

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Kelly Keel, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 23, 2023

The Honorable Shane Britton, County Judge
Brown County Courthouse
200 South Broadway Street, Room 111
Brownwood, Texas 76801

RE: Brown County
On-Site Sewage Facility No. 620031

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 ED'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 the Environmental Law Deputy Director (MC 173), and the 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 blue ink that reads "Laurie Gharis".

Laurie Gharis
Chief Clerk

LG/erg

cc: Garrett T. Arthur, TCEQ Public Interest Counsel (MC 103)

June 12, 2023 (Exhibit #6a)

Jon Niermann, *Chairman*
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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 23, 2023

The Honorable Shane Britton, County Judge
County Courthouse
200 South Broadway Street, Room 111
Brownwood, TX 76801

Re: On-Site Sewage Facility Order for Brown County
Authorized Agent ID: AR#620031

Dear Judge Britton:

Enclosed is a certified copy of the approved On-Site Sewage Facilities Order issued by the Commission on August 7, 2023.

Should you have any questions, please contact Mr. Nicholas Wilkinson, of the Texas Commission on Environmental Quality On-Site Sewage Facilities Program at 512-239-1937, or by email at nicholas.wilkinson@tceq.texas.gov.

Sincerely,

A handwritten signature in cursive script that reads "Joseph L. Hopkins".

Joseph L. Hopkins, P.G.
PSEAD Technical Programs Team Leader
Office of Compliance and Enforcement
Texas Commission on Environmental Quality

cc: Cliff Moore, P.G., Water Section Manager; TCEQ Region 3 Abilene
Nicholas Wilkinson, OSSF Program, MC-235

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
AUG 23 2023
OF THE COMMISSION, GIVEN UNDER MY HAND AND THE
SEAL OF OFFICE ON
Lauree Gharris
LAUREE GHARRIS, CHIEF CLERK
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

On August 7, 2023, the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of Brown 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 Brown County has satisfied the requirements of §366.031, THSC. The Commission finds that the Brown County Order should be approved.

FINDINGS OF FACT

1. Brown County drafted a proposed Order which regulates on-site sewage facilities.
2. On June 8, 2023, Brown County caused notice to be published, in a newspaper regularly published and of general circulation, in the Brown County's area of jurisdiction, of a public meeting to be held on June 12, 2023.
3. Brown County held a public meeting to discuss its proposed Order on June 12, 2023.
4. The Brown County Order regulating on-site sewage facilities was adopted on June 12, 2023.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the Brown 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 Brown County's intent to adopt a new Order was properly provided. TEXAS HEALTH & SAFETY CODE § 366.031 and TEXAS ADMINISTRATIVE CODE § 285.10.
4. Brown County agreed to the proposed Order in writing.
5. The proposed Order is uncontested.
6. The Brown 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. Brown County is hereby authorized to implement its new Order regulating on-site sewage facilities.
2. Any amendments to the Brown 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 Brown County's adopted Order, marked as Exhibit "A," to Brown 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: August 7, 2023



Interim Executive Director
Texas Commission on Environmental Quality

COUNTY OF BROWN

§

STATE OF TEXAS

§

AFFIDAVIT

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

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

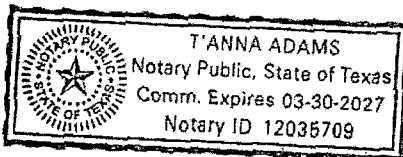
I am the custodian of the records of the County Clerk's Office for the County of Brownwood, Texas. Attached hereto are 6 () pages of records known as (Order) Brown County The records are kept by me as County Clerk, County of Brown, in the regular course of business with knowledge of the act, event, condition, 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.

Sharon Ferguson

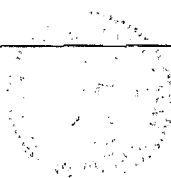
BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Sharon Ferguson, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledge to me that she executed the same for the purposes and consideration therein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

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 17th day of July, 2023.

(SEAL)



T'Anna Adams
Notary/Public, State of Texas
My commission expires:



True and correct copy of original filed in the Brown County Clerk's Office

EXHIBIT A

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

WHEREAS, the Texas Commission on Environmental Quality (TCEQ) 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 Texas Legislature enacted legislation, codified as Texas Health and Safety Code (THSC), Chapter 366, which authorizes a local government to regulate the use of on-site sewage facilities in its jurisdiction to eliminate and prevent health hazards from the use of on-site sewage facilities; and

WHEREAS, the County of Brown, Texas understands that there are technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, and may have responsibilities under the following provisions:

Texas Health and Safety Code Chapters 366 (On-Site Sewage Disposal Systems) and 367 On-Site Wastewater Treatment Research;

Texas Water Code Chapters 7 (Enforcement), 26 (Water Quality) and 37 (Occupational Licensing and Registration);

30 Texas Administrative Code Chapters 30, (Occupational Licensing and Registrations) 70 (Enforcement), and 285 (On-Site Sewage Facilities; and

Section 9 of this Order (More Stringent Requirements).

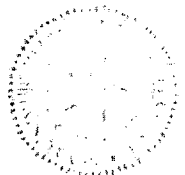
WHEREAS, due notice was given of a public meeting to determine whether the Commissioners Court of Brown County, Texas should enact an Order regulating the installation and use of on-site sewage facilities in the County of Brown, Texas; and

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

WHEREAS, the Commissioners Court of Brown 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 Brown County, Texas.

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

June 12, 2023 (Exhibit #6)



True and correct
copy of original
filed in the Brown
County Clerks Office

SECTION 1. THAT the matters and facts recited in the preamble are true and correct;

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

SECTION 3. This Order repeals and replaces any other On-site Sewage Facility (OSSF) Order for Brown County, Texas.

SECTION 4. THAT an Order for Brown County, Texas be adopted entitled "On-Site Sewage Facilities," which shall read as follows:

SECTION 5. THAT the County of Brown, Texas wishing to adopt more stringent requirements for its OSSF ORDER understands that the more stringent requirements in this ORDER take precedence over the corresponding TCEQ rule.

SECTION 6. AREA OF JURISDICTION. This Order shall apply to all the areas lying within Brown County, Texas, except for areas regulated under an existing Order, Ordinance or Resolution.

SECTION 7. COMPLIANCE WITH ORDER.

All on-site sewage disposal systems installed in the jurisdictional area of Brown County Authorized Agent must comply with this Order.

SECTION 8. INCORPORATION BY REFERENCE.

The following statutes and rules, including all future amendments to the statutes and rules, are incorporated by reference specifically, but not limited to:

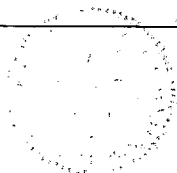
Texas Health and Safety Code Chapters 366 (On-Site Sewage Disposal Systems) and 367 On-Site Wastewater Treatment Research;

Texas Water Code Chapters 7 (Enforcement), 26 (Water Quality) and 37 (Occupational Licensing and Registration); and

30 Texas Administrative Code Chapters 30, (Occupational Licensing and Registrations) 70 (Enforcement), and 285 (On-Site Sewage Facilities).

SECTION 9. MORE STRINGENT REQUIREMENTS

30 TAC § 285.10 allows local governmental entities to propose more stringent standards than minimally required by 30 TAC Chapter 285. Brown County Authorized Agent has determined that more stringent requirements are necessary to protect human health and the environment. The Justification for the more stringent requirements is in Attachment A of this ORDER. The following more stringent requirements are adopted



by Brown County, Texas in this ORDER:

A) Any On-Site sewage Facility for a single residence located on a land tract that is ten acres or larger in which the sewage disposal line is not closer than one-hundred feet from the property line of said tract is exempt from permitting requirements as hereinafter defined, but such facility must be registered.

Registration shall consist of the filing, by the owner of tract, an Application to the Permitting authority which specifically describes the property upon which the system is to be situated, (tract of land 10 acres or more) and a site drawing of the proposed system (showing that all components of the system are no closer than 100 feet from the property Line).

The registration and permitting of On-Site Sewage Facilities is intended to inform the permitting authority of the location of each On-Site Sewage Facility in Brown County, Texas. Whether a system is permitted or registered, the permitting authority shall have the power and responsibility to review and inspect every On-Site Sewage Facility located in Brown County, Texas for the purpose of the enforcement of these rules and any other State, Federal or Local laws or rules concerning the installation and operation of On-Site Sewage Facilities.

B) All individual lots located within 1000 feet of the 1425' elevation boundary/shoreline of Lake Brownwood must have a site sewage disposal plan submitted by a Professional Engineer or Registered Sanitarian and approved by the permitting authority.

C) No On-site Sewage Facility shall be constructed in the regulated floodway.

D) Homeowners with an On-Site Sewage Facility requiring periodic maintenance must contract with a TCEQ licensed provider or registered maintenance technician unless:

1. The homeowner is a TCEQ licensed maintenance provider or registered maintenance technician, or has successfully completed the basic on-site sewage homeowner maintenance provider course, and provides proof of such to the permitting authority.
2. Homeowners so qualified and choosing to perform their own inspections must submit a County provided "contract form" to the County indicating that they will conduct the required maintenance and provide periodic inspection reports.



3. Homeowners failing to submit a completed "contract form", or required testing and timely reporting results, or falsifying the required documents, will be required to contract with a registered maintenance provider.

E) Permit, inspection and fee required for any On-Site Sewage Facility on tracts of land less than 10 acres.

F) Maintenance Providers, of On-Site Sewage Facilities requiring periodic maintenance, must provide the homeowner, of said On-Site Sewage Facility, with a copy of the maintenance report at time of maintenance.

SECTION 10. COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to Brown County, Texas. A fee of \$10 will also be collected for each on-site sewage facility permit to be paid to the credit of the TCEQ Water Resources Management Account as required by the THSC Chapter 367.

SECTION 11. APPEALS.

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

SECTION 12. ENFORCEMENT PLAN

The County of Brown, Texas understands that, at a minimum, it must follow the requirements in 30 Texas Administrative Code § 285.71 Authorized Agent Enforcement of OSSFs. This includes timely investigating complaints, notifying complainants of findings, and taking appropriate action related to any documented violations. Records related to these activities shall be retained for review by TCEQ.

The County shall take appropriate and timely action on all documented violations, which may include any available penalties and remedies, pursuant to all applicable provisions related to on-site sewage facilities, including those found in Chapters 341 and 366 of the Texas Health and Safety Code, Chapters 7 and 26 of the Texas Water Code, and 30 Texas Administrative Code Chapter 285.

SECTION 13. SEVERABILITY

It is hereby declared to be the intention of the Commissioners Court of Brown 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 void by a valid judgment or decree of any court of competent

jurisdiction the judgment or decree shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Order.

SECTION 14. RELINQUISHMENT OF ORDER

If the Authorized Agent of Brown County, Texas decides to relinquish its authority to regulate on-site sewage facilities in its area of jurisdiction, the local governmental entity (previously the Authorized Agent) and the TCEQ shall follow the procedures in 30 TAC § 285.10 (d) (1) through (4).

After relinquishing its OSSF authority, the local governmental entity understands that it may be subject to charge-back fees in accordance with 30 TAC § 285.10 (d) (5) and §285.14.

SECTION 15. TITLE VI COMPLIANCE

If necessary, based on the need for access to information in a language other than English by the community, the Authorized Agent shall provide information regarding this Order, including notice, applications, and enforcement actions, in an alternative language. The Authorized Agent may base its determination on all relevant factors including: whether the elementary or middle school nearest to the site is required to provide a bilingual education program as required by Texas Education Code, Chapter 29, Subchapter B; whether there is newspaper regularly published in an alternative language; or if the AA has historical knowledge.

SECTION 16. EFFECTIVE DATE.

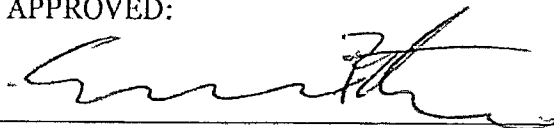
This Order shall be in full force and effect from and after its date of approval as required by law and upon the approval of TCEQ.

AND IT IS SO ORDERED:

PASSED AND APPROVED THIS 12 DAY OF June, 2023.

APPROVED:

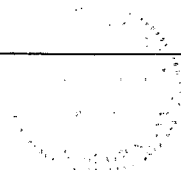
(SEAL)



County Judge

ATTEST:

(REV 08/22)



True and correct
copy of original
Filed in the Brown
County Clerk's Office

Sharon Ferguson
County Clerk

True and correct
copy of original
filed in the Brown
County Clerks Office