preliminary and subject to additional review and/or revisions.

The discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic-dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS's) biological opinion on the State of Texas authorization of the TPDES (September 14, 1998; October 21, 1998, update). To make this determination for TPDES permits, TCEQ and U.S. Environmental Protection Agency (EPA) only considered aquatic or aquatic-dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species.

Segment No. 2202 is currently listed on the state's inventory of impaired and threatened waters (the 2016 CWA § 303(d) list). The listings are for bacteria, mercury in edible tissue, and PCBs in edible tissue from the downstream end of segment to the confluence with Little Creek just upstream of State Loop 499 (AU 2202_01), from the confluence with Little Creek to the confluence with La Feria Main Canal just upstream of Dukes Highway (AU 2202_02), from the confluence with La Feria Main Canal just upstream of Dukes Highway to the confluence with La Cruz Resaca just downstream of FM 907 (AU 2202_03), and from the confluence with La Cruz Resaca to the upper end of segment at FM 2062 (AU 2202_04).

This facility is designed to provide adequate disinfection and, when operated properly, should not add to the bacterial impairment of the segment. In addition, in order to ensure that the proposed discharge meets the stream bacterial standard, an effluent limitation of 126 colony-forming units (CFU) or most probable number (MPN) of *Escherichia coli* per 100 ml has been continued in the draft permit. This is a public domestic wastewater treatment facility. The facility does not receive industrial wastewater contributions, therefore the effluent from this facility should not contribute to the mercury and PCBs in edible tissue impairment of this segment.

Total Maximum Daily Load (TMDL) Project No. 7A has been approved for this segment. The report *Twelve Total Maximum Daily Loads for Legacy Pollutants in the Arroyo Colorado Above Tidal and the Donna Reservoir and Canal System* was adopted by the TCEQ on July 25, 2003 and

approved by the EPA on May 13, 2004. This document is a revision of a previously published document that established TMDLs for four legacy pollutants. The approved TMDL does not include an allocation for point sources since chlordane, DDE, toxaphene, PCBs, DDT, DDD, dieldrin, endrin, hexachlorobenzene, heptachlor, heptachlor epoxide and lindane are legacy pollutants. Legacy pollutant is a collective term used to describe substances whose use has been banned or severely restricted by the EPA. Because of their slow rate of decomposition, these substances frequently remain at elevated levels in the environment for many years after their widespread use has ended. No additional loading of legacy pollutants is allowed or expected due to the EPA restrictions. Gradual declines in environmental legacy pollutant concentrations occur as a result of natural attenuation processes. All continuing sources of pollutant loadings occur from nonpoint source runoff, leaching or erosion of the various depositional sinks that may exist within the watersheds. No authorized point source discharges of these pollutants are allowed by law. Therefore, no load reductions for these pollutants are required for this permit action at this time.

The effluent limitations and conditions in the draft permit comply with EPA-approved portions of the 2018 Texas Surface Water Quality Standards (TSWQS), 30 TAC §§ 307.1 - 307.10, effective March 1, 2018; 2014 TSWQS, effective March 6, 2014; 2010 TSWQS, effective July 22, 2010; and 2000 TSWQS, effective July 26, 2000.

(2) CONVENTIONAL PARAMETERS

Effluent limitations for the conventional effluent parameters (i.e., Biochemical Oxygen Demand or Carbonaceous Biochemical Oxygen Demand, Ammonia Nitrogen, etc.) are based on stream standards and waste load allocations for water quality-limited streams as established in the TSWQS and the State of Texas Water Quality Management Plan (WQMP).

The effluent limitations in the draft permit have been reviewed for consistency with the WQMP. The proposed effluent limitations are consistent with the approved WQMP.

The effluent limitations in the draft permit meet the requirements for secondary treatment and the requirements for disinfection according to 30 TAC Chapter 309, Subchapter A: Effluent Limitations.

(3) COASTAL MANAGEMENT PLAN

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

C. WATER QUALITY-BASED EFFLUENT LIMITATIONS/CONDITIONS

(1) GENERAL COMMENTS

The Texas Surface Water Quality Standards (30 TAC Chapter 307) state

that surface waters will not be toxic to man, or to terrestrial or aquatic life. The methodology outlined in the "Procedures to Implement the Texas Surface Water Quality Standards, June 2010" is designed to ensure compliance with 30 TAC Chapter 307. Specifically, the methodology is designed to ensure that no source will be allowed to discharge any wastewater that: (1) results in instream aquatic toxicity; (2) causes a violation of an applicable narrative or numerical state water quality standard; (3) results in the endangerment of a drinking water supply; or (4) results in aquatic bioaccumulation that threatens human health.

(2) AQUATIC LIFE CRITERIA

(a) SCREENING

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

There is no mixing zone or zone of initial dilution for this discharge directly to an intermittent stream; acute freshwater criteria apply at the end of pipe. Chronic freshwater criteria do not apply to discharges to intermittent streams where there is no perennial waterbody within three miles downstream from the point of discharge. The following critical effluent percentage is being used:

Acute Effluent %: 100%

Waste load allocations (WLAs) are calculated using the above estimated effluent percentages, criteria outlined in the Texas Surface Water Quality Standards, and partitioning coefficients for metals (when appropriate and designated in the implementation procedures). The WLA is the end-of-pipe effluent concentration that can be discharged when, after mixing in the receiving stream, instream numerical criteria will not be exceeded. From the WLA, a long-term average (LTA) is calculated using a log normal probability distribution, a given coefficient of variation (0.6), and a 90th percentile confidence level. The LTA is the long-term average effluent concentration for which the WLA will never be exceeded using a selected percentile confidence level. The LTA is used to calculate a daily average and daily maximum effluent limitation for the protection of aquatic life using the same statistical considerations with the 99th percentile confidence level and a standard number of monthly effluent samples collected (12). Assumptions used in deriving the effluent limitations include segment values for hardness, chlorides, pH, and total suspended solids (TSS) according to the segment-specific values contained in the TCEQ guidance document "Procedures to Implement the Texas Surface Water Quality Standards, June 2010." The segment values are 713 mg/l for hardness (as calcium carbonate), 860 mg/l chlorides, 7.4 standard units for pH, and 72 mg/l for TSS. For additional details on the calculation of water quality-based effluent limitations, refer to the TCEQ guidance document.

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

(b) PERMIT ACTION

Analytical data reported in the application was screened against calculated water quality-based effluent limitations for the protection of aquatic life. Reported analytical data does not exceed 70% of the calculated daily average water quality-based effluent limitations for aquatic life protection.

(3) AQUATIC ORGANISM BIOACCUMULATION CRITERIA

(a) SCREENING

The discharge point is located at a distance greater than three miles upstream of perennial waters. Human health screening is not applicable because of the distance between the discharge point and perennial waters that support fisheries.

(b) PERMIT ACTION

None.

(4) DRINKING WATER SUPPLY PROTECTION

(a) SCREENING

Water Quality Segment No. 2202, which receives the discharge from this facility, is not designated as a public water supply. Screening reported analytical data of the effluent against water quality-based effluent limitations calculated for the protection of a drinking water supply is not applicable.

(b) PERMIT ACTION

None.

(5) WHOLE EFFLUENT TOXICITY (BIOMONITORING) CRITERIA

(a) SCREENING

TCEQ has determined that there may be pollutants present in the effluent that may have the potential to cause toxic conditions in the receiving stream. Whole effluent biomonitoring is the most direct measure of

potential toxicity that incorporates the effects of synergism of effluent components and receiving stream water quality characteristics. Biomonitoring of the effluent is, therefore, required as a condition of this permit to assess potential toxicity.

The existing permit includes 48-hour acute freshwater biomonitoring requirements. A summary of the biomonitoring testing for the facility indicates that in the past three years, the permittee performed twenty-six chronic tests, with zero demonstrations of significant mortality (i.e., zero failures).

(b) PERMIT ACTION

The test species are appropriate to measure the toxicity of the effluent consistent with the requirements of the State water quality standards. The biomonitoring frequency has been established to reflect the likelihood of ambient toxicity and to provide data representative of the toxic potential of the facility's discharge. This permit may be reopened to require effluent limits, additional testing, and/or other appropriate actions to address toxicity if biomonitoring data show actual or potential ambient toxicity to be the result of the permittee's discharge to the receiving stream or water body.

A reasonable potential (RP) determination was performed in accordance with 40 CFR §122.44(d)(1)(ii) to determine whether the discharge will reasonably be expected to cause or contribute to an exceedance of a state water quality standard or criterion within that standard. Each test species is evaluated separately. The RP determination is based on representative data from the previous three years of chronic WET testing. This determination was performed in accordance with the methodology outlined in the TCEQ letter to the EPA dated December 28, 2015, and approved by the EPA in a letter dated December 28, 2015.

All test data results were used for this determination.

With no failures by either species determination of no RP was made.

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

(a) SCREENING

The existing permit includes 24-hour acute freshwater biomonitoring language. A summary of the biomonitoring testing for the facility indicates that in the past three years, the permittee has performed fourteen 24-hour acute tests, with zero demonstrations of significant mortality (i.e., zero failures).

(b) PERMIT ACTION

The draft permit includes 24-hour 100% acute biomonitoring tests for the life of the permit.

9. WATER QUALITY VARIANCE REQUESTS

No variance requests have been received.

10. PROCEDURES FOR FINAL DECISION

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

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

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

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

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

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

response.

For additional information about this application, contact Jonathan Nguyen at (512) 239-1444.

11. ADMINISTRATIVE RECORD

The following items were considered in developing the draft permit:

A. PERMIT(S)

TPDES Permit No. WQ0010504001 issued on November 6, 2015.

B. APPLICATION

Application received on December 9, 2019, and additional information received on February 4, 2020.

C. MEMORANDA

Interoffice memoranda from the Water Quality Assessment Section of the TCEQ Water Quality Division. Interoffice memorandum from the Pretreatment Team of the TCEQ Water Quality Division.

D. MISCELLANEOUS

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

Texas Surface Water Quality Standards, 30 TAC §§ 307.1 - 307.10.

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

Texas 2016 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, October 17, 2018; approved by the U.S. Environmental Protection Agency on August 6, 2019.

Texas Natural Resource Conservation Commission, Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits, Document No. 98-001.000-OWR-WQ, May 1998.

Twelve Total Maximum Daily Loads for Legacy Pollutants in the Arroyo Colorado Above Tidal and the Donna Reservoir and Canal System (TMDL Project No. 7A).



TPDES PERMIT NO.
WQ0010504001
*[For TCEQ office use only - EPA I.D.
No. TX0132802]*

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

This is a renewal that replaces TPDES
Permit No. WQ0010504001 issued on
November 6, 2015.

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

City of Donna

whose mailing address is

307 South 12th Street
Donna, Texas 78537

is authorized to treat and discharge wastes from the City of Donna Wastewater Treatment
Facility, SIC Code 4952

located 0.6 mile southwest of the intersection of Farm-to-Market Road 493 and Stites Road, in
the City of Donna, Hidalgo County, Texas 78537

to an unnamed drainage ditch, thence to the Llano Grande portion of Arroyo Colorado Above
Tidal in Segment No. 2202 of the Nueces-Rio Grande Coastal Basin

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

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

ISSUED DATE:

For the Commission

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTSOutfall Number 001

1. During the period beginning upon the date of issuance and lasting through the date of expiration, the permittee is authorized to discharge subject to the following effluent limitations:

The annual average flow of effluent shall not exceed 1.8 million gallons per day (MGD), nor shall the average discharge during any two-hour period (2-hour peak) exceed 3,750 gallons per minute (gpm).

Effluent Characteristic	Discharge Limitations		Min. Self-Monitoring Requirements	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Report Daily Avg. & Daily Max. Measurement Frequency Sample Type
Flow, MGD	Report	N/A	Report	Continuous Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (150)	15	25	Two/week Composite
Total Suspended Solids	15 (225)	25	40	Two/week Composite
Ammonia Nitrogen	3 (45)	6	10	Two/week Composite
<i>E. coli</i> , colony-forming units or most probable number per 100 ml	126	N/A	399	One/week Grab

2. The effluent shall contain a chlorine residual of at least 1.0 mg/l after a detention time of at least 20 minutes (based on peak flow) and shall be monitored daily by grab sample at each chlorine contact chamber. The permittee shall dechlorinate the chlorinated effluent to less than 0.1 mg/l chlorine residual and shall monitor chlorine residual daily by grab sample after the dechlorination process. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.
3. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per week by grab sample.
4. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
5. Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.
6. The effluent shall contain a minimum dissolved oxygen of 4.0 mg/l and shall be monitored twice per week by grab sample.
7. The annual average flow and maximum 2-hour peak flow shall be reported monthly.

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 $(\text{Flow, MGD} \times \text{Concentration, mg/l} \times 8.34)$.
 - 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 Compliance Monitoring Team of the Enforcement Division (MC 224), by the 20th day of the following month for each discharge which is described by this permit whether or not a discharge is made for that month. Monitoring results must be submitted online using the NetDMR reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver. Monitoring results must be signed and certified as required by Monitoring and Reporting Requirements No. 10.

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

2. Test Procedures

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

3. Records of Results

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

of at least five years (or longer as required by 40 CFR Part 503), monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, records of all data used to complete the application for this permit, and the certification required by 40 CFR § 264.73(b)(9) shall be retained at the facility site, or shall be readily available for review by a TCEQ representative for a period of three years from the date of the record or sample, measurement, report, application or certification. This period shall be extended at the request of the Executive Director.

c. Records of monitoring activities shall include the following:

- i. date, time and place of sample or measurement;
- ii. identity of individual who collected the sample or made the measurement.
- iii. date and time of analysis;
- iv. identity of the individual and laboratory who performed the analysis;
- v. the technique or method of analysis; and
- vi. the results of the analysis or measurement and quality assurance/quality control records.

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

4. Additional Monitoring by Permittee

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

5. Calibration of Instruments

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

6. Compliance Schedule Reports

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

7. Noncompliance Notification

- a. In accordance with 30 TAC § 305.125(9) any noncompliance which may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ. Except as allowed by 30 TAC § 305.132, report of such information shall be provided orally or by facsimile transmission (FAX) to the Regional Office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the Regional Office and the Compliance Monitoring Team of the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. For Publicly Owned Treatment Works (POTWs), effective 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 Compliance Monitoring Team of the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.
 - d. Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Compliance Monitoring Team of the Enforcement Division (MC 224) as promptly as possible. For effluent limitation violations, noncompliances shall be reported on the approved self-report form.
8. In accordance with the procedures described in 30 TAC §§ 35.301 - 35.303 (relating to Water Quality Emergency and Temporary Orders) if the permittee knows in advance of the need for a bypass, it shall submit prior notice by applying for such authorization.
9. Changes in Discharges of Toxic Substances

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

- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant listed at 40 CFR Part 122, Appendix D,

Tables II and III (excluding Total Phenols) which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

- i. One hundred micrograms per liter (100 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; or
 - iii. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
- b. Prior to any facility modifications, additions, or expansions that will increase the plant capacity beyond the permitted flow, the permittee must apply for and obtain proper authorization from the Commission before commencing construction.
 - c. The permittee must apply for an amendment or renewal at least 180 days prior to expiration of the existing permit in order to continue a permitted activity after the expiration date of the permit. If an application is submitted prior to the expiration date of the permit, the existing permit shall remain in effect until the application is approved, denied, or returned. If the application is returned or denied, authorization to continue such activity shall terminate upon the effective date of the action. If an application is not submitted prior to the expiration date of the permit, the permit shall expire and authorization to continue such activity shall terminate.
 - 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 Corrective Action Section (MC 221) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.
 - d. Construction of any industrial solid waste management unit requires the prior written notification of the proposed activity to the Registration and Reporting Section (MC 129) of the Permitting and Registration Support Division. No person shall dispose of industrial solid waste, including sludge or other solids from wastewater treatment processes, prior to fulfilling the deed recordation requirements of 30 TAC § 335.5.
 - e. The term "industrial solid waste management unit" means a landfill, surface impoundment, waste-pile, industrial furnace, incinerator, cement kiln, injection well, container, drum, salt dome waste containment cavern, or any other structure vessel, appurtenance, or other improvement on land used to manage industrial solid waste.
 - f. The permittee shall keep management records for all sludge (or other waste) removed from any wastewater treatment process. These records shall fulfill all applicable requirements of 30 TAC § 335 and must include the following, as it pertains to wastewater treatment and discharge:

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

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

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

TCEQ Revision 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.

B. Testing Requirements

1. Sewage sludge shall be tested annually in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I [Toxicity Characteristic Leaching Procedure (TCLP)] or other method that receives the prior approval of the TCEQ for the contaminants listed in 40 CFR Part 261.24, Table 1. Sewage sludge 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 Registration Support Division and the Regional Director (MC Region 15) within seven (7) days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Permitting and Registration Support Division (MC 129), Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 15) 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. of this permit.

TABLE 1

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

* Dry weight basis

3. Pathogen Control

All sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site must be treated by one of the following methods to ensure that the sludge meets either the Class A, Class AB or Class B 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 must be less than 1,000 most probable number (MPN) per gram of total solids (dry weight basis), or the density of *Salmonella* sp. bacteria in the sewage sludge must be less than three MPN per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed. In addition, one of the alternatives listed below must be met:

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

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

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

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

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

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

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

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

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

- c. Sewage sludge that meets the requirements of Class AB 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 to the Alternatives 1 – 3, 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	- annually
PCBs	- annually

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

<u>Amount of 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.