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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 10, 2019

The Honorable James Oakley, County Judge
220 South Pierce
Burnet, Texas 78611

RE: Burnet County
On-Site Sewage Facility No. 620032

This letter is your notice that the Texas Commission on Environmental Quality (TCEQ) executive director (ED) has acted on the above-named application. According to 30 Texas Administrative Code (TAC) Section 50.135 the ED's action became effective on the date the ED signed the permit or other action. A copy of the final action is enclosed and cites the effective date.

For certain matters, a **motion to overturn**, which is a request that the commission review the executive director's action on an application, may be filed with the chief clerk. Whether a motion to overturn is procedurally available for a specific matter is determined by Title 30 of the Texas Administrative Code Chapter 50. According to 30 TAC Section 50.139, an action by the ED is not affected by a motion to overturn filed under this section unless expressly ordered by the commission.

If a motion to overturn is filed, the motion must be received by the chief clerk within 23 days after the date of this letter. An original and 7 copies of a motion must be filed with the chief clerk in person or by mail. The Chief Clerk's mailing address is Office of the Chief Clerk (MC 105), TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. On the same day the motion is transmitted to the chief clerk, please provide copies to Robert Martinez, Environmental Law Division Director (MC 173), and Vic McWherter, Public Interest Counsel (MC 103), both at the same TCEQ address listed above. If a motion is not acted on by the commission within 45 days after the date of this letter, then the motion shall be deemed overruled.

You may also request **judicial review** of the ED's action. The procedure and timelines for seeking judicial review of a commission or ED action are governed by Texas Water Code Section 5.351.

Individual members of the public may seek further information by calling the TCEQ Public Education Program, toll free, at 1-800-687-4040.

Sincerely,

A handwritten signature in cursive script that reads "Bridget C. Bohac".

Bridget C. Bohac
Chief Clerk

BCB/tm

cc: Vic McWherter, TCEQ Public Interest Counsel (MC 103)

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 10, 2019

The Honorable James Oakley
County Judge
220 S. Pierce
Burnet, Texas 78611

Re: On Site Sewage Facility Order for Burnet County

Dear Judge Oakley:

Enclosed is a certified copy of an order issued by the Commission regarding the referenced matter.

Should you have any questions, please contact Mr. James McCaine, of the Texas Commission on Environmental Quality On-Site Sewage Facilities Program, MC-235, at 512-239-4777.

Sincerely,

A handwritten signature in cursive script that reads "Kristi Mills Jurach".

Kristi Mills Jurach, P.E., Division Director
Program Support and Environmental Assistance Division, MC-174
Office of Compliance and Enforcement

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



THE STATE OF TEXAS
COUNTY OF TRAVIS
I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY
OF A TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
DOCUMENT, WHICH IS FILED IN THE PERMANENT RECORDS

APR 10 2019

OF THE COMMISSION: GIVEN UNDER MY HAND AND THE
SEAL OF OFFICE ON

Bridget C. Bohan
BRIDGET C. BOHAN, CHIEF CLERK
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF THE	§	BEFORE THE EXECUTIVE
APPLICATION OF	§	DIRECTOR OF THE TEXAS
BURNET COUNTY	§	COMMISSION ON
FOR A TEXAS HEALTH AND SAFETY	§	ENVIRONMENTAL
CODE §366.031 ORDER	§	QUALITY

On April 4, 2019, the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of Burnet County for an Order pursuant to §366.031, Texas Health and Safety Code (THSC), and 30 Texas Administrative Code (TAC) §285.10 of the rules of the Commission.

No person has requested a public hearing on the application, therefore the Executive Director, on behalf of the Commission, is satisfied that Burnet County has satisfied the requirements of §366.031, THSC. The Commission finds that the Burnet County Order should be approved.

FINDINGS OF FACT

1. Burnet County drafted a proposed Order which regulates on-site sewage facilities.
2. On March 5, 2019 Burnet County caused notice to be published, in a newspaper regularly published and of general circulation, in the Burnet County's area of jurisdiction, of a public meeting to be held on March 12, 2019.
3. Burnet County held a public meeting to discuss its proposed Order on March 12, 2019.
4. The Burnet County Order regulating on-site sewage facilities was adopted on March 12, 2019.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the Burnet County Order was submitted to the Commission.
7. The Order is at least equivalent to the standards of the Commission.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction to issue Orders designating local governmental entities as authorized agents. TEXAS WATER CODE ch. 5 and TEXAS HEALTH & SAFETY CODE ch. 366.
2. The Commission may delegate uncontested matters to the Executive Director provided the required notice was given, the applicant agrees to the action and the application is uncontested. TEXAS WATER CODE § 5.122.
3. Notice of Burnet County's intent to adopt a new Order was properly provided. TEXAS HEALTH & SAFETY CODE § 366.031 and TEXAS ADMINISTRATIVE CODE § 285.10.
4. Burnet County agreed to the proposed Order in writing.
5. The proposed Order is uncontested.
6. The Burnet County's proposed Order incorporates the Commission's rules on abatement or prevention of pollution and prevention of injury to the public health; meets the Commission's minimum requirements for on-site sewage disposal systems. TEXAS HEALTH & SAFETY CODE § 366.032.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY THAT:

1. Burnet County is hereby authorized to implement its new Order regulating on-site sewage facilities.
2. Any amendments to the Burnet County Order must be approved by the Commission.
3. The Office of Chief Clerk of the Commission is directed to forward a copy of this Order and the Burnet County's adopted Order, marked as Exhibit "A," to Burnet County and all other parties and to issue the Order and cause it to be recorded in the files of the Commission.

Issued this date: April 4, 2019

A handwritten signature in black ink, appearing to read "T.G. Baker", is written over a horizontal line.

Executive Director
Texas Commission on Environmental Quality

EXHIBIT A

ORDER ADOPTING RULES OF BURNET COUNTY, TEXAS
FOR ON-SITE SEWAGE FACILITIES
PREAMBLE

WHEREAS, the Texas Commission on Environmental Quality has established Rules for on-site sewage facilities to provide the citizens of this State with adequate public health protection and a minimum of environmental pollution; and

WHEREAS, the Legislature has enacted legislation, codified as Texas Health and Safety Code, Chapter 366, which authorizes a local government to regulate the use of on-site sewage facilities in its jurisdiction in order to abate or prevent pollution or injury to public health arising out of the use of on-site sewage facilities; and

WHEREAS, due notice was given of a public meeting to determine whether the Commissioners Court of Burnet County, Texas should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in the County of Burnet, Texas; and

WHEREAS, the Commissioners Court of Burnet County, Texas finds that the use of on-site sewage facilities in Burnet County, Texas is causing or may cause pollution, and is injuring or may injure the public health; and

WHEREAS, the Commissioners Court of Burnet County, Texas has considered the matter and deems it appropriate to enact an Order adopting Rules regulating on-site sewage facilities to abate or prevent pollution, or injury to public health in Burnet County, Texas.

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF BURNET COUNTY, TEXAS:

SECTION 1. THAT the matters and facts recited in the preamble hereof are hereby found and determined to be true and correct;

SECTION 2. THAT the use of on-site sewage facilities in Burnet County, Texas is causing or may cause pollution or is injuring or may injure the public health;

SECTION 3. THAT an Order for Burnet County, Texas be adopted entitled "On-Site Sewage Facilities", which shall read as follows:

AN ORDER ENTITLED ON-SITE SEWAGE FACILITIES

SECTION 4. CONFLICTS.

This Order repeals and replaces any other On-site Sewage Facility order for Burnet County.

SECTION 5. CHAPTER 366.

The County of Burnet, Texas clearly understands that there are technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, and will fully enforce Chapter 366 of the Texas Health and Safety Code (H&SC) and Chapters 7 and 37 of the Texas Water Code (TWC), and associated rules referenced in Section 8 of this Order.

SECTION 6. AREA OF JURISDICTION.

(A) The Rules shall apply to all the area lying in Burnet County, Texas, except for the area regulated under an existing Rule and the areas within incorporated cities.

(B) These Rules shall apply to those incorporated cities or towns that have executed intergovernmental contracts with Burnet County, Texas.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any permit issued for an on-site sewage facility within the jurisdictional area of Burnet County, Texas must comply with the Rules adopted in Section 8 of this Order.

SECTION 8. ON-SITE SEWAGE FACILITY RULES ADOPTED.

The Rules, Title 30 Texas Administrative Code (TAC) Chapter 285 and Chapter 30, attached hereto, promulgated by the Texas Commission on Environmental Quality for on-site sewage facilities are hereby adopted, and all officials and employees of Burnet County, Texas having duties under said Rules are authorized to perform such duties as are required of them under said Rules.

SECTION 9. INCORPORATION BY REFERENCE.

The Rules, 30 TAC Chapters 30 and 285 and all future amendments and revisions thereto are incorporated by reference and are thus made a part of these Rules. A copy of the current Rules are attached to these Rules as Appendix I.

SECTION 10. AMENDMENTS.

The County of Burnet, Texas wishing to adopt more stringent Rules for its On-Site Sewage Facility Order understands that the more stringent conflicting local Rule shall take precedence over the corresponding Texas Commission on Environmental Quality requirement. Listed below are the more stringent Rules adopted by Burnet County, Texas:

(A) Burnet County will permit and inspect all on-site systems regardless of the size of the tract of land the on-site system is situated upon. With the rapid development of property occurring in the county and the abundance of streams, creeks and ponds, it is in the best interest for public health to ensure permitting and inspection of all on-site systems.

(B) Burnet County will not allow any overlapping spray area on surface irrigation applications without engineering design and confirmation at the time of inspection that the daily application rate is equal to or less than .064 gallons per square foot per day. This will prevent exceeding the specified application rate.

(C) Burnet County has adopted a daily flow rate of 100 gallons per unit per day for proposed Recreational Vehicle (RV) park on-site sewage facility design. There have been a number of RV parks established in the county in recent years that are being used as permanent residential units. The RVs are equipped with full kitchen facilities, laundry and bath fixtures and are being used as full time residences therefore a flow rate of 100 gallons per day per space will be required for the on-site septic design.

SECTION 11. DUTIES AND POWERS.

The OSSF Inspector of Burnet County, Texas, must be certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities.

SECTION 12. COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to Burnet County, Texas.

SECTION 13. APPEALS.

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the Commissioners Court of Burnet County, Texas.

SECTION 14. PENALTIES.

This Order adopts and incorporates all applicable penalty provisions related to on-site sewage facilities, which includes, but is not limited to, those found in Chapters 341 and 366 of the Texas Health and Safety Code, Chapters 7, 26, and 37 of the Texas Water Code and 30 TAC Chapters 30 and 285.

SECTION 15. SEVERABILITY

It is hereby declared to be the intention of the Commissioners Court of Burnet County, Texas, that the phrases, clauses, sentences, paragraphs, and sections of this Order are severable, and if any phrase, clause, sentence, paragraph, or section of this Order should be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Order, since the same would have been enacted by the Commissioners Court without incorporation in this Order of such unconstitutional phrases, clause, sentence, paragraph, or section.

SECTION 16. EFFECTIVE DATE.

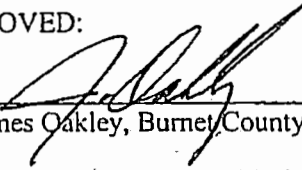
This Order shall be in full force and effect from and after its date of approval as required by law and upon the approval of the Texas Commission on Environmental Quality.

AND IT IS SO ORDERED:

PASSED AND APPROVED THIS 12th DAY OF MARCH, 2019.

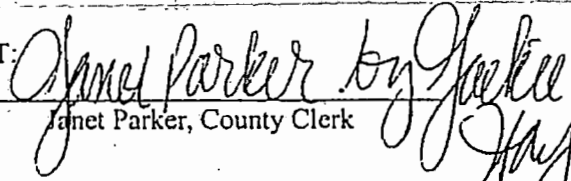
APPROVED:

(SEAL)


James Oakley, Burnet County Judge



ATTEST:


Janet Parker, County Clerk

COUNTY OF BURNET

§

STATE OF TEXAS

§

AFFIDAVIT

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

My name is Janet Parker, I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I am the custodian of the records of the County Clerk's Office for the County of Burnet, Texas. Attached hereto are four (4) pages of records known as "The On-site Sewage Facility Order for Burnet County". The records are kept by me as County Clerk, County of Burnet, in the regular course of business with knowledge of the act, event, condition, opinion, or diagnosis, recorded to make the record or to transmit information thereof to be included in such record; and the record was made at or near the time or reasonably soon thereafter. The record attached hereto is the original or exact duplicate of the official record.

Janet Parker

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Janet Parker, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledge to me that she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 21st day of March, 2019.

(SEAL)

Connie Sillavan

Notary/Public, State of Texas
My commission expires:

