

NOTICE OF OPEN MEETING

Notice is given that a **Special Meeting** of the Board of Directors (Board) of the Barton Springs/Edwards Aquifer Conservation District to be held on **Thursday, April 8, 2021**, commencing at **4:00 p.m. via Telephone and Videoconference** pursuant to Texas Government Code, Sections 551.125, 551.127 and 551.131, as modified by the Governor of Texas (Governor) who ordered suspension of various provisions of the Open Meetings Act, Chapter 551, Government Code, effective March 16, 2020, in accordance with the Texas Disaster Act of 1975. Under his proclamation of March 13, 2020, the Governor certified that the COVID-19 pandemic poses an imminent threat of disaster and declared a state of disaster for all counties in Texas. The COVID-19 pandemic makes it difficult to convene a quorum of the Board at one location with the public. Moreover, the COVID-19 pandemic creates an emergency and unforeseeable situation, a sense of urgency, and immediacy for conducting the meeting via Telephone and Videoconference.

This meeting will be audio/video recorded and the recording will be available on the District's website after the meeting. A copy of the agenda packet for this meeting will be available on the District's website at the time of the meeting.

The method for public participation described below follows the Governor's guidance for conducting a public meeting and ensures public accessibility. Members of the public may participate via videoconference or call in by telephone via the instructions provided below:

INSTRUCTIONS FOR JOINING MEETING

You may join the meeting by one of two options:

1. Join the Meeting using Zoom – use your computer audio/video features

<https://us02web.zoom.us/j/83815354713?pwd=VIE5MjhLTUQ2QVFCWThaRmhSNGhOdz09>

Meeting ID: 838 1535 4713

Passcode: 821328

Helpful Tips – For tips on how to set up Zoom on your device prior to the Board Meeting, visit the District's Board Meeting webpage: <https://bseacd.org/transparency/agendas-backup/>

2. Join the Meeting by Telephone only

Meeting Dial In +1-346-248-7799

Meeting ID: 838 1535 4713

Passcode: 821328

INSTRUCTIONS FOR PUBLIC COMMENTS

1. Register for Public Comment prior to Board Meeting Day - Persons wishing to provide public comment must register by calling (512-282-8441) or emailing tammy@bseacd.org by **5:00 p.m. on Wednesday, April 7, 2021**. Please include the following information in the registration:
 - a. first and last name
 - b. email address
 - c. phone number
 - d. the agenda item on which you wish to comment
 - e. indicate whether you would like to comment the day of or have your written comments submitted read into the record, and
 - f. include written comments, if any.
2. Public Comments at the Board Meeting – Each registered person will be recognized and identified by the Presiding Officer or staff moderating the communications when it is their turn to speak. **Public comment is limited to 3 minutes per person**. Only persons who have registered in advance to give public comment during the meeting will be allowed to provide comment.

Note: The Board of Directors of the Barton Springs/Edwards Aquifer Conservation District reserves the right to meet in Executive Session at any time during the course of this meeting to discuss any of the matters listed on this agenda, as authorized by the Texas Government Code Sections §551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.087 (Economic Development), 418.183 (Homeland Security). No final action or decision will be made in Executive Session.

1. **Call to Order 4:00 p.m.**
2. **Citizen Communications (Public Comments of a General Nature).**
3. **Consent Agenda.** *(Note: These items may be considered and approved as one motion. Directors or citizens may request any consent item be removed from the consent agenda, for consideration and possible approval as a separate item of Regular Business on this agenda.)*
 - a. Approval of Financial Reports under the Public Funds Investment Act, Directors' Compensation Claims, and Specified Expenditures greater than \$5,000. **NBU**
 - b. Approval of minutes of the Board's March 11, 2021 Special Meeting and of the March 25, 2021 Work Session. **Not for public review at this time**
4. **General Manager's Report. Discussion and possible action.**

Topics

 - a. Update on personnel matters.
 - b. Update on Aquifer conditions and status of drought indicators.
 - c. Update on Budget Planning schedule.
 - d. Update on Redistricting timeline. **Pg. 11**

- e. Update on the litigation matter of City of Austin et. al. v. Kinder Morgan Texas Pipeline.
- f. Update on Monitor well installation.
- g. Update on GMA planning activities.
- h. Review of Status Report and update on team activities/projects. **Pg. 12**
- i. Upcoming public events of possible interest.

5. Discussion and Possible Action.

- a. Discussion and possible action related to permittee's monthly drought compliance. **NBU**
- b. Discussion and possible action related to the Hill Country Conservancy Trust. **Pg. 26**
- c. Discussion and possible action on a summer schedule for board meetings and planning for returning in person. **NBU**
- d. Discussion and possible action related to a legislative update by Sledge Law Group. **NBU**
- e. Discussion and possible action on the TCEQ draft wastewater permit No. WQ0015594001 for Sawyer - Cleveland Partnership, Ltd. **Pg. 63**
- f. Discussion related to update from Special Counsel John Vay to the Board concerning the application of Electro Purification LLC, former SOAH Docket No. 957-18-4985. No action will be taken. **NBU**

6. Director Reports.

Directors may report on their involvement in activities and dialogue that are of likely interest to the Board, in one or more of the following topical areas:

- Meetings and conferences attended or that will be attended;
- Board committee updates;
- Conversations with public officials, permittees, stakeholders, and other constituents;
- Commendations; and
- Issues or problems of concern.

7. Adjournment.

Please note: This agenda and available related documentation, if any, have been posted on the District website, www.bseacd.org. If you have a special interest in a particular item on this agenda and would like any additional documentation that may be developed for Board consideration, please let staff know at least 24 hours in advance of the Board Meeting so that we can have those copies made for you. The Barton Springs/Edwards Aquifer Conservation District is committed to compliance with the Americans with Disabilities Act (ADA). Reasonable accommodations and equal opportunity for effective communications will be provided upon request. Please contact the District office at 512-282-8441 at least 24 hours in advance if accommodation is needed.

Item 1

Call to Order

Item 2

Citizen Communications

Item 3

Consent Agenda

(Note: These items may be considered and approved as one motion. Directors or citizens may request any consent item be removed from the consent agenda, for consideration and possible approval as a separate item of Regular Business on this agenda.)

- a. Approval of Financial Reports under the Public Funds Investment Act, Directors' Compensation Claims, and Specified Expenditures greater than \$5,000.**

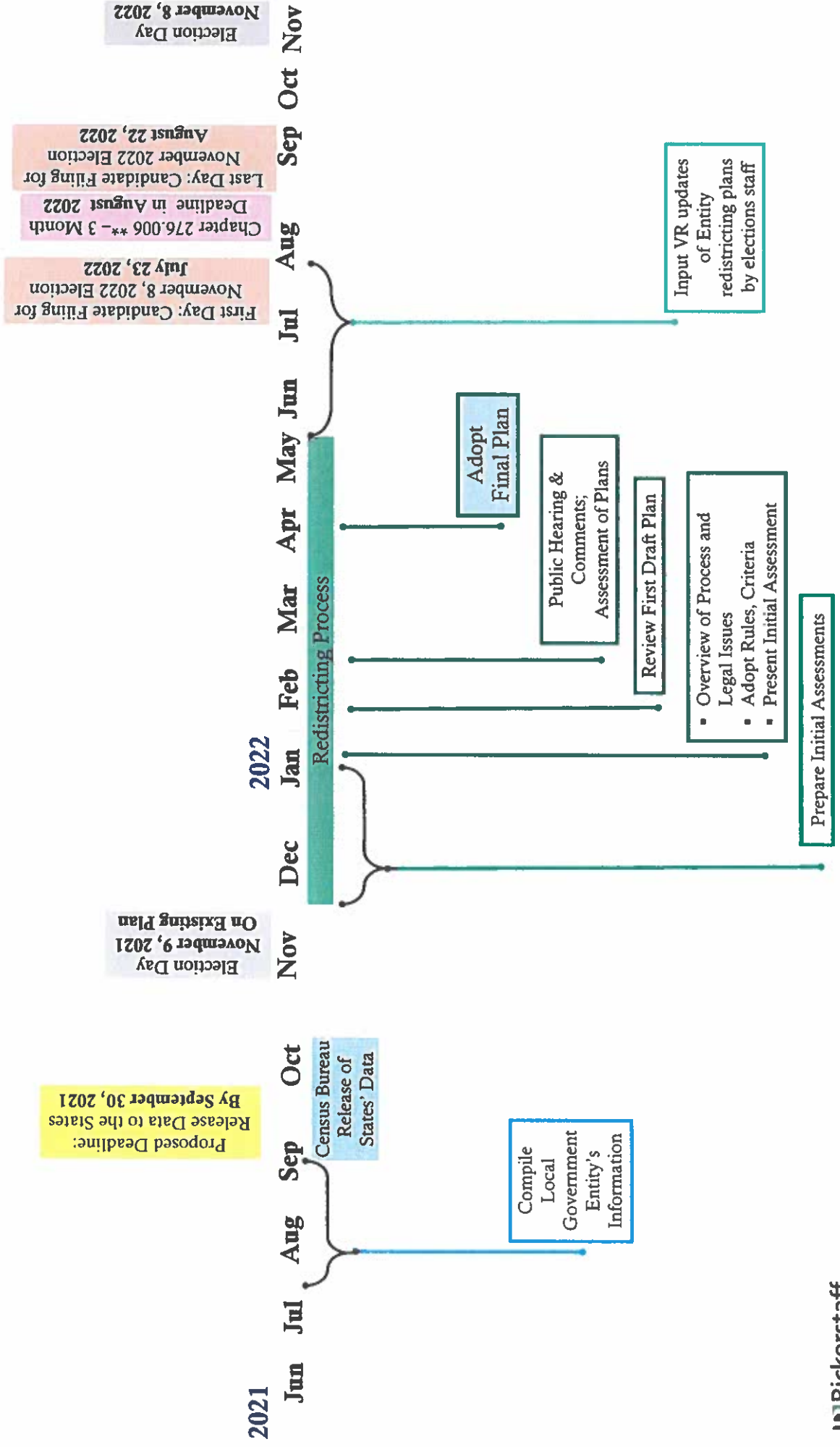
- b. Approval of minutes of the Board's March 11, 2021 Special Meeting and of the March 25, 2021 Work Session.**

Item 4

General Manager's Report Discussion and possible action topics

- a. Update on personnel matters.**
- b. Update on Aquifer conditions and status of drought indicators.**
- c. Update on Budget Planning schedule.**
- d. Update on Redistricting timeline.**
- e. Update on the litigation matter of City of Austin, et al. v. Kinder Morgan Texas Pipeline LLC.**
- f. Update on Monitor well installation.**
- g. Update on GMA planning activities.**
- h. Review of Status Report and update on team activities/projects.**
- i. Upcoming public events of possible interest.**

Proposed 2021 Redistricting Time Line for Entities with General Elections on November 8, 2022 Based on Census Bureau Release of Data by September 30, 2021*



*Based upon the last information posted by the Census Bureau on February 12, 2021.

This time line assumes no changes in current election deadlines although bills have been filed to adjust Texas' Primary election dates for 2022.

**Texas Election Code Chapter 276.006: A change in the boundary of a political subdivisions other than a county must be adopted 3 months prior to the election under than plan.

**STATUS REPORT UPDATE
FOR THE APRIL 8, 2021 BOARD MEETING**

Summary of Significant Activities – Prepared by Staff Leads

Upcoming Dates of Interest

- District Board Meetings: April 8th, April 22nd (work session), May 13th
- Region K Meetings: April 15th
- GMA 10: April 20th
- RWQPG: April 23rd
- ASR for Texas: May 4, 2021 (Austin)
- Central Texas Water Conservation Symposium – April 20-21, 2021
- Texas Groundwater Association Convention – August 1-4, 2021
- Texas Groundwater Summit 2021 (TAGD) – August 31-Sep 2 – Registration now open
- Texas Water Development Board (TWDB) “Water for Texas” 2021 Conference – September 27-29 – Early registration opens soon

DROUGHT MANAGEMENT

Drought Status and Water-Level Monitoring (Justin)

Drought was officially declared at the October 8 Board meeting. On April 1, the Lovelady well had a level of 465.2 ft msl, about 14 ft below the drought trigger level. On April 1, Barton Springs was flowing at 30.3 cfs, about 8 cfs below the drought trigger point. Precipitation associated with the mid-February winter storm helped slow the rate of decline of the water level in the Lovelady well, and increased flow at Barton Springs by about 3 cfs. Since those rains, dry conditions have allowed water levels and springflow to drop further.

Drought Communication (David, Michael)

Staff has updated District resources and the website to reflect the current Alarm drought stage. Regular social media posts are being scheduled to remind users to conserve and reduce all non-essential groundwater use. Educational resources have been prepared and are available upon request for permittees. Digital educational downloads are available on the website with the Drought Media Tool-Kit located on the Drought Education Page and includes links to other helpful resources. <https://bseacd.org/drought-edu/>

Written permittee notifications and public notice of drought conditions were mailed and emailed out. November was the first month that drought curtailments took effect. Drought Management Fees (DMFs) are now being assessed for permittees over pumping their drought targets. Permittees that are over pumping their drought targets receive a letter and an email stating that they will be assessed the DMFs. Drought curtailments will continue to be in place until drought restrictions are lifted.

Permittee Drought Compliance (Michael, Erin)

Permittees have not submitted meter readings at this time. Data will be available at the Board Meeting.

Month	Drought Status	Curtailment Requirement	DMFs
October 2020	NA	Drought Declared Oct 8 th , 2020. No curtailments required until Nov 1, 2021.	NA
November 2020	1 st full month of declared Drought Stage II	20% curtailment in effect (Month 1 - Compliance evaluated early December)	NA
December 2020	2 nd full month of declared Drought Stage II	20% curtailment in effect (Month 2 - Compliance evaluated early January)	NA
January 2021	3 rd full month of declared Drought Stage II	20% curtailment in effect (Month 3 - Compliance evaluated early February)	DMF in effect. (Invoice mailed in Feb – due by Sep 5 th .)
February 2021	4th full month of declared Drought Stage II	20% curtailment in effect (Month 4 - Compliance evaluated early March)	DMF in effect. -DMFs Waived due to winter storm events.
March 2021	4 th full month of declared Drought Stage II	20% curtailment in effect (Month 4 - Compliance evaluated early April)	DMF in effect. (Invoice mailed in Apr – due by Sep 5 th .)

DISTRICT PROJECTS

GMA Joint Planning

- ***GMA 10 Coordination (Michael, Vanessa)***
BSEACD now serves as the GMA 10 chair and will guide the discussions and planning activities at the GMA 10. The primary activities of focus for the 2021 years is the adoption of DFCS and the development of the explanatory report. We continue to coordinate internally on long-term goals related to DFC revisions and DFC monitoring compliance. Staff is actively collaborating in planning discussions internally, and with neighboring GCD representatives and TWDB staff. A GMA 10 meeting was held on March 9, 2021. The next GMA 10 meeting will be held on April 20, via zoom, at 10:30 am. More information can be found at www.gma10.org
- ***Explanatory Report Development (Michael, Jeff)***
GM and staff are coordinating a significant planning effort to review technical reports and to update content for the explanatory report that is scheduled to be completed by Summer 2021. Staff is coordinating with the team from Plum Creek GCD to review the previous explanatory report and identify areas of revision. Currently, staff is in the internal review process of the Freshwater Edwards, Saline Edwards and the Trinity Explanatory Reports.

Trinity Aquifer Sustainable Yield Study & Planning

- ***Advisory Workgroup Planning (Kendall, Vanessa)***
Staff presented an updated and revised timeline for the project at the March board meeting. GM and staff are continuing to review research on sustainability goals, metrics and thresholds. Staff has met with our facilitator four times to discuss the project timeline, communication, and certain components of an Advisory Work Group. Staff has begun internal discussions to evaluate the level of public participation, the fundamental objectives of the Advisory Work Group, the scope, and process and workflow to engage the participants, all of which will be incorporated into the Advisory Work Group Plan. Staff plans on meeting with the facilitator once to twice a month leading up the Advisory meetings. Staff has the goal of holding the first meeting with the Sustainable Yield Advisory Working Group in summer.
- ***Technical Evaluations (Brian)***
Aquifer Science staff continue to collect data on the geology and hydrogeology related to the Trinity Aquifers. We are working with Hays County to install Trinity monitor wells in the Jacob's Well area. On March 3, Hays County began drilling a water well near EP that will be used for water supply for the county and also will provide water levels in three zones of the Trinity. Drilling and installation of this well was completed by March 19. Work on the first phase of the District's own numerical modeling has been completed. This phase involved the development of a steady-state model. We will soon begin converting the steady-state model into a transient model. We are members of a technical committee to guide the development of a numerical groundwater model of the aquifers influenced by the Blanco River. Planning and funding of the Blanco River/Trinity model (BRATWURST) are close to being finalized with ongoing discussions between Hays County, Meadows Center, and Southwest Research Institute. Hays County has committed to providing \$500,000 to the project. This should allow for complete funding of the model. However, there is insufficient funding for a decision support system.

Habitat Conservation Plan (Brian, Erin)

- **COA/BSEACD Technical Meeting:** In December, Aquifer Science hosted a virtual meeting with staff from the City of Austin Watershed Protection Department to discuss activities related to the HCPs of each entity and to share data and reports about these activities.
- **MAC Meeting & Annual Report:** Staff prepared the annual report for review by the Management Advisory Committee (MAC). The MAC met on 1/26/2021 for its annual meeting and provided minimal edits and comments. The comments were incorporated into the final report and the report was submitted to USFWS on 2/25/21.
- **Implementation Schedule:** Staff is reviewing previous planning documents and will develop a new implementation timeline and schedule to guide project tasks and activities for the 1-3 year timeframe.
- **Planning for Technical Tasks:** Aquifer Science staff are coordinating studies at Barton Springs with COA staff. These studies include measurement of dissolved oxygen in the Barton Springs pool and the installation of a monitor well.

Database Management System - Intera Inc (Michael, Kendall)

Intera continues to work on modules for completion and deployment. Staff had internal meetings with Intera on March 10, 2021 to discuss the progress of the project which included scheduling changes and dividing of tasks among staff. Meetings with Intera are scheduled throughout the next few months to review mockups and to review other sections of the database. Staff will likely need to spend more time on this project to get it finalized.

ILA Commitments (Brian)

The District has ILA commitments with Hays County and HTGCD to install two monitor wells in the Jacob's Well Area. Information from these wells will be used to better understand the flow system that delivers Middle Trinity groundwater to Jacob's Well, and to develop our numerical groundwater models. Installation of these monitor wells should be completed by late summer 2021.

The ILA with COA is intended to coordinate studies for the respective HCPs such as scientific feasibility studies and monitoring evaluations; to collaborate on the planning of future Kent Butler Summits; and to exchange technical information regularly on an annual basis.

Status update – An annual technical meeting was held in December 2020. In January 2021, the annual MAC meeting was held. Kent Butler Summit small group discussions took place in Jan- Feb 2021. COA/BSEACD plan to have additional discussions and planning efforts to coordinate the details of the DO studies and the monitor well installation.

Kent Butler Summit Planning (Vanessa, David)

A COA/BSEACD virtual small group KBS discussion has been canceled due to conflicts for City of Austin elected officials. Due to other priorities and commitments the KBS planning team will look at scheduling something in summer or fall 2021.

Region K Planning Activities (Vanessa)

No update.

Strategic Planning Preparation (Vanessa):

The schedule for strategic planning workshop discussions:

- Board Governance – Thursday 4/22 @ 4 pm to 7 pm (virtual) Board Only, staff not required.
- Part 1 Strategic Planning – Saturday 5/15 @ 9 am to noon (virtual) all board & staff.
- Part 2 Strategic Planning – Wednesday 5/19 @ 4 pm to 7 pm (virtual) all board & staff.

Training, Presentations, and Conferences (All Teams):

- *Aquifer Science: In late April, Brian Smith attended a virtual conference held by the Association of Environmental and Engineering Geologists. He also presented a talk about the construction at the Mopac Intersections project at this conference.*
- *Regulatory Compliance: NA*
- *Administration: PFIA (Public Funds Investment Act) biennial training as required by TWC Chapter 36.*
- *Communications and Outreach: NA*
- *General Manager: NA*
- *All Staff: Myers Briggs Assessment and Strong Teams teambuilding workshop*

New Maps, Publications, or Reports:

A list of recent publications can be found at: <https://bseacd.org/scientific-reports/>

The latest eNewsletter published in January 2021 can be found at:

<https://bseacd.org/publications/newsletters/>

LITIGATION AND LEGISLATION

Litigation and SOAH Activities (Vanessa)

- **Electro Purification Production Permit:**

The District is communicating with EP on the next steps.

Current Activity: On March 9th the GM issued a letter to EP returning the July 17, 2017 application of Electro Purification LLC and explaining that there is no further action that the GM intends to take in connection with the remand. On March 11th the applicant, EP, responded to the GM's 3/9 letter, stating that they interpret the EP application to still be active and necessitating Board Action. The GM and EP have a meeting to further discuss the matter on April 14, 2021.

Recent Background: The District submitted pre-filed testimony and a revised GM Position Statement in December 2020. Depositions were scheduled for Jan-Feb 2021. On Jan 11, 2021 EP filed a Notice of Nonsuit and request to remand the application back to the District. On Jan 15, 2021, the District filed a response to the applicant's Notice of Nonsuit and requested that the ALJs find that with a nonsuit, that EP has withdrawn the application. On Jan 25, 2021 EP filed a response disagreeing with the District's request that the ALJs find the application withdrawn. On Feb 4, 2021, the ALJs dismissed the EP matter and remanded the matter back to the District. The original hearing on the merits will no longer be set for the dates of April 12-16 & 19-20, 2021.

- **Needmore Water LLC:**

No updates. Protestants filed an appeal of Needmore Water LLC permit. The District filed a response in March 2020. A hearing on the merits is scheduled for September 2021.

- **Permian Highway Pipeline:**

On 3/25/21 Judge Pitman's issued a final order in this case. The order granted the motions to dismiss filed by Kinder Morgan and the Federal Government. The essence of the defendants' motions, and also of the Judge's order, is that because the construction of the PHP is substantially complete, the case is now moot. The judge described in his rulings that he couldn't offer the plaintiffs relief when they sought a preliminary injunction because the harms hadn't happened yet, and then there was a delay in which the Judge did not rule on the plaintiff's motions for Summary Judgment for months during the pandemic. Finally, the Judge dismissed the plaintiffs motions for Summary Judgment because too much time had passed.

87th Legislature Bill Activity (Vanessa, Kendall)

A few groundwater related bills have been filed in the House and Senate. The GM is working with SledgeLaw Group to track bill activity that will affect the District and groundwater regulation in general. GM and staff are tracking the legislative initiatives and participating in the following subcommittees at TWCA and TAGD committees.

Of note, is S.B. 152 filed by Senator Perry that is an omnibus groundwater bill. This bill focuses on attorney's fees, petitions to GCDs for rulemaking, and permit notices to affected persons. More information is described in the confidential legislative report provided in Board backup.

On 2/4/21 the Speaker Phalen released his committee assignments for the 87th Legislature. House Natural Resources is as follows:

Chair: Tracey King of Uvalde. **Vice Chair:** Cody Harris

Seniority Assignments: Tracy King of Uvalde, Lyle Larson, Eddie Lucio, Armando Walle

Speaker Appointments: Rhetta Bowers, Kyle Kacal, Dennis Paul, Four Price, Ana-Maria Ramos, Terry Wilson

RULEMAKING, PERMITTING, AND ENFORCEMENT

Rulemaking (Michael, Kendall)

The Regulatory Compliance team is starting the process of updating District Rules and enforcement procedures that pertain to two rulemaking areas in particular. The staff will meet internally and with the rules committee as needed. Staff will present rule concepts and a process timeline to the full board during future work sessions. The two areas of focus for the rulemaking efforts are:

- Improving the rule language relating to enforcement violations and penalties for over pumping of annual permits.
- Open up permit criteria relating to Conditional Class A permits that would allow for more firm yield permit options for small volume permittees.

Staff estimated the number of new permits and an associated volume (range) that could result from the rule change. Staff then meet with our consultant Kirk Holland in early March to discuss potential impacts to the HCP. Staff is planning to discuss concepts with our attorney Bill in April or May. Staff will also review our take methodology and meet with Kirk again in April or May.

Enforcement and Compliance Matters (Michael, Erin)

<i>Compliance/Enforcement</i>			
<i>Permittee or Entity Name</i>	<i>Aquifer</i>	<i>Use Type</i>	<i>Notes</i>
Well on Polk Rd	Not sure	Commercial	Staff received complaint from citizen regarding well supplying businesses and homes and being charged and water quality issues
Vintage Oak Wedding Venue	N/A	Commercial/Irrigation	Staff received complaint about irrigating. Staff made visit to site on 3/29/21.

Permitting Activity (Michael, Erin)

<i>In Review</i>				
<i>Application Type</i>	<i>Aquifer</i>	<i>Applicant Name</i>	<i>Use Type</i>	<i>Volume Request</i>
Exempt	N/A	Matthew Janiga	Geothermal	0
Minor Amendment	Middle Trinity	Industrial Asphalt	Commercial	4 mil to 6 mil
LPP	Edwards/Upper Trinity	Jose Cerda & Maria Martinez	Domestic	500,000
Exempt	Edwards	Geoff Weisbart	Livestock	Exempt
LPP		Lule, Berlim and Elona	Domestic	500,000
Change of Ownership		Ford Restaurant Group	Commercial	1,875,000
<i>Recently Approved</i>				
<i>Application Type</i>	<i>Aquifer</i>	<i>Applicant Name</i>	<i>Use Type</i>	<i>Volume Request</i>
Well Drilling Authorization	Lower Trinity	Aqua Texas	PWS	6,000,000
Exempt	N/A	LCRA	Grounding Well	N/A
Minor Amendment	Middle Trinity	SWTX Pentecostal	Commercial	120,000
LPP	Trinity	Amelia Virden	Domestic	500,000

AQUIFER STUDIES (Brian)

Permitting Hydrogeologic Studies:

- Aqua Texas Inc- Aquifer Science staff has been involved with Aqua Texas as they are drilling a Lower Trinity well in Chaparral Park.
- Aquifer Science staff were observing activities in March with the drilling of a water-supply well by Hays County near EP.

Groundwater Studies: *Dye Tracing, Water Quality, Aquifer Characterizations*

- Colemans Canyon- As part of the Jacob's Well study, we are collecting data from domestic wells in the area. A dye-trace study will be conducted this year with Hays County, EAA, and HTGCD.
- Planning for installation of two monitor wells near Jacob's Well.
- KM PHP – WQ Workgroup: Planning for a meeting in April with interested parties.

Field Activities:

- Antioch- Continuing to maintain the system and to collect data on flow into the vault.
- Well Monitoring- Continuing to maintain equipment in numerous monitor wells and to download and interpret data.

Trinity Aquifer Modeling Development:

- BRAT Modeling- Waiting for Meadows Center to give SWRI the go-ahead to start the model. This should start by late May now that funding for the project has been completed.
- In-house model- Working to transition the steady-state model into a transient model
- DSS Tool -A small project is underway by a consulting company in Nebraska to develop a Groundwater Evaluation Tool (GET) for the Trinity Aquifers.

COMMUNICATIONS AND OUTREACH

Website & Public Information

Activities this month include updates to the About Us: Staff webpage, meeting videos dating back to May 2020 have been uploaded to the Agendas & Backup webpage, Drought Status and Scholarship Essay Contest have been added to the top of District Spotlights on the homepage, and the District Operations page has been updated. Communications & Outreach is currently reviewing the website and will discuss recommended changes with GM.

District Newsletter

The latest eNews is scheduled for release on April 15, 2021 to District contact lists. The Spring eNews topics include Aquifer Conditions/Stage II Alarm Drought and drought predictions, Conservation Tips, Aqua Copper Hills Well Explainer, Kent S. Butler Groundwater Scholarship Essay Contest, District Operations Update, Staff Update, etc.

District Operation Updates

The District offices remain open to the public by appointment only. This information was updated and shared with the public on the District’s social media channels and website. It is also included in the upcoming Spring eNews.

Website Analytics 2021		Top Website Pages Visited			
Month	Total Page Views	Unique Visitors	January	February	March
January	3,089	2,631	Homepage 617 Views	Homepage 517 Views	Homepage 1,358 Views
February	2,139	1,785	About Us/Board 155 Views	Maps 110 Views	Scholarships 192 Views
March	3,386	2,608	Comm Job Posting 123 Views	About Us/Staff 77 Views	Maps 140
			About us/Staff 108 Views	About the Aquifers 76 Views	Agendas 123 Views
			Maps 82 Views	Agendas 72 Views	About Us/Staff 94 Views

Social Media

Communications & Outreach Manager is working to boost engagement on the District’s Facebook and Twitter pages. Some of the District’s recent posts include District Operations Update, Kent S. Butler Groundwater Scholarship Essay Contest, shared posts from the Texas Water Development Board, World Water Day, Stage II Alarm Drought Reminder and Conservation Tips, District Newsletter promotion, and rainfall amounts.

The top performing posts on Facebook include the Scholarship Essay Contest, a picture we shared of bluebonnets outside the District offices, and World Water Day. The top performing posts on Twitter include the Kent S. Butler Groundwater Scholarship Essay Contest, promotion of the District's newsletter, and World Water Day.

Other meetings and activities:

- **Scholarship Planning:** The deadline for the 2021 Kent Butler Memorial Stewardship Scholarship Groundwater Essay Contest is Tuesday, April 20. Communications & Outreach Manager has reached out to all eligible school districts and shared the scholarship information packet with them. Essay contest information has been shared on social media, and the website. Weekly reminders of the deadline will be posted on social media. Scholarship information will also go out in the upcoming Spring eNews.
- **Texas Alliance of Groundwater Districts (TAGD):** Communications & Outreach Manager spoke with Julia Sanford, TAGD's Programs & Operations Manager about ways to engage with other communications professions in the groundwater district industry. Communications & Outreach Manager has joined the TAGD Information & Education Committee. The goal of the committee is to create a communications toolkit to help GCDs through the state communicate effectively with their stakeholders.
- **Central Texas Water Efficiency Network (CTWEN):** The District continues to participate in the regular gathering of water professionals involved with the CTEWN group virtually. A subgroup of this network is planning for a potential virtual Central Texas Water Conservation Symposium (tentatively set for April 20-21, 2021).

GENERAL ADMINISTRATION
(March 6 – April 1, 2021)

Accounts Receivable/Permittee Cycle Billings

On March 16, invoices went out for April monthly permittee production fees.

Budget 2021 Revision and Budget 2022 Preliminary Version

Both are in progress, and the 2022 budget schedule calendar with necessary dates has been created.

Drought Assessments - DMFs (Drought Management Fees)

Drought letters have been mailed out to permittees to notify them of any drought compliance target chart issues.

DMFs assessed in March for February pumpage was waived. Memo and revised drought table was sent to the affected permittees.

Financial Reporting – Website Transparency Section (Texas Comptroller’s Office)

These are four separate reports and in different format (data over formatting) than the four monthly financial reports that are included in Board backups.

Transparency Star-related: Most current, available financial reports are to be posted on our website and accessible within three clicks, as required by the Texas Comptroller of Public Accounts Transparency Star Program. Balance Sheets, Profit and Loss Statements, and Check Registers (Operating and Payroll) through February 2021 have been posted on the District website.

Texas Comptroller’s Office

Special Purpose District Public Information Database – Annual Reporting as required by reporting procedures and requirements prescribed by Government Code, §403.0241.

Miscellaneous

SWOT Administration Team analysis, create documents, and presentation to Board.

Cyber security training.

Myers-Briggs staff training session, and required reading and required assessments to submit.

EP deposit remainder has been refunded to depositor.

IT– tracking helptickets.

Quarterly payroll tax reporting January–March is due end of April.

The Administration Team typically has repetitive monthly tasks e.g. monthly bank reconciliations, daily phone answering, monthly adjusting journal entries, accounts payable, contract/grant/project tracking, monthly meter reading reporting, office maintenance and repairs, budget monitoring, bi-weekly payroll journal updates, etc. These types of tasks are not listed in this report because they are repetitive. Administration status reports are generally more summarized than the other teams, as we list our extra-ordinary tasks outside of our routine tasks.

Item 5

Board Discussions and Possible Action

- a. Discussion and possible action related to permittee's monthly drought compliance.**

Item 5

Board Discussions and Possible Actions

b. Discussion and possible action related to the Hill Country Land Fund.

Background Information: Hill Country Conservancy Trust

The Circle C Land Corp. Settlement Agreement ("Circle C Agreement") was approved to resolve disputes between the City and Stratus regarding the applicability of the Save Our Springs Initiative Ordinance and Chapter 245 of the Local Government Code. The agreement, in part, establishes the creation of the "Hill Country Conservancy Trust" to receive proceeds from assessments on certain commercial tracts developed for office uses governed by the Circle C Agreement. Those proceeds will be used for the protection of additional open space within the Edwards Aquifer Recharge Zone, regional watershed protection planning, and environmental education programs.

The trust is to be governed by five trustees, including one representative from the City of Austin, along with representatives from Circle C Land Corp., the non-for-profit Hill Country Conservancy corporation, the Barton Springs Edwards Aquifer Conservation District, and the LBJ Wildflower Center. The proceeds will be collected through a mandatory assessment administered by the Circle C Commercial Owners Association.

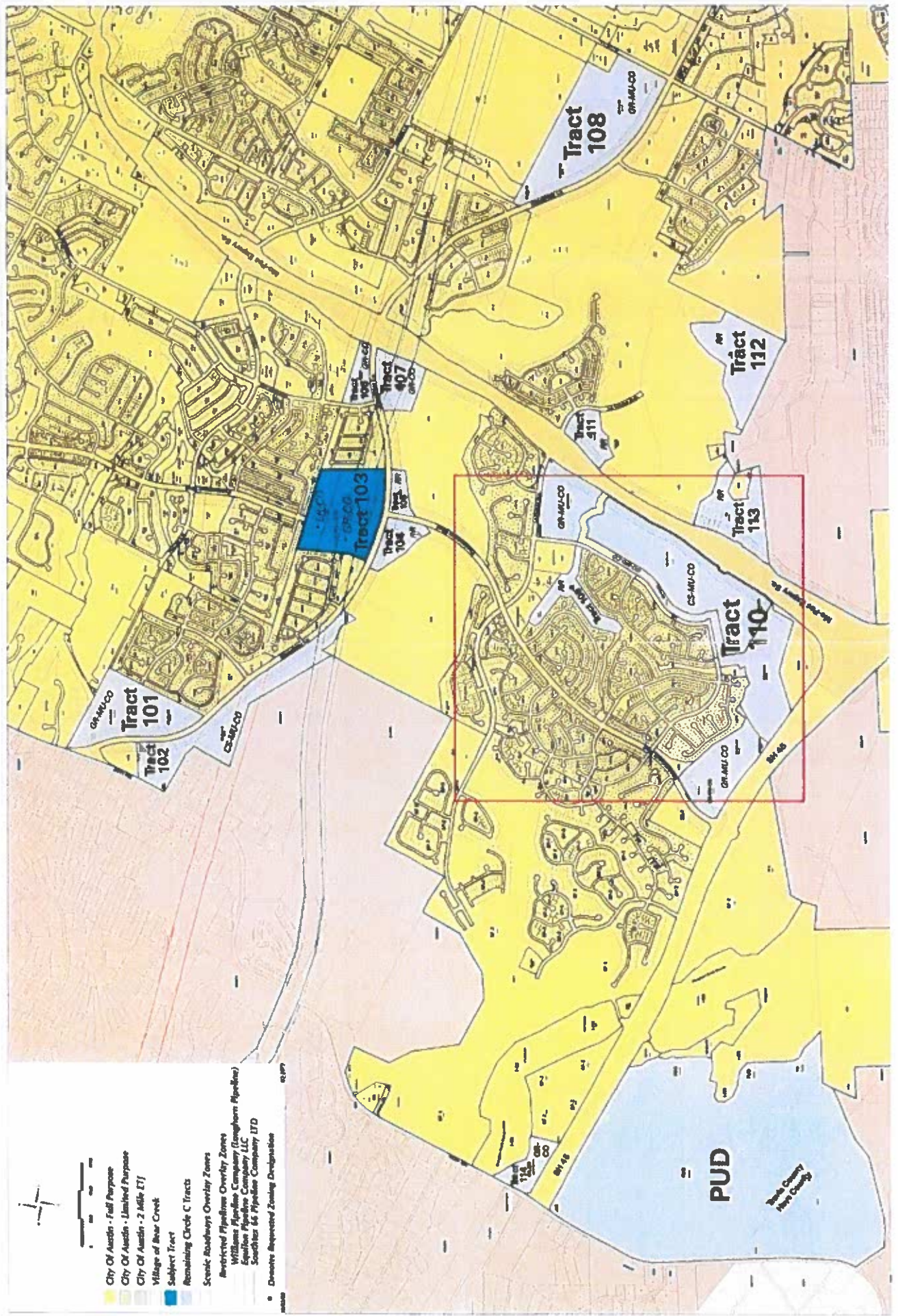
Although the trust was intended to be created within 180 days of the execution of the Circle C Agreement, the procedures to create the trust and appoint trustees were never completed. The Hill Country Conservancy has continued to advocate for the creation of the trust, and has remained in communication with staff and the Circle C Land Corp. The requirement to create the trust is still valid, and Circle C Land Corp. does not object to the creation of the trust. Although development under the Circle C Agreement has occurred, there remains undeveloped office uses allowed under the agreement which could provide revenue to the trust.

The fund is unlikely to garner much revenue (probably between \$0 and \$75,000/year), but we do not know how much exactly. Only a portion of the property has been developed so far (see attached map- Tract 10), and the assessment would be annual, so even if COA did not get the money from prior years for existing developments, existing development would contribute funds going forward (less maintenance costs for the property owner's association)

As the trust is a requirement of the Circle C Agreement and would be created for the beneficial purposes of protecting the quality and quantity of water within the Barton Springs Segment of the Edwards Aquifer, staff from all the referenced entities have recommended the completion of the trust and appointment of a trustee from each organization.

The Hill Country Conservancy (George Cofer) is working with Stratus to get the non-profit trust created and has requested review and approval of the key documents by April 15, 2021.

In 2016 BSEACD's Board of Directors voted to approve a resolution directing General Manager John Dupnik to work with the partnering entities on forming and finalizing the trust. In June 2019, the BSEACD's Board of Directors discussed the Hill Country Conservancy Fund including appointing a Director to serve as a trustee of the Fund and authorizing the appointee to take necessary action to accomplish creation and governance of the Fund. The Board approved appointing Director Craig Smith to serve as the District's Representative on the Hill County Conservancy Fund.



**CERTIFICATE OF FORMATION
NON-PROFIT CORPORATION
OF
HILL COUNTRY CONSERVANCY FUND**

ARTICLE I

NAME

The name of the corporation (“Corporation”) is **HILL COUNTRY CONSERVANCY FUND**.

ARTICLE II

NON-PROFIT CORPORATION

The Corporation is a non-profit corporation.

ARTICLE III

DURATION

The period of the Corporation’s duration is perpetual.

ARTICLE IV

PURPOSES

The Corporation is organized under and by virtue of the laws of the State of Texas concerning non-profit corporations and shall have and may exercise all of the rights, powers, privileges and immunities granted to such corporations by those laws, as amended from time to time, subject to the restrictions and limitations contained in this Certificate.

A. The general purpose or purposes for which the Corporation is formed are to receive and maintain a fund or funds of cash and ownership of real or personal property, or both, and subject to the restrictions and limitations hereinafter set forth, to use and apply the whole or any part of the funds, property or income therefrom exclusively for charitable, scientific, literary, or educational purposes by either direct expenditures or by contributions or expenditures for the benefit of or in conjunction with to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”) and the Regulations as promulgated under the Code as they now exist or as they may hereafter be amended (the “Regulations”) and the assets and property of the Corporation are hereby pledged for use in performing its charitable purposes. All references herein to the Code shall infer a reference to its Regulations.

B. The primary and specific purposes of the Corporation are to receive assessments from certain landowners and to use such proceeds for (i) the acquisition and preservation of additional open space within or adjacent to the Edwards Aquifer Recharge Zone, as defined by the City of Austin Code of Ordinances, (ii) regional watershed and habitat protection planning, (iii) environmental education programs, and (iv) other purposes ancillary to the foregoing, as contemplated in that certain that certain Development Agreement dated effective August 15, 2002 (the "**Development Agreement**") executed by the City of Austin, Texas, a Texas home rule municipality and Circle C Land Corp., a Texas corporation and recorded in Document No. 2002151984 of the Real Property Records of Travis County, Texas, and Document No. 02022402 of the Real Property Records of Hays County, Texas, as amended from time to time.

C. The foregoing purposes and powers of the Corporation shall be subject to the following limitations:

1. No act may be performed which would violate Section 501(c)(3) of the Code.

2. No loans shall be made by the Corporation to any director, trustee or officer of the Corporation. Any director, trustee or officer who assents to or participates in the making of any such loan shall be liable to the Corporation for the amount of such loan until it is repaid.

3. No part of the net earnings of the Corporation shall be distributed to, or inure to the benefit of, any member, director, trustee, officer, agent or employee of the Corporation, or to any private individual, except to further the exempt purposes of the Corporation as described above and except that reasonable compensation may be paid for services duly rendered, and reimbursement may be made for expenses duly incurred, to or for the Corporation affecting one or more of its authorized purposes.

4. No substantial part of the activities of the Corporation shall consist of carrying on propaganda or otherwise attempting to influence legislation, provided that the Corporation shall be permitted to make the election described in Section 501(h) of the Code and, if it so elects, to make lobbying and grass roots expenditures that do not normally exceed the ceiling amounts prescribed by Section 501(h) of the Code; nor shall the Corporation participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of or in opposition to any candidate for public office.

5. The Corporation shall at all times be operated in such a manner as will assure its qualification as: (i) an organization which is exempt from taxation pursuant to Section 501(c)(3) of the Code; (ii) an organization which is not a private foundation, in accordance with Section 509(a)(1), (a)(2) or (a)(3) of the Code; and, (iii) an organization, contributions to which are deductible under Section 170(c)(2) of the Code. In the event that the Corporation becomes a private foundation as defined in Section 509(a) of the Code, then, during any period of time in which the Corporation is such a private foundation:

(a) the Corporation shall not engage in any act of “self-dealing,” as defined in Section 4941(d) of the Code, so as to give rise to any liability for the tax imposed by Section 4941(a) of the Code;

(b) the Corporation shall distribute its income for each taxable year at such time and in such manner so as not to become subject to the tax on undistributed income imposed by Section 4942(a) of the Code;

(c) the Corporation shall not retain any “excess business holdings,” as defined in Section 4943(c) of the Code, so as to give rise to any liability for the tax imposed by Section 4943(a) of the Code;

(d) the Corporation shall not make any investments which would jeopardize the carrying out of any of the exempt purposes of the Corporation, within the meaning of Section 4944 of the Code, so as to give rise to any liability for the tax imposed by Section 4944(a) of the Code; and

(e) the Corporation shall not make any “taxable expenditure,” as defined in Section 4945(d) of the Code, so as to give rise to any liability for the tax imposed by Section 4945(a) of the Code.

6. Upon the dissolution of the Corporation or the winding up of its affairs, all of the funds or property of the Corporation shall be disposed of by transfer and distribution to charitable, scientific, literary, or educational organizations which would then qualify under the provisions of Section 501(c)(3) of the Code and its regulations as they now exist or as they may hereafter be amended. The following shall be characteristic of the receiving organization:

(a) that it be operated exclusively for charitable, scientific, literary or educational purposes;

(b) that no part of the net earnings of the receiving organization shall inure to the benefit of any private shareholder or individual;

(c) that no substantial part of the activities of the receiving organization constitutes the carrying on of propaganda or otherwise attempting to influence legislation;

(d) that it does not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office;

(e) that it qualifies under the provisions of §501(c)(3) of the Code; and

(f) any such receiving organization(s) shall be selected by vote of the majority of the directors of the Corporation at a meeting called for this purpose. If for any reason such disposition cannot be effected, then the funds and property shall be distributed pursuant to an order, judgment or decree of a court having jurisdiction over the assets and property of the Corporation.

D. The general purposes and powers are:

1. To purchase, lease, or otherwise acquire, improve, construct, own, hold, use, maintain, operate, exchange, encumber, sell, convey, or otherwise dispose of, real and personal property of every kind, nature, or description, as may be necessary or desirable to promote the primary purpose of this Corporation.

2. To make and perform contracts of every kind for any lawful purpose without limit as to amount, with any person, firm, association, corporation, municipality, state, government, or municipal or political subdivision.

3. To have and exercise all the rights and powers conferred on non-profit corporations under the Texas Non-Profit Corporation Act, as such law is now in effect or may at any time hereafter be amended.

4. To do all other acts necessary or expedient for the administration to the affairs and attainment of the purposes of this Corporation.

This Corporation is organized pursuant to the Texas Non-Profit Corporation Act and does not contemplate pecuniary gain or profit to the directors or members thereof and is organized for non-profit purposes.

ARTICLE V

INITIAL REGISTERED OFFICE AND AGENT

The street address of the initial registered office of the Corporation is 800 Brazos, Suite 400, Austin, Texas 78701, and the name of the initial registered agent at such address is Capitol Corporate Services, Inc.

ARTICLE VI

BOARD OF DIRECTORS

The board of the Corporation shall consist of five (5) directors (the “**Directors**,” and each a “**Director**”). Each of the five (5) following entities or organizations (the “**Appointing Entities**,” and each an “**Appointing Entity**”) shall appoint one (1) Director, respectively (together the “**Appointed Directors**”); the City of Austin, a Texas home rule municipality; Circle C Land, L.P., a Texas limited partnership; Hill Country Conservancy, a Texas non-profit corporation; Barton Springs Edwards Aquifer Conservation District, a Texas ground water conservation district; and The Lady Bird Johnson Wildflower Center at The University of Texas at Austin. In the event of the resignation, removal or failure to serve of any Appointed Director, the Appointing Entity that appointed such Director or the successor of such Appointing Entity shall appoint a Director to fill such vacancy. Each Appointing Entity in its sole discretion may remove the Director appointed by such Appointing Entity for any reason or no reason at all.

The initial Appointed Directors appointed by each of the Appointing Entities is listed below. The names and street addresses of the persons who are to serve as initial Directors until the first annual meeting or until their successors are elected and qualified are as follows:

<u>Name</u>	<u>Address</u>	<u>Appointing Entity</u>
_____	_____ Austin, Texas 787__	City of Austin
_____	_____ Austin, Texas 787__	Circle C Land, L.P.
_____	_____ Austin, Texas 787__	Hill Country Conservancy
_____	_____ Austin, Texas 787__	Barton Springs Edwards Aquifer Conservation District
_____	_____ Austin, Texas 787__	The Lady Bird Johnson Wildflower Center at The university of Texas at Austin

ARTICLE VII

INCORPORATOR

The name and street address of the incorporator are:

<u>Name</u>	<u>Address</u>
Kenneth Jones	Armbrust & Brown, PLLC 100 Congress Avenue, Suite 1300 Austin, Texas 78701-2744

ARTICLE VIII

NO MEMBERS

The Corporation shall have no members.

ARTICLE IX

LIMITATION OF LIABILITY

To the full extent permitted by Texas law, no Director of the Corporation shall be liable to the Corporation or its members for monetary damages for an act or omission in such Director's capacity as a Director of the Corporation, except that this Article does not eliminate or limit the liability of a Director to the extent the Director is found liable for (i) a breach of the Director's duty of loyalty to the Corporation or its members, (ii) an act or omission not in good faith that constitutes a breach of duty of the Director to the Corporation or an act or omission that involves intentional misconduct or a knowing violation of the law, (iii) a transaction from which the Director received an improper benefit whether or not the benefit resulted from an action taken within the scope of the Director's office, or (iv) an act or omission for which the liability of a Director is expressly provided by an applicable statute. Any repeal or amendment of this Article by the members of the Corporation shall be prospective only and shall not adversely affect any limitation on the liability of a Director of the Corporation existing at the time of such repeal or amendment. In addition to the circumstances in which a Director of the Corporation is not liable as set forth in the preceding sentences, a Director shall not be liable to the fullest extent permitted by any provision of the statutes of Texas hereafter enacted that further limits the liability of a member or director of a non-profit corporation. The foregoing limitation of the liability to the Corporation or its members for monetary damages shall not be deemed exclusive of any other rights or limitations of liability or indemnity to which a Director may be entitled under any other provision of the Certificate of Formation or the Bylaws of the Corporation, contract or agreement, vote of Directors and/or disinterested Directors of the Corporation, or otherwise.

ARTICLE X

ACTION BY WRITTEN CONSENT

Any action required to, or which may, be taken at a meeting of the members or of the Directors or of a committee may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by not less than the number of members, directors, or committee members that are necessary to take such action at a meeting at which all of the members, Directors, or committee members were present and voted.

Dated: _____, 2021

Kenneth Jones, Incorporator

**BYLAWS
OF THE
HILL COUNTRY CONSERVANCY FUND**

**BYLAWS
OF THE
HILL COUNTRY CONSERVANCY FUND**

Table of Contents

ARTICLE ONE OFFICES	1
ARTICLE TWO PURPOSES	1
ARTICLE THREE BOARD OF DIRECTORS	1
Section 1. Management of the Corporation	1
Section 2. Number and Qualifications	1
Section 3. Advisory Directors	1
Section 4. Appointment and Removal of Directors	1
Section 5. Conflict of Interest Policy	1
Section 6. Place of Meetings	2
Section 7. Annual Meetings	2
Section 8. Regular Meetings	2
Section 9. Special Meetings	2
Section 10. Quorum and Manner of Acting	2
Section 11. Directors' Compensation	3
Section 12. Action Without a Meeting	3
Section 13. Action Without a Meeting by Use of a Conference Telephone.....	3
Section 14. Director Proxies	3
ARTICLE FOUR EXECUTIVE COMMITTEE	3
Section 1. Constitution and Powers	3
Section 2. Meetings	4
Section 3. Director Proxies	5
Section 4. Records.....	5
Section 5. Vacancies.....	5
ARTICLE FIVE OTHER COMMITTEES OF THE BOARD OF DIRECTORS.....	5
ARTICLE SIX NOTICES.....	5
Section 1. Manner of Giving Notice	5
Section 2. Waiver of Notice	5
ARTICLE SEVEN OFFICERS, EMPLOYEES AND AGENTS: POWERS AND DUTIES	6
Section 1. Elected Officers.....	6
Section 2. Election	6
Section 3. Appointed Officers.....	6
Section 4. Two or More Offices	6
Section 5. Compensation.....	6
Section 6. Term of Office; Removal; Filling of Vacancies	6
Section 7. Chairman of the Board	7

Section 8.	President.....	7
Section 9.	President-Elect	7
Section 10.	Vice Presidents	7
Section 11.	Secretary.....	8
Section 12.	Assistant Secretaries.....	8
Section 13.	Treasurer.....	8
Section 14.	Assistant Treasurers	8
Section 15.	Additional Powers and Duties.....	9
Section 16.	Executive Director and Employees	9
ARTICLE EIGHT MISCELLANEOUS		9
Section 1.	Dividends Prohibited.....	9
Section 2.	Loans to Officers and Directors Prohibited.....	9
Section 3.	Signature of Negotiable Instruments.....	9
Section 4.	Fiscal Year	9
Section 5.	Seal.....	9
Section 6.	Indemnification	9
Section 7.	Books and Records.....	12
Section 8.	Surety Bond.....	12
ARTICLE NINE AMENDMENTS		12

**BYLAWS
OF THE
HILL COUNTRY CONSERVANCY FUND**

**ARTICLE ONE
OFFICES**

HILL COUNTRY CONSERVANCY FUND, a Texas non-profit corporation (the “Corporation”), may have, in addition to its registered office, offices and places of business at such places, both within and without the State of Texas, as the Board of Directors may from time to time determine or the business and affairs of the Corporation may require.

**ARTICLE TWO
PURPOSES**

The Corporation is organized under and by virtue of the laws of the State of Texas concerning nonprofit corporations and shall have and may exercise all of the rights, powers, privileges and immunities granted to such corporations by those laws, as amended from time to time, subject to the restrictions and limitations contained in these Bylaws and the Certificate of Formation of the Corporation (the “Certificate”). The Corporation shall be operated and act in furtherance of the purposes stated in Article IV of the Certificate.

**ARTICLE THREE
BOARD OF DIRECTORS**

Section 1. Management of the Corporation. The business and affairs of the Corporation shall be managed by its Board of Directors, who may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Certificate or by these Bylaws directed or required to be exercised or done by the members.

Section 2. Number and Qualifications. The Board of Directors consists of the number of directors appointed in accordance with the Certificate. None of the directors need be members of the Corporation or residents of the State of Texas.

Section 3. Advisory Directors. In addition to the voting directors described in Section 2 above, the directors may also appoint such advisory or honorary directors as the directors shall deem necessary and proper, to act in advisory or honorary capacities without the power of vote or decision as a director, but with all other rights and benefits of a director.

Section 4. Appointment and Removal of Directors. The directors shall be appointed and removed in accordance with the Certificate.

Section 5. Conflict of Interest Policy. The Board of Directors shall adopt a policy regarding conflicts of interests and keep such policy on the books and records of the Corporation, as amended from time to time.

Section 6. Place of Meetings. Meetings of the Board of Directors, annual, regular or special, may be held either within or without the State of Texas.

Section 7. Annual Meetings. An annual meeting of the Board of Directors shall be held following the annual meeting of members or another date approved by resolution of the Board of Directors, if not a legal holiday in the place where the meeting is to be held, and if a legal holiday in such place, then on the next full business day following, at which they shall elect officers, proceed with organization, and transact any and all other business as may properly come before the meeting. Written or printed notice stating the place, date, and hour of each annual meeting of the Board of Directors shall be delivered not less than ten (10) days nor more than fifty (50) days before the date of such meeting, either personally or by mail, electronic mail, or facsimile, by or at the direction of the President or Secretary, to each director entitled to vote at such meeting.

Section 8. Regular Meetings. Regular meetings of the Board of Directors, of which no notice shall be necessary, shall be held at such times and places as may be fixed from time to time by resolution adopted by the Board of Directors and communicated to all directors. Except as otherwise provided by statute, the Certificate or these Bylaws, any and all business may be transacted at any regular meeting.

Section 9. Special Meetings. Special meetings of the Board of Directors may be called by the Chairman of the Board, if elected and serving, or by the President on at least twenty-four (24) hours notice to each director, either personally or by mail or by telegram. Special meetings shall be called by the President or Secretary in like manner and on like notice on the written request of one (1) director. Except as may be otherwise expressly provided by statute or by the Certificate or by these Bylaws, neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or the waiver of notice of such meeting.

Section 10. Quorum and Manner of Acting. At all meetings of the Board of Directors, the presence of a majority of the number of directors fixed by these Bylaws shall be necessary and sufficient to constitute a quorum for the transaction of business, except as otherwise provided by statute, by the Certificate or by these Bylaws. The act of a majority of the number of directors fixed by these Bylaws shall be the act of the Board of Directors unless the act of a greater number is required by statute, by the Certificate or by these Bylaws, in which case the act of such greater number shall be requisite to constitute the act of the Board of Directors. If a quorum shall not be present at any meeting of the directors, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present. At any such adjourned meeting, any business may be transacted which might have been transacted at the meeting if originally convened. And, if a quorum of directors is present at a meeting and a director is recused, or recuses herself or himself, due to a conflict of interest, and leaves the meeting for action on the matter causing the conflict, then any provision to the contrary contained in these Bylaws notwithstanding (i) a quorum shall not be lost on such action solely because such recused director is not present for such action and (ii) the act of a majority of the then serving non-conflicted directors shall be the act of the Board of Directors.

Section 11. Directors' Compensation. Directors as such will not receive any compensation for their services. However, any director may be reimbursed for his actual reasonable expenses incurred in the performance of his duties. Nothing herein contained shall be construed to preclude any directors from serving the Corporation in any other capacity and receiving compensation therefor.

Section 12. Action Without a Meeting. Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing setting forth the action so taken is signed by all the members of the Board of Directors. Such consent shall have the same force and effect as a unanimous vote at a meeting and may be stated as such in any document. Provided, however, the proceeding sentences in this Section notwithstanding, so long as the Certificate so provides, any action required to, or which may, be taken at a meeting of the directors may be taken without a meeting if a consent in writing setting forth the action is signed by a sufficient number of directors as would be necessary to take that action at a meeting at which all of the directors were present and voted. Provided, further, as a condition precedent to the effectiveness of any action approved by such written consent (and without a meeting), at least three (3) days prior written notice of the action so approved must be delivered to the President (for filing in the records of the Corporation) and to each of the directors of the Corporation.

Section 13. Action Without a Meeting by Use of a Conference Telephone. Subject to the provisions required or permitted by the controlling law for notice of meetings, members of the Board of Directors or members of any committee designated by the Board of Directors may participate in and hold a meeting of the Board of Directors or such committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section shall constitute presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

Section 14. Director Proxies. Every Director entitled to vote at a meeting or without a meeting, as herein provided, may authorize another person to act for such Director by proxy. Provided, however, Directors present by proxy may not be counted toward a quorum. Every proxy must be in writing and signed by the authorizing Director. No proxy shall be valid after the expiration of three (3) months from the date of its execution. Every proxy shall be revocable at the pleasure of the director executing it, unless expressly provided therein to be irrevocable or otherwise made irrevocable by law. And, each Director may only grant a proxy two (2) times in any given calendar year, unless otherwise permitted by the Board of Directors.

ARTICLE FOUR EXECUTIVE COMMITTEE

Section 1. Constitution and Powers. The Board of Directors, by resolution adopted by affirmative vote of a two-thirds (2/3) majority of the number of directors fixed by the Certificate, may designate two (2) or more directors (with such alternates, if any, as may be deemed desirable) to constitute an Executive Committee, which Executive Committee shall have and may exercise, when the Board of Directors is not in session, all of the authority and powers of

the Board of Directors in regard to matters of urgency (as reasonably determined by the Executive Committee, under the applicable circumstances) and to those matters specifically designated to the Executive Committee by the Board of Directors; provided, that the foregoing shall not be construed as authorizing action by the Executive Committee with respect to any action which by statute, the Certificate or these Bylaws is required to be taken by vote of a specified proportion of the number of directors fixed by these Bylaws, or any other actions required or specified by the controlling law or other applicable law or by these Bylaws or by the Certificate to be taken by the Board of Directors, as such. The designation of the Executive Committee and the delegation thereto of authority shall not operate to relieve the Board of Directors or any member thereof of any responsibility imposed upon it or him by law. So far as practicable, members of the Executive Committee and their alternates (if any) shall be appointed by the Board of Directors at its annual meeting or the first meeting after each annual meeting of members and, unless sooner discharged by affirmative vote of a majority of the number of directors fixed by these Bylaws, shall hold office as long as such individuals remain directors of the Corporation or until their respective successors are appointed and qualify or until their earlier respective deaths, resignations, retirements or disqualifications.

Section 2. Meetings. Regular meetings of the Executive Committee, of which no notice shall be necessary, shall be held at such times and places as may be fixed from time to time by resolution adopted by affirmative vote of a majority of the whole Executive Committee and communicated to all the members thereof. Special meetings of the Executive Committee may be called by the Chairman of the Board, if elected and serving, the President or any two (2) member(s) thereof at any time on twenty-four (24) hours' notice to each member, either personally or by mail, electronic mail or facsimile. Except as may be otherwise expressly provided by statute or by the Certificate or by these Bylaws, neither the business to be transacted at, nor the purpose of, any meeting of the Executive Committee need be specified in the notice or waiver of notice of such meeting. A majority of the Executive Committee shall constitute a quorum for the transaction of business, and (1) for matters delegated to the Executive Committee by the Board of Directors, the act of a two-thirds (2/3) majority of the number of Executive Committee members at a meeting of the Executive Committee (at which a quorum of such members is present) shall be the act of the Executive Committee, and (2) for urgent matters, as determined under Section 1 of this Article Four, the act of a majority of the number of Executive Committee members at a meeting of the Executive Committee (at which a quorum of such members is present) shall be the act of the Executive Committee. The members of the Executive Committee shall act only as a committee, and the individual members shall have no power as such. The Executive Committee, at each meeting thereof, may designate one of its members to act as chairman and preside at the meeting or, in its discretion, may appoint a chairman from among its members to preside at all its meetings held during such period as the Executive Committee may specify. And, if a quorum of the Executive Committee is present at a meeting and a member thereof is recused, or recuses herself or himself, due to a conflict of interest, and leaves the meeting for action on the matter causing the conflict, then any provision to the contrary contained in these Bylaws notwithstanding (i) a quorum shall not be lost on such action solely because such recused member is not present for such action and (ii) the act of a majority of the then serving non-conflicted members shall be the act of the Executive Committee.

Section 3. Director Proxies. Every Executive Committee member entitled to vote at a meeting or without a meeting, as herein provided, may authorize another person to act for such member by proxy. Provided, however, Executive Committee members present by proxy may not be counted toward a quorum. Every proxy must be in writing and signed by the authorizing Executive Committee member. No proxy shall be valid after the expiration of three (3) months from the date of its execution. Every proxy shall be revocable at the pleasure of the member executing it, unless expressly provided therein to be irrevocable or otherwise made irrevocable by law. And, each Executive Committee member may only grant a proxy two (2) times in any given calendar year, unless otherwise permitted by the Executive Committee.

Section 4. Records. The Executive Committee shall keep a record of its acts and proceedings and shall report the same, from time to time, to the Board of Directors. The Secretary of the Corporation, or, in the Secretary's absence, an Assistant Secretary, shall act as Secretary of the Executive Committee, or the Executive Committee may, in its discretion, appoint its own secretary.

Section 5. Vacancies. Any vacancy in the Executive Committee may be filled by affirmative vote of a majority of the number of directors fixed by these Bylaws.

ARTICLE FIVE OTHER COMMITTEES OF THE BOARD OF DIRECTORS

The Board of Directors may, by resolution adopted by affirmative vote of a majority of the number of directors fixed by the Certificate, designate two or more directors (with such alternates, if any, as may be deemed desirable) to constitute any committee or committees for any purpose; provided, that any such other committee or committees shall have and may exercise only the power of recommending action to the Board of Directors and the Executive Committee and of carrying out and implementing any instructions or any policies, plans and programs theretofore approved, authorized and adopted by the Board of Directors or the Executive Committee.

ARTICLE SIX NOTICES

Section 1. Manner of Giving Notice. Whenever, under the provisions of any statute, the Certificate or these Bylaws, notice is required to be given to any committee member, director, officer or member of the Corporation, and no provision is made as to how such notice shall be given, it shall not be construed to mean personal notice, but any such notice may be given (A) in writing by mail, postage prepaid, addressed to such committee member, director, officer, or member at his or her address as it appears on the records of the Corporation, and (B) by electronic mail (e-mail) to such person at his or her e-mail address provided by such person and as it appears on the records of the Corporation. Any notice required or permitted to be given by mail shall be deemed to be delivered at the time when the same shall be thus deposited in the United States mail, as aforesaid.

Section 2. Waiver of Notice. Whenever any notice is required to be given to any committee member, director or member of the Corporation under any statute, the Certificate, or these Bylaws, a waiver thereof in writing signed by the person or persons entitled to such notice,

whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Attendance by a director at a meeting of the Board of Directors shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

**ARTICLE SEVEN
OFFICERS, EMPLOYEES AND AGENTS:
POWERS AND DUTIES**

Section 1. Elected Officers. The elected officers of the Corporation shall be a President (which office shall automatically be filled by the end of a then serving President-Elect's term, unless otherwise determined by the Board of Directors) and a Secretary, who may not be the same person as the then serving President. The Board of Directors may, if it so desires, elect a President-Elect, one or more Vice Presidents as may be determined from time to time by the Board of Directors (and in case of each such Vice President, with such descriptive title, if any, as the Board of Directors shall deem appropriate), and a Treasurer. None of the elected officers need be members of the Board of Directors, except for President-Elect.

Section 2. Election. So far as is practicable, all elected officers shall be elected by the Board of Directors at its first meeting and at each annual meeting of the Board of Directors.

Section 3. Appointed Officers. The Board of Directors may also appoint one or more Assistant Secretaries and Assistant Treasurers and such other officers and assistant officers and agents (none of whom need be members of the Board) as it shall from time to time deem necessary, who shall exercise such powers and perform such duties as shall be set forth in these Bylaws or determined from time to time by the Board of Directors.

Section 4. Two or More Offices. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.

Section 5. Compensation. The officers of the Corporation will not receive compensation and no part of the net earnings of the Corporation shall be distributed to, or inure to the benefit of, any member, trustee, officer, agent or employee of the Corporation, or to any private individual, except to further the exempt purposes of the Corporation as described above and except that reasonable compensation may be paid for services duly rendered, and reimbursement may be made for reasonable expenses duly incurred, to or for the Corporation affecting one or more of its authorized purposes.

Section 6. Term of Office; Removal; Filling of Vacancies. Each elected officer of the Corporation shall hold office generally for a period of one (1) year and until his or her successor is chosen and qualified in his or her stead or until his or her earlier death, resignation, retirement, disqualification or removal from office. Each appointed officer shall hold office at the pleasure of the Board of Directors without the necessity of periodic reappointment. Any officer or agent elected or appointed by the Board of Directors may be removed at any time by the Board of Directors whenever in its judgment the best interests of the Corporation will be served thereby,

but such removal shall be without prejudice to any contract rights. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Board of Directors.

Section 7. Chairman of the Board. The Chairman of the Board, if serving and in attendance, shall preside when present at all meetings of the members and the Board of Directors. He shall advise and counsel the President and other officers of the Corporation and may exercise all of the powers granted to the President and shall exercise such other powers and perform such other duties as shall be assigned to or required by the Chairman from time to time by the Board of Directors.

Section 8. President. The President shall be the chief executive officer of the Corporation and, subject to the provisions of these Bylaws, shall have general supervision of the affairs of the Corporation and shall have general and active control of all its business and operations. In the absence of the Chairman of the Board, or if such officer shall not have been elected or be serving, the President shall preside when present at meetings of the members and the Board of Directors. Subject to such consents, approvals and parameters determined by the Board of Directors, the President shall have general authority to execute bonds, deeds and contracts in the name of the Corporation and to affix the corporate seal thereto, if adopted; to sign membership certificates, to cause the employment or appointment of such employees and agents of the Corporation as the proper conduct of operations may require and to fix their compensation, subject to the provisions of these Bylaws; to remove or suspend any employee or agent who shall have been employed or appointed under his authority or under authority of an officer subordinate to him; to suspend for cause, pending final action by the authority which shall have elected or appointed him, any officer subordinate to the President; to create new committees (excepting the Executive Committee and the Nominating Committee) and sub-committees and to appoint members to any such committee or sub-committee; and in general to exercise all the powers usually appertaining to the office of president of a corporation, except as otherwise provided by statute, the Certificate or these Bylaws. In the absence or disability of the President, his or her duties shall be performed and his powers may be exercised by the President-Elect, if elected and then serving, and then, the Vice Presidents in the order of their seniority, unless otherwise determined by the President or the Board of Directors.

Section 9. President-Elect. The President-Elect shall be elected from the directors of the Corporation to serve for a term of one (1) year and shall substitute for the President in his or her absence and shall perform such duties as assigned by the President. The President-Elect shall automatically serve on the Executive Committee during the President-Elect term, if such a committee is then appointed, and shall succeed to the presidency in the event that office becomes vacant, unless otherwise determined by the Board of Directors. At the end of the President's term, the President-Elect shall automatically assume the office of President for a one (1) year term and until the next President is elected or then serving President-Elect succeeds and assumes the duties of President of the Corporation.

Section 10. Vice Presidents. Each Vice President, if any is elected and serving, shall generally assist the President and shall have such powers and perform such duties and services as shall from time to time be prescribed or delegated to him by the President or the Board of Directors (which shall control).

Section 11. Secretary. The Secretary shall see that notice is given of all meetings of the members and meetings of the Board of Directors and shall keep and attest true records of all proceedings at all meetings thereof. The Secretary shall have charge of the corporate seal and have authority to attest any and all instruments or writings to which the same may be affixed; shall keep and account for all books, documents, papers and records of the Corporation except those for which some other officer or agent is properly accountable; shall have authority to sign membership certificates; and shall generally perform all duties usually appertaining to the office of secretary of a corporation. In the absence or disability of the Secretary, his duties shall be performed and his powers may be exercised by the Assistant Secretaries in the order of their seniority, unless otherwise determined by the Secretary, the President or the Board of Directors (which shall control).

Section 12. Assistant Secretaries. Each Assistant Secretary shall generally assist the Secretary and shall have such powers and perform such duties and services as shall from time to time be prescribed or delegated to him by the Secretary, the President or the Board of Directors (which shall control).

Section 13. Treasurer. The Treasurer shall be the chief accounting and financial officer of the Corporation and shall have active control of and shall be responsible for all matters pertaining to the accounts and finances of the Corporation. Subject to such approvals, consents and parameters determined by the Board of Directors, the Treasurer shall audit all payrolls and vouchers of the Corporation and shall direct the manner of certifying the same; shall supervise the manner of keeping all vouchers for payments by the Corporation and all other documents relating to such payments; shall receive, audit and consolidate all operating and financial statements of the Corporation and its various departments; shall have supervision of the books of account of the Corporation, their arrangement and classification; shall supervise the accounting and auditing practices of the Corporation and shall have charge of all matters relating to taxation. Subject to such approvals, consents and parameters determined by the Board of Directors, the Treasurer shall have the care and custody of all monies, funds and securities of the Corporation; shall deposit or cause to be deposited all such funds in and with such depositories as the Board of Directors shall from time to time direct or as shall be selected in accordance with procedures established by the Board; shall advise upon all terms or credit granted by the Corporation; shall be responsible for the collection of all its accounts and shall cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation. Subject to such approvals, consents and parameters determined by the Board of Directors, the Treasurer shall have the power to endorse for deposit or collection or otherwise all checks, drafts, notes, bills of exchange or other commercial papers payable to the Corporation and to give property receipts or discharges for all payments to the Corporation and shall generally perform all duties usually appertaining to the office of treasurer of a corporation. In the absence or disability of the Treasurer, his duties shall be performed and his powers may be exercised by the Assistant Treasurers in the order of their seniority, unless otherwise determined by the Treasurer, the President or the Board of Directors (which shall control).

Section 14. Assistant Treasurers. Each Assistant Treasurer shall generally assist the Treasurer and shall have such powers and perform such duties and services as shall from time to

time be prescribed or delegated to him by the Treasurer, the President or the Board of Directors (which shall control).

Section 15. Additional Powers and Duties. In addition to the foregoing especially enumerated duties, services and powers, the several elected and appointed officers of the Corporation shall perform such other duties and services and exercise such further powers as may be provided by statute, the Certificate or these Bylaws, or as the Board of Directors may from time to time determine or as may be assigned to them by any competent superior officer.

Section 16. Executive Director and Employees. The Board of Directors on behalf of the Corporation may employ an Executive Director and such other employees upon terms and conditions as it deems appropriate.

ARTICLE EIGHT MISCELLANEOUS

Section 1. Dividends Prohibited. No part of the earnings of the Corporation shall inure to the benefit of any director or officer of the Corporation or any private individual (except that reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its purposes), and no director or officer of the Corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation.

Section 2. Loans to Officers and Directors Prohibited. No loans shall be made by the Corporation to its officers and directors, and any director voting for or assenting to the making of any such loan, and any officer participating in the making thereof, shall be jointly and severally liable to the Corporation for the amount of such loan until repayment thereof.

Section 3. Signature of Negotiable Instruments. All bills, notes, checks or other instruments for the payment of money shall be signed or countersigned by such officer, officers, agent or agents, and in such manner, as are permitted by these Bylaws and as from time to time may be prescribed by resolution (whether general or special) of the Board of Directors.

Section 4. Fiscal Year. The fiscal year of the Corporation shall be the calendar year, unless otherwise fixed by resolution of the Board of Directors.

Section 5. Seal. The seal of the Corporation, if any, shall be in such form as shall be adopted and approved from time to time by the Board of Directors. The seal may be used by causing it, or a facsimile thereof, to be impressed, affixed, imprinted or in any manner reproduced.

Section 6. Indemnification.

A. Definitions. In this Section:

(1) "*Indemnitee*" means (i) any present or former director, advisory director or officer of the Corporation; (ii) any person who, while serving in any of the capacities referred to in clause (i) hereof, served at the Corporation's request as a director, officer,

partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan or other enterprise; and (iii) any person nominated or designated by (or pursuant to authority granted by) the Board of Directors or any committee thereof to serve in any of the capacities referred to in clauses (i) or (ii) hereof.

(2) “*Official Capacity*” means (i) when used with respect to a director, the office of director of the Corporation, and (ii) when used with respect to a person other than a director, the elective or appointive office of the Corporation held by such person or the employment or agency relationship undertaken by such person on behalf of the Corporation, but in each case does not include service for any other foreign or domestic corporation or any partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise.

(3) “*Proceeding*” means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrative or investigative, any appeal in such an action, suit or proceeding, and any inquiry or investigation that could lead to such an action, suit or proceeding.

B. Indemnification. The Corporation shall as a mandatory obligation indemnify every Indemnitee against all judgments, penalties (including excise and similar taxes), fines, amounts paid in settlement, and reasonable expenses actually incurred by the Indemnitee in connection with any Proceeding in which he was, is or is threatened to be named a defendant or respondent, or in which he was or is a witness without being named a defendant or respondent, by reason, in whole or in part, of his serving or having served, or having been nominated or designated to serve, in any of the capacities referred to in Section 6.A.; *provided, however*, that in the event that an Indemnitee is found liable to the Corporation or is found liable on the basis that personal benefit was improperly received by the Indemnitee, the indemnification (i) is limited to reasonable expenses actually incurred by the Indemnitee in connection with the Proceeding and (ii) shall not be made in respect of any Proceeding in which the Indemnitee shall have been found liable for willful or intentional misconduct in the performance of his duty to the Corporation. Except as provided in (i) above in this Section 6.B., no indemnification shall be made under this Section 6.B. in respect of any Proceeding in which such Indemnitee shall have been (i) found liable on the basis that personal benefit was improperly received by him, whether or not the benefit resulted from an action taken in the Indemnitee’s Official Capacity, or (ii) found liable to the Corporation. The termination of any Proceeding by judgment, order, settlement or conviction, or on a plea of nolo contendere or its equivalent, is not of itself determinative that the Indemnitee is not entitled to indemnification. An Indemnitee shall be deemed to have been found liable in respect of any claim, issue or matter only after the Indemnitee shall have been so adjudged by a court of competent jurisdiction after exhaustion of all appeals therefrom. Reasonable expenses shall include, without limitation, all court costs and all fees and disbursements of attorneys for the Indemnitee.

C. Successful Defense. Without limitation of Section 6.B. and in addition to the indemnification provided for in Section 6.B., the Corporation shall indemnify every Indemnitee against reasonable expenses incurred by such person in connection with any Proceeding in which he is a witness or a named defendant or respondent because he served in any of the capacities

referred to in Section 6.B., if such person has been wholly successful, on the merits or otherwise, in defense of the Proceeding.

D. Deemed Authorization. The obligation to provide mandatory indemnification to Indemnitees of the Corporation as provided, and limited, by this Section 6 shall be deemed to constitute authorization of indemnification in the manner required by Article 1396-2.22A of the Texas Non-Profit Corporation Act even though such provision may not have been adopted or authorized in the same manner as the determination that indemnification is permissible.

E. Advancement of Expenses. Reasonable expenses (including court costs and attorneys' fees) incurred by an Indemnitee who was or is a witness or who is or is threatened to be made a named defendant or respondent in a Proceeding shall be paid by the Corporation at reasonable intervals in advance of the final disposition of such Proceeding, after receipt by the Corporation of (i) a written affirmation by such Indemnitee of his good faith belief that he has met the standard of conduct necessary for indemnification by the Corporation under this Section and (ii) a written undertaking by or on behalf of such Indemnitee to repay the amount paid or reimbursed by the Corporation if it shall ultimately be determined that he is not entitled to be indemnified by the Corporation as authorized in this Section. Such written undertaking shall be an unlimited obligation of the Indemnitee but need not be secured and it may be accepted without reference to financial ability to make repayment. Notwithstanding any other provision of this Section, the Corporation shall pay or reimburse expenses incurred by an Indemnitee in connection with his appearance as a witness or other participation in a Proceeding at a time when he is not named a defendant or respondent in the Proceeding.

F. Other Indemnification and Insurance. The indemnification provided by this Section shall (i) not be deemed exclusive of, or to preclude, any other rights to which those seeking indemnification may at any time be entitled under the Corporation's Certificate, any law, agreement or vote of members or disinterested directors, or otherwise, or under any policy or policies of insurance purchased and maintained by the Corporation on behalf of any Indemnitee, both as to action in his Official Capacity and as to action in any other capacity, (ii) continue as to a person who has ceased to be in the capacity by reason of which he was an Indemnitee with respect to matters arising during the period he was in such capacity, and (iii) inure to the benefit of the heirs, executors, and administrators of such a person.

G. Notice. Any indemnification of or advance of expenses to an Indemnitee in accordance with this Section shall be reported in writing to the members of the Corporation with or before the notice or waiver of notice of the next members' meeting or with or before the next submission to members of a consent to action without a meeting and, in any case, within the twelve-month period immediately following the date of the indemnification or advance.

H. Construction. The indemnification provided by this Section shall be subject to all valid and applicable laws, including, without limitation, Article 1396-2.22A of the Texas Non-Profit Corporation Act, and, in the event this Section or any of the provisions hereof or the indemnification contemplated hereby are found to be inconsistent with or contrary to any such valid laws, the latter shall be deemed to control and this Section shall be regarded as modified accordingly, and, as so modified, to continue in full force and effect.

I. Continuing Offer, Reliance, etc. The provisions of this Section (i) are for the benefit of, and may be enforced by, each Indemnitee of the Corporation the same as if set forth in their entirety in a written instrument duly executed and delivered by the Corporation and such Indemnitee, and (ii) constitute a continuing offer to all present and future Indemnitees. The Corporation, by its adoption of these Bylaws, (i) acknowledges and agrees that each Indemnitee of the Corporation has relied upon and will continue to rely upon the provisions of this Section in becoming, and serving in any of the capacities referred to in Section 6.A.(1) hereof, (ii) waives reliance upon, and all notices of acceptance of, such provisions by such Indemnitees, and (iii) acknowledges and agrees that no present or future Indemnitee shall be prejudiced in his right to enforce the provisions of this Section in accordance with their terms by any act or failure to act on the part of the Corporation.

J. Effect of Amendment. No amendment, modification or repeal of this Section or any provision hereof shall in any manner terminate, reduce or impair the right of any past, present or future Indemnitees to be indemnified by the Corporation, nor the obligation of the Corporation to indemnify any such Indemnitees, under and in accordance with the provisions of this Section as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

Section 7. Books and Records. The Corporation shall keep correct and complete books and records of account for at least three (3) years after the end of each fiscal year, and shall also keep minutes of the proceedings of its members, Board of Directors, and committees having any of the authority of the Board of Directors, and shall keep at its registered or principal office a record giving the names and addresses of the members entitled to vote. Any member in good standing or prospective member shall be entitled to inspect and copy the books and records of account of the Corporation upon reasonable notice being given to the secretary of the Corporation.

Section 8. Surety Bond. Such officers and agents of the Corporation (if any) as the Board of Directors may direct from time to time shall be bonded for the faithful performance of their duties and for the restoration to the Corporation, in such amounts and by such surety companies as the Board of Directors may determine. The premiums on such bonds shall be paid by the Corporation, and the bonds so furnished shall be in the custody of the Secretary.

ARTICLE NINE AMENDMENTS

The power to alter, amend or repeal these Bylaws or adopt new bylaws shall be vested solely in the Board of Directors.

The undersigned does hereby certify that the above and foregoing Bylaws were adopted as the Bylaws of the Corporation by action of the Board of Directors as of and effective the _____ day of _____, 2018.

Return: Heritage Title Co. #11
Attn: Kathy Nunn

TRV 2002151964
243 pgs

DEVELOPMENT AGREEMENT

BETWEEN

CITY OF AUSTIN

AND

CIRCLE C LAND CORP.

Effective as of August 15, 2002

TABLE OF CONTENTS
DEVELOPMENT AGREEMENT

	<u>Page</u>
I. DEFINITIONS.....	2
II. AGREEMENT CONSTITUTES RESTRICTIVE COVENANTS AND BINDING EFFECT AND ADDITIONAL LAND.....	9
2.1 RESTRICTIVE COVENANTS	9
2.2 BINDING EFFECT.....	10
2.3. OPTION TRACTS.....	10
2.3A. Time.....	10
2.3B. Option Tract Amendment.....	10
2.3C. Addition to Initial Parcel	10
2.3D. Compliance With Agreements	11
2.3E. Required Execution of Amendment	11
2.3F Authority of Director	11
III. CITY REGULATIONS	11
3.1 APPLICABLE REQUIREMENTS	11
3.2 CHAPTER 245 EXCEPTIONS	12
3.3 APPLICABILITY OF CHAPTER 245	13
IV. ZONING	13
4.1 ZONING ORDINANCES.....	13
4.2 ZONING CHANGES.....	14
4.2A Zoning Regulations Changes Inapplicable.....	14
4.2B Certain Definitions	14
4.2C Effect of Downzone	15
4.2D Downzone Provisions Inapplicable to Certain Parcels.	16
4.2E No Election of Remedies; Further Assurances	16
V OVERALL SOS IMPERVIOUS COVER LIMITATION AND CONSERVATION EASEMENT TO RESTRICT IMPERVIOUS COVER.....	17
5.1 CONSERVATION EASEMENT	17
5.2 OVERALL SOS IMPERVIOUS COVER LIMITATION	17

VI.	TOTAL PERMITTED DENSITY, DENSITY ALLOCATION, AND RECORDS	17
6.1	GENERAL	17
6.1A.	Development Density	17
6.1B.	Initial Allocations	18
6.1C.	No Development Without Allocation; Mixed Use Projects	18
6.1D.	Ancillary Uses	19
6.1E.	Civic Uses	19
6.2	ALLOCATIONS FOR DIVISIONS BY CONVEYANCE OR DESIGNATION BY LANDOWNER	19
6.3	ALLOCATIONS FOR PLATTED LOTS	20
6.4	PLATTING AND RE-PLATTING.	21
6.5	ASSIGNMENT OF DEVELOPMENT ALLOCATION....	22
6.6	FORM AND CITY REVIEW OF APPORTIONMENTS AND ASSIGNMENTS OF DEVELOPMENT ALLOCATION.	22
6.7	RECORDS	23
6.8	ALLOCATIONS AND ASSIGNMENTS BY LANDOWNERS - BINDING EFFECT AND MORTGAGEE PROTECTION.....	23
6.9	NOTICE OF CONVEYANCE	24
6.10	JOINT OWNERSHIP	24
6.11	CUMULATIVE RESTRICTIONS	25
6.12	ALLOCATIONS AND ASSIGNMENTS TO BE COMPLIANT	25
6.13	NOTICE TO PURCHASERS	25
VII.	LAND USE RESTRICTIONS AND MISCELLANEOUS DEVELOPMENT MATTERS	25
7.1	LAND USE RESTRICTIONS	25
7.1A.	Restrictions applicable to Parcel 115 - the Bear Lake PUD.....	25
7.1B.	Open Space Restrictions on Parcels 104, 105 and 109	27
7.1C.	Open Space Restrictions on Parcels 111, 112 and 113	27
7.1D.	Service Stations and Underground Storage Tank Systems	27
7.1E.	Limitation on Retail Developments	27
7.1F.	Single Large Grocery Store Exception..	28
7.1G.	Single Convenience Storage Project Exception	28
7.1H.	Critical Environmental Features Setback	29
7.1I.	Small Stream Buffers	29
7.1J.	Water Wells	29
7.1K.	Electronic Testing Activities	30
7.1L.	Prior Covenants	30
7.1M.	ROW Ponds.....	30
7.1N.	Wildflower Center Pond	31

7 1O	New Water Quality Controls Methodology	31
7.1P	Erosion Controls	32
7.1Q	Maintenance of Water Quality Controls	32
	a. Maintenance Responsibility	32
	b. Certain Definitions	33
	c. Regulatory Authority and Operating Permits	33
	d. Additional Approval Requirements	33
	e. Water Quality Control Restrictive Covenants	34
	f. Cost Estimates for Initial Fiscal	34
	g. Continuing Fiscal	35
	h. City Approval	35
7 1R	Hill Country Conservancy Trust	35
7 1S	Pipelines	37
	a. Special Provisions Regarding Parcels Adjacent to the Longhorn Pipeline	37
	b. Other Pipelines on the Land	38
	c. Impact of Future Pipeline Ordinance	38
	d. Dispute Resolution Regarding Decisions of the Chief	39
7 2	MISCELLANEOUS DEVELOPMENT APPROVALS, STANDARDS AND AGREEMENTS	39
7.2A.	City Fees	39
7.2B.	Certain Director Approved Variances and Waivers	39
7.2C.	Water Quality Control Ponds	40
7 2D.	Roads Across Critical Water Quality Zones	40
7.2E.	Roads	40
7 2F.	Park Land Dedication	41
7.2G.	Platting Waived With Respect to Certain Transfers to the City, Circle C HOA, and the Wildflower Center	41
7.2H.	Traffic Improvements	42
7.2I.	Dedicated Review Team	43
7.2J.	Stormwater Detention	44
7.3	AUSTIN CITY CODE AMENDMENT	44

VIII.	WILDFLOWER CENTER AND GREEN BUILDING AGREEMENT ..	44
8.1	DEDICATIONS	45
8.2	GREEN BUILDING AGREEMENT	45
IX.	CONVEYANCES TO THE CITY AND THE CIRCLE C HOA ..	45
9.1	CONVEYANCES OF PARCELS 104, 105 AND 109	45
9.2	PARCEL 102	46
X.	CIRCLE C HOMEOWNERS ASSOCIATION AGREEMENT.	46
XI.	AISD SCHOOL SITES..	46
XII.	CONSIDERATION FOR DENSITY REDUCTION AND CERTAIN LAND PURCHASES BY CITY	46
12.1	CREDIT BANKS	46
12.2	USES OF THE CREDIT BANKS	47
12.2A	W/WW Utility Credit Bank.....	47
12.2B	Development Credit Bank	47
12.2C	Permitted Credit Bank Users.....	48
12.3	CREDIT BANK TRANSFERS	48
12.4	FISCAL DEPOSITS	49
12.5	CHILLER FACILITY	49
12.6	CONSTRUCTION OF EXTENSION OF SOUTH BAY ROAD	49
12.7	FIRE STATION SITE.....	50
XIII.	INTERCONNECTION OF WATER AND WASTEWATER SERVICE.....	51
13.1	Required Water Service Extensions..	51
13.1A.	Improvements Required for Extension of Water Service to Parcel 110 (West Portion Along State Highway 45)	51
13.2.	Required Wastewater Service Extensions.	52
13.2A.	Improvements Required For Extension of Wastewater Service to Parcel 103	53
13.2B.	Improvements Required for Extension of Wastewater Service to Parcel 106	53
13.2C.	Improvements Required for Extension of Wastewater Service to Parcel 107	53

13.2D. Improvements Required for Extension of Wastewater Service to Parcel 114	53
13.3 Cost Reimbursement for Service Extensions	53
XIV. REPRESENTATIONS AND WARRANTIES.....	55
14.1 REPRESENTATIONS AND WARRANTIES OF CCLC	55
14.1A. Organization and Good Standing	55
14.1B. Authority, No Conflict	55
14.1C. Title to Properties, Encumbrances	56
14.2 REPRESENTATIONS AND WARRANTIES OF CITY	56
14.2A. Organization and Good Standing	57
14.2B. Authority, No Conflict	57
14.3 NO ADDITIONAL REPRESENTATIONS	57
XV. ESTOPPEL CERTIFICATE	57
XVI. DEFAULT AND REMEDIES.....	58
16.1 CITY'S RIGHTS	58
16.2 CITY'S REMEDIES	58
16.2A. Notice of Violation, Corrective Action and Litigation Remedies	58
16.2B. City's Arbitration Remedies	59
16.2C. Failure to Act or Delay	60
16.2D. Waiver of Certain Defenses	60
16.2E. No Liability For Actions of Others	60
16.3 CCLC'S REMEDIES	61
16.3A. CCLC's Remedies/Notice to City	61
16.3B. City Breach with Regards to Project Approvals ...	62
16.3C. Failure to Act or Delay	62
16.4 ATTORNEYS' FEES AND COURT COSTS	63
16.5 OVERRIDING LIMITATION ON REMEDIES	63
XVII. MISCELLANEOUS	63
17.1 ENTIRE AGREEMENT	63

17.2	VENUE	64
17.3	NO PRESUMPTIONS	64
17.4	EXHIBITS	64
17.5	SEVERABILITY	64
17.6	COUNTERPARTS	64
17.7	RECORDATION	65
17.8	SUCCESSORS BOUND	65
17.9	COMPLIANCE ESTABLISHED FOR CERTAIN PLATTED RESIDENTIAL LOTS	65
17.10	AMENDMENT	65
17.11	NOTICE	65

disagrees with the estimate it will inform the owner of such fact. In that event, Dedicated Review Team and the owner will attempt to resolve the discrepancy. If they cannot do so within fifteen (15) days, then the Dedicated Review Team and the owner will jointly select an independent third party civil engineer to review the proposed maintenance plan and develop an estimate of the initial annual maintenance costs for the Facility. If the Dedicated Review Team and the Landowner cannot agree on the engineer, then each will select an independent third party engineer and those engineers will select an independent third party engineer to perform the required review. The third party engineer's estimate of the annual maintenance costs will be binding on City and the owner of the Facility for determining the initial amount of the required fiscal deposit. Each of the engineers selected must be experienced in the design and operation of water control facilities. Each party will be responsible for its respective engineering costs and will split the costs for the engineer making the ultimate determination of the estimated annual maintenance costs.

g. Continuing Fiscal. Each time an application for an Operating Permit for a Facility is filed with the City, the owner of the Facility will submit its estimate of the costs necessary to implement the maintenance plan contained in the permit application. If the Dedicated Review Team disagrees with the cost estimate for such maintenance, it will inform the owner of the Facility of such fact. If the Dedicated Review Team and the owner do not agree on the estimated costs within fifteen days, the dispute will be resolved in accordance with the procedure established for estimating the initial maintenance costs. The estimate of the annual maintenance costs will be binding on the City and the owner of the Facility for purposes of determining the amount of the fiscal deposit required for the annual period covered by the Operating Permit.

h. City Approval. All provisions of any and all documents, including, without limitation, any declaration of restrictive covenants or other documents creating an Association or establishing the assessments contemplated by this Section, regarding the performance monitoring, maintenance, and repair and remediation of any Facility, and/or the assessments to pay costs incurred in connection therewith and/or liens to secure payment of such assessments must be approved by the City, which approval will not be unreasonably withheld or delayed, and the documents in which such provisions are contained must provide that any such provisions may not be modified, amended or terminated without the City's consent. The City hereby agrees that if a portion of the Land is subjected to, and made a part of, either (i) that certain Circle C Commercial Master Declaration of Covenants, Conditions, Restrictions and Easements recorded under Document No. 2002151143 of the Real Property Records of Travis County, Texas, or (ii) that certain Bear Lake PUD Master Declaration of Covenants, Conditions, Restrictions and Easements recorded under Document No. 2002151142 of the Real Property Records of Travis County, Texas and under Document No. 02022306 of the Real Property Records of Hays County, Texas, then such action will satisfy the requirement of Subsection 7.1Q(d)(i).

7.1R Hill Country Conservancy Trust

Within 180 days of the full execution of this Agreement, the City and CCLC will cause a trust to be formed under the name "Hill Country Conservancy Trust" to receive proceeds from

assessments on certain commercial Landowners (as described below) to be used for (i) the acquisition and preservation of additional open space within or adjacent to the Edwards Aquifer Recharge Zone, as defined by the Austin City Code, (ii) regional watershed and habitat protection planning, (iii) environmental education programs and (iv) other purposes ancillary thereto (the "Conservancy Trust"). The Conservancy Trust will be governed by five trustees appointed as follows:

1. One trustee will be appointed by the City.
2. One trustee will be appointed by CCLC.
3. One trustee will be appointed by the Hill Country Conservancy, a Texas not for profit corporation.
4. One trustee will be appointed by the Barton Springs Edwards Aquifer Conservation District.
5. One trustee will be appointed by the Wildflower Center.

All areas of the Land that are developed for Office Use Category will be subject to a mandatory assessment (the "HCCT Assessment") administered by a commercial owners association (the "Commercial Owners Association") created pursuant to that certain Circle C Commercial Master Declaration of Covenants, Conditions, Restrictions and Easements recorded in Document No. 2002151143 of the Real Property Records of Travis County, Texas, (the "Commercial Properties Declaration"). No Parcel may be developed or used for Office use unless the City has been provided evidence reasonably satisfactory to the City that (i) such Parcel has been made irrevocably and perpetually subject to the Commercial Properties Declaration through the filing of a Notice of Applicability (as defined in the Commercial Properties Declaration), (ii) such Parcel is included within a "Development Area" and within an "Assessment Unit" (as such terms are defined in the Commercial Properties Declaration), and (iii) the Commercial Owners Association is in existence.

The portions of the Land that are allocated Office Use Category Development Allocation from time to time will be subject to the HCCT Assessment pursuant to the terms of the Commercial Properties Declaration. The Commercial Properties Declaration includes the following terms with respect to the HCCT Assessments:

- i. The annual HCCT Assessment for all the Land will be (i) 25¢ per year per \$100.00 of building value used for Office, minus (ii) the Commercial Owners Association's costs for the relevant year incurred under the cost sharing agreement dated August 15, 2002 between the Commercial Owners Association and the Circle C. Homeowners Association for street landscape maintenance, with the deduction for such costs not to exceed \$70,000.00 per year (with the \$70,000.00 maximum deduction being escalated by 3% per year).
- ii. The HCCT Assessment for a particular Parcel will be levied no earlier than six months after an Office use occupant has commenced occupation of the building on that Parcel.

- iii. There will be prorations for (i) buildings with mixed use (i.e., Office and Retail) based on the Development Allocations for the Parcel upon which such building is located, and (ii) assessments for partial years.
- iv. There is a lien to secure the payment of the HCCT Assessment obligation.
- v. The HCCT Assessments designated for funding the Conservancy Trust will be paid by the Commercial Owners Association to the Conservancy Trust within 10 days of collection.
- vi. The City and the Conservancy Trust will have the right to inspect and audit the Commercial Owners Association's books and records with respect to the HCCT Assessments.
- vii. The provisions of the Commercial Properties Declaration affecting the HCCT Assessments cannot be amended without the prior written consent of the City and the Conservancy Trust.

Any Landowner providing an Apportionment of Development Allocation or an Assignment of Development Allocation to the City under the terms of this Agreement in connection with the allocation or assignment of Office Use Category must at the same time provide a copy of that apportionment or assignment to the Commercial Owners Association and the Conservancy Trust. It will be the responsibility of that Landowner to determine the then current address of the Commercial Owners Association and the Conservancy Trust when providing that copy. The Conservancy Trust will file its current address for notices in the Real Property Records of Travis County, Texas.

The document creating the Conservancy Trust will provide that in all literature, brochures and other advertising, the Conservancy Trust will credit Commercial Owners Association with funding the acquisition and preservation of property for open space preservation and the funding of education programs.

7.18 Pipelines

a. **Special Provisions Regarding Parcels Adjacent to the Longhorn Pipeline.** Initial Parcels 102, 103 and 106 are encumbered by that certain pipeline currently located in easements granted to Humble Pipeline Co. and Exxon Pipeline Co. as described in instruments recorded in Volume 993, Page 355, Volume 994, Page 397, Volume 9263, Page 995, and Volume 9684, Page 844 of the Real Property Records of Travis County, Texas and commonly referred to as the "Longhorn Pipeline." It is anticipated that the Longhorn Pipeline will soon be transporting refined gasoline. Accordingly, in addition to all the other requirements in this Agreement for the construction of any structure on Parcels 102, 103, and 106, CCLC will file, concurrently with the submission of a site plan relating to such structure, a technical opinion from a qualified engineer (the "Report") that verifies that the proposed structure is designed to: (1) have at least a one hour fire rating for exposure from the Longhorn Pipeline and (2) allow persons one hour to

Item 5

Board Discussions and Possible Actions

- c. Discussion and possible action on a summer schedule for board meetings and planning for returning in person.**

Item 5

Board Discussions and Possible Actions

d. Discussion and possible action related to a legislative update by Sledge Law Group.

Item 5

Board Discussions and Possible Actions

- e. Discussion and possible action on the TCEQ draft wastewater permit No. WQ0015594001 for Sawyer - Cleveland Partnership, Ltd.**

Texas Commission on Environmental Quality



**COMBINED
NOTICE OF APPLICATION AND PRELIMINARY DECISION
FOR TPDES PERMIT FOR MUNICIPAL WASTEWATER (NAPD)
AND
NOTICE OF PUBLIC MEETING
FOR TPDES PERMIT FOR MUNICIPAL WASTEWATER
NEW**

PERMIT NO. WQ0015594001

APPLICATION AND PRELIMINARY DECISION. Sawyer-Cleveland Partnership, Ltd., 7 Herald Oak Court, Spring, Texas 77381, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015594001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 45,000 gallons per day. TCEQ received this application on July 21, 2017.

The facility will be located approximately 720 feet southwest of the intersection of U.S. Highway 290 and Sawyer Ranch Road, in Hays County, Texas 78737. The treated effluent will be discharged to a man-made ditch, thence to a retention pond, thence to an unnamed tributary, thence to Long Branch, thence to Barton Creek in Segment No. 1430 of the Colorado River Basin. The unclassified receiving water uses are minimal aquatic life use for the man-made ditch and retention pond, limited aquatic life use for the unnamed tributary, and high aquatic life use for Long Branch. The designated uses for Segment No. 1430 are primary contact recreation, aquifer protection, and high aquatic life use. The aquifer protection use applies to the contributing, recharge, and transition zones of the Edwards Aquifer. In accordance with 30 Texas Administrative Code Section 307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Long Branch or Barton Creek, which have been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. 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=db5bac44afbc468bbddd360f816825of&marker=-97.9997%2C30.1958&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 the Dripping Springs Community Library, 501 Sportsplex Drive, Dripping Springs, Texas.

PUBLIC COMMENT / PUBLIC MEETING. You may submit public comments about this

application. The TCEQ will hold a public meeting on this application because it was requested by legislators.

The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. A written response to all timely, relevant and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Tuesday, April 20, 2021 at 7:00 PM

Members of the public who would like to ask questions or provide comments during the meeting may access the meeting via webcast by following this link: <https://www.gotomeeting.com/webinar/join-webinar> and entering Webinar ID 189-821-291. It is recommended that you join the webinar and register for the public meeting at least 15 minutes before the meeting begins. You will be given the option to use your computer audio or to use your phone for participating in the webinar.

Those without internet access may call (512) 239-1201 at least one day prior to the meeting for assistance in accessing the meeting and participating telephonically. Members of the public who wish to only listen to the meeting may call, toll free, (213) 929-4212 and enter access code 950-063-731. Additional information will be available on the agency calendar of events at the following link:

<https://www.tceq.texas.gov/agency/decisions/hearings/calendar.html>.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or 1-800-RELAY-TX (TDD) at least five business days prior to the meeting.

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.**

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 or by the date of the public meeting, whichever is later.

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 Sawyer-Cleveland Partnership, Ltd. at the address stated above or by calling Mr. Richard Rolland, Capital Real Estate, at 713-681-1100.

Issuance Date: March 10, 2021

**STATEMENT OF BASIS/TECHNICAL SUMMARY
AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION**

DESCRIPTION OF APPLICATION

Applicant: Sawyer-Cleveland Partnership, Ltd.;
Texas Pollutant Discharge Elimination System (TPDES) Permit No.
WQ0015594001, EPA I.D. No. TX0137863

Regulated Activity: Domestic Wastewater Permit

Type of Application: New Permit

Request: New Permit

Authority: Federal Clean Water Act (CWA) § 402; Texas Water Code § 26.027; 30
Texas Administrative Code (TAC) Chapters 30, 305, 307, 309, 312, and
319; Commission policies; and United States Environmental Protection
Agency (EPA) guidelines.

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**.

REASON FOR PROJECT PROPOSED

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.045 million gallons per day (MGD).

PROJECT DESCRIPTION AND LOCATION

The Sawyer Ranch 33 Wastewater Treatment Facility will be a Biological Nutrient Removal activated sludge process plant. Treatment units will include a fine screen, two anoxic zones, a chemical lime injection system, an anaerobic zone, an aeration basin, a final clarifier, an aerobic sludge digester, a chlorine contact chamber, and a dechlorination chamber. The facility has not been constructed.

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.

The plant site will be located approximately 720 feet southwest of the intersection of U.S. Highway 290 and Sawyer Ranch Road, in Hays County, Texas 78737.

Outfall Location:

Outfall Number	Latitude	Longitude
001	30.196012 N	98.000088 W

The treated effluent will be discharged to a man-made ditch, thence to a retention pond, thence to an unnamed tributary, thence to Long Branch, thence to Barton Creek in Segment No. 1430 of the Colorado River Basin. The unclassified receiving water uses are minimal aquatic life use for the man-made ditch and retention pond, limited aquatic life use for the unnamed tributary, and high aquatic life

use for Long Branch. The designated uses for Segment No. 1430 are primary contact recreation, aquifer protection, and high aquatic life use. Aquifer Protection applies to the contributing, recharge, and transition zones of the Edwards Aquifer. The discharge point and the discharge route are in the contributing zone for approximately 23.5 miles until Barton Creek reaches the recharge zone. The effluent limitations in the draft permit will maintain and protect the existing instream uses. In accordance with 30 Texas Administrative Code Section 307.5 and the TCEQ's Procedures to Implement the Texas Surface Water Quality Standards (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Long Branch or Barton Creek, which have been identified as having high aquatic life uses. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

A total phosphorus limit of 0.15 mg/L and a total nitrogen limit of 6.0 mg/L have been included in the draft permit to protect the high aquatic life use in the on-channel amenity ponds on Long Branch and in Barton Creek, and to reduce the potential for degradation from excessive algal growth and other eutrophication effects throughout the discharge route. The segment has a designated use of aquifer protection, and there are numerous wells located along Long Branch. The proposed nutrient limits will also help to protect the quality of water infiltrating into and recharging the aquifer and any other recharge features along the discharge route. A dechlorination requirement has been included to protect sustainable fisheries use of the on-channel amenity ponds, endangered species, and other springs-associated, sensitive species in Long Branch and Barton Creek. No degradation is expected with the above requirements.

Effluent limitations for the conventional effluent parameters (i.e., Five-Day 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 Texas Surface Water Quality Standards (TSWQS) and the State of Texas Water Quality Management Plan (WQMP).

In a case such as this, end-of-pipe compliance with pH limits between 6.0 and 9.0 standard units reasonably assures instream compliance with the TSWQS for pH when the discharge authorized is from a minor facility and the unclassified waterbodies have minimal or limited aquatic life uses. This conservative assumption is based on TCEQ sampling conducted throughout the state that indicates that instream buffering quickly restores pH levels to ambient conditions.

The effluent limitations in the draft permit have been reviewed for consistency with the WQMP. The proposed effluent limitations are not contained in the approved WQMP. However, these limits will be included in the next WQMP update.

A priority watershed of critical concern has been identified in Segment No. 1430 in Hays and Travis Counties. Therefore, Barton Springs Salamander (*Eurycea sosorum*), an endangered aquatic species, has been determined to occur in the watershed of Segment No. 1430. To make this determination for TPDES permits, TCEQ and EPA only considered 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 presence of the endangered Barton Springs Salamander requires EPA review and, if appropriate, consultation with USFWS.

Segment No. 1430 is not currently listed on the state's inventory of impaired and threatened waters (the 2014 CWA § 303(d) list).

SUMMARY OF EFFLUENT DATA

Self-reporting data is not available since the facility is not in operation.

DRAFT PERMIT CONDITIONS

The draft permit authorizes a discharge of treated domestic wastewater at a volume not to exceed a daily average flow of 0.045 MGD.

The effluent limitations in the draft permit, based on a 30-day average, are 10 mg/l five-day carbonaceous biochemical oxygen demand (CBOD₅), 15 mg/l total suspended solids (TSS), 2 mg/l ammonia-nitrogen (NH₃-N), 0.15 mg/l total phosphorus, 6 mg/l total nitrogen, 126 colony forming units (CFU) or most probable number (MPN) of *Escherichia coli* (*E. coli*) per 100 ml and 6.0 mg/l minimum dissolved oxygen (DO). 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. 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.

The permittee shall comply with the requirements of 30 TAC § 309.13(a) through (d). In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC § 309.13(e).

The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal, and Transportation. 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.

SUMMARY OF CHANGES FROM APPLICATION

The applicant requested a daily average flow not to exceed 0.092 MGD in the application; however, the draft permit includes a daily average flow not to exceed 0.045 MGD.

The applicant requested effluent limitations, based on a 30-day average, of 10 mg/l BOD₅, 15 mg/l TSS, 2 mg/l NH₃-N, and 6.0 mg/l minimum DO in the application; however, effluent limitations in the draft permit, based on a 30-day average are 10 mg/l CBOD₅, 15 mg/l TSS, 2 mg/l NH₃-N, 0.15 mg/l total phosphorus, 6 mg/l total nitrogen, and 126 CFU or MPN of *E. coli* per 100 ml and 6.0 mg/l minimum DO.

BASIS FOR DRAFT PERMIT

The following items were considered in developing the draft permit:

1. Application received on July 21, 2017, and additional information received on August 29, 2017, October 3, 2017, December 12, 2017, October 15, 20, and 29, 2020, and November 30 2020.
2. 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.
3. 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.

4. Interoffice memoranda from the Water Quality Assessment Section of the TCEQ Water Quality Division.
5. Consistency with the Coastal Management Plan: The facility is not located in the Coastal Management Program boundary.
6. *Procedures to Implement the Texas Surface Water Quality Standards (IP)*, Texas Commission on Environmental Quality, June 2010, as approved by EPA, and the IP, January 2003, for portions of the 2010 IP not approved by EPA.
7. Texas 2014 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, June 3, 2015; approved by the EPA on November 19, 2015.
8. 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.

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.

Sawyer-Cleveland Partnership, Ltd.
TPDES Permit No. WQ0015594001
Statement of Basis/Technical Summary and Executive Director's Preliminary Decision

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 Gordon R. Cooper at (512) 239-1963.

Gordon R. Cooper

Gordon R. Cooper
Municipal Permits Team
Wastewater Permitting Section (MC 148)

November 30, 2020

Date



TPDES PERMIT NO. WQ0015594001
[For TCEQ office use only - EPA I.D.
No. TX0137863]

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

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

Sawyer-Cleveland Partnership, Ltd.

whose mailing address is

7 Herald Oak Court
Spring, Texas 77381

is authorized to treat and discharge wastes from the Sawyer Ranch 33 Wastewater Treatment Facility, SIC Code 4952

located approximately 720 feet southwest of the intersection of U.S. Highway 290 and Sawyer Ranch Road, in Hays County, Texas 78737

to a man-made ditch, thence to a retention pond, thence to an unnamed tributary, thence to Long Branch, thence to Barton Creek in Segment No. 1430 of the Colorado River Basin

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

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

ISSUED DATE:

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 daily average flow of effluent shall not exceed 0.045 million gallons per day (MGD), nor shall the average discharge during any two-hour period (2-hour peak) exceed 125 gallons per minute.

Effluent Characteristic	Discharge Limitations				Min. Self-Monitoring Requirements	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Measurement Frequency	Single Grab Sample Type
Flow, MGD	Report	N/A	Report	N/A	Five/week	Instantaneous
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (3.8)	15	25	35	One/week	Grab
Total Suspended Solids	15 (5.6)	25	40	60	One/week	Grab
Ammonia Nitrogen	2 (0.75)	5	10	15	One/week	Grab
Total Nitrogen	6	N/A	N/A	N/A	One/week	Grab
Total Phosphorus	0.15 (0.06)	0.3	0.6	0.9	One/week	Grab
<i>E. coli</i> , CFU or MPN* per 100 ml	126	N/A	N/A	399	One/quarter	Grab

*CFU or MPN - colony-forming units or most probable number

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. 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 month by grab sample.
4. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
5. Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.
6. The effluent shall contain a minimum dissolved oxygen of 6.0 mg/l and shall be monitored once per week by grab sample.

DEFINITIONS AND STANDARD PERMIT CONDITIONS

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

1. Flow Measurements

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

2. Concentration Measurements

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

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

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

- e. Bacteria concentration (*E. coli* or Enterococci) - Colony Forming Units (CFU) or Most Probable Number (MPN) of bacteria per 100 milliliters effluent. The daily average bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month. The geometric mean shall be determined by calculating the n th root of the product of all measurements made in a calendar month, where n equals the number of measurements made; or, computed as the antilogarithm of the arithmetic mean of the logarithms of all measurements made in a calendar month. For any measurement of bacteria equaling zero, a substituted value of one shall be made for input into either computation method. If specified, the 7-day average for bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
 - f. Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as (Flow, MGD x Concentration, mg/l x 8.34).
 - g. Daily maximum loading (lbs/day) - the highest daily discharge, in terms of mass (lbs/day), within a period of one calendar month.
3. Sample Type
- a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (b).

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

MONITORING AND REPORTING REQUIREMENTS

1. Self-Reporting

Monitoring results shall be provided at the intervals specified in the permit. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall conduct effluent sampling and reporting in accordance with 30 TAC §§ 319.4 - 319.12. Unless otherwise specified, effluent monitoring data shall be submitted each month, to the 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 December 21, 2023, 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 once during the term of this permit in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I [Toxicity Characteristic Leaching Procedure (TCLP)] or other method that receives the prior approval of the TCEQ for the contaminants listed in 40 CFR Part 261.24, Table 1. Sewage sludge failing this test shall be managed according to RCRA standards for generators of hazardous waste, and the waste's disposition must be in accordance with all applicable requirements for hazardous waste processing, storage, or disposal. Following failure of any TCLP test, the management or disposal of sewage sludge at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Permitting and Registration Support Division and the Regional Director (MC Region 11) within seven (7) days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Permitting and Registration Support Division (MC 129), Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 11) and the Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30th of each year. Effective December 21, 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 - once during the term of this permit
 PCBs - once during the term of this permit

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

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

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

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

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

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

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

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

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

A. Pollutant Limits

Table 2

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

Table 3

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

*Dry weight basis

B. Pathogen Control

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

C. Management Practices

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

D. Notification Requirements

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

E. Record keeping Requirements

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

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

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

“I certify, under penalty of law, that the applicable pathogen requirements in 30 TAC § 312.82(a) or (b) and the vector attraction reduction requirements in 30 TAC § 312.83(b) have been met for each site on which bulk sewage sludge is applied. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the management practices have been met. I am aware that there are significant penalties for false certification including fine and imprisonment.”
6. The recommended agronomic loading rate from the references listed in Section II.C.3. above, as well as the actual agronomic loading rate shall be retained. The person who applies bulk sewage sludge or a sewage sludge material shall develop the following information and shall retain the information at the facility site and/or shall be readily available for review by a TCEQ representative indefinitely. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for record keeping found in 30 TAC § 312.47 for persons who land apply:
 - a. A certification statement that all applicable requirements (specifically listed) have been met, and that the permittee understands that there are significant penalties for false certification including fine and imprisonment. See 30 TAC § 312.47(a)(4)(A)(ii) or 30 TAC § 312.47(a)(5)(A)(ii), as applicable, and to the permittee’s specific sludge treatment activities.
 - b. The location, by street address, and specific latitude and longitude, of each site on which sludge is applied.
 - c. The number of acres in each site on which bulk sludge is applied.
 - d. The date and time sludge is applied to each site.

- e. The cumulative amount of each pollutant in pounds/acre listed in Table 2 applied to each site.
- f. The total amount of sludge applied to each site in dry tons.

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

F. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 11) and Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30th of each year the following information. Effective December 21, 2020, the permittee must submit this annual report using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver.

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

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

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

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

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

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

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

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

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

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

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

G. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 11) and Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30th of each year the following information. Effective December 21, 2020, the permittee must submit this annual report using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver.

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

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

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

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

A. General Requirements

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

B. Record Keeping Requirements

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

C. Reporting Requirements

The permittee shall report the following information annually to the TCEQ Regional Office (MC Region 11) and Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30th of each year. Effective December 21, 2020, the permittee must submit this annual report using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver.

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

OTHER REQUIREMENTS

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

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

*A Class D Wastewater Treatment Operator license is not renewable for operators of a facility listed in 30 TAC Section 30.342(c) and must be upgraded to a Class C Wastewater Treatment Operator license or higher prior to the expiration date of the Class D license.

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

7. Reporting requirements according to 30 TAC §§ 319.1-319.11 and any additional effluent reporting requirements contained in this permit are suspended from the effective date of the permit until plant startup or discharge from the facility described by this permit, whichever occurs first. The permittee shall provide written notice to the TCEQ Regional Office (MC Region 11) and the Applications Review and Processing Team (MC 148) of the Water Quality Division at least forty-five (45) days prior to plant startup or anticipated discharge, whichever occurs first, on Notification of Completion Form 20007.



**Barton Springs
Edwards Aquifer**
CONSERVATION DISTRICT

sent via email

August 5, 2019

Ms. Bridget C. Bohac
Office of the Chief Clerk (MC 105)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Subject: Comments on Application No. WQ0015594001 (Sawyer-Cleveland Wastewater Treatment Plant)

Dear Ms. Bohac:

The Barton Springs/Edwards Aquifer Conservation District (District) offers these initial comments on the above-referenced permit application. This applicant requests approval for a discharge up to 92,000 gallons per day at a 10mg/L 5-day Biochemical Oxygen Demand, 15 mg/L total suspended solids, 2mg/L ammonia nitrogen, and 6mg/L dissolved oxygen into the Long Branch Tributary in the Barton Creek Watershed.

This volume and these treatment standards are unacceptable because of the potential impact on downstream water quality in the contributing and recharge zones of the Barton Springs segment of the Edwards Aquifer. With that stated, the District acknowledges and recognizes the analysis completed by the City of Austin¹ using the WASP model on this proposed volume and treatment standards. Their analysis concluded that during low flow conditions, Barton Creek periphytic chlorophyll *a* concentrations would degrade from oligotrophic to mesotrophic levels for a distance up to 15.6 miles downstream of the confluence of Barton Creek and the Long Branch Tributary, degrading the quality of water recharging the Edwards Aquifer.

The District is a Groundwater Conservation District (GCD) and has the powers, duties, authority and responsibilities provided by Chapter 36 of the Texas Water Code and by the District's enabling legislation, Chapter 8802 of the Texas Special District Local Law. The District has the authority under state law over issues relating to the potential impact of the proposed discharge on the Trinity and Edwards Aquifer within the District. As it concerns this permit application, the District is an affected party and as such requests notice of subsequent correspondence, proceedings, draft permits, or contested case hearing on this permit application.

¹ Richter, A. 2018. "Analysis of a Proposed Wastewater Treatment Plant District to the Long Branch Tributary of Barton Creek". City of Austin Watershed Protection Department, DR-18-08

Should you have any questions regarding our comments, please contact me by phone at 512-282-8441 or by email at areinmund@bseacd.org.

Respectfully,

Alicia Reinmund-Martinez
General Manager

cc:
Ms. Lili Murphy
Water Quality Division
Texas Commission on Environmental Quality

Mr. Chris Herrington
Watershed Protection Department
City of Austin

Item 5

Board Discussions and Possible Actions

f. Discussion related to update from Special Counsel John Vay to the Board concerning the application of Electro Purification LLC, former SOAH Docket No. 957-18-4985. No action will be taken.

Item 6

Director's Reports

Directors' Reports.

Directors may report on their involvement in activities and dialogue that are of likely interest to the Board, in one or more of the following topical areas:

- **Meetings and conferences attended or that will be attended;**
- **Committee formation and updates;**
- **Conversations with public officials, permittees, stakeholders, and other constituents;**
- **Commendations; and**
- **Issues or problems of concern.**

Item 7

Adjournment