

RECEIVED TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

APR 03 2017

TITUS COUNTY JUDGE



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

MAR 31 2017

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

*Bridget C. Baker*  
BRIDGET C. BAKER, CHIEF CLERK  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF THE APPLICATION  
OF THE COUNTY OF TITUS  
FOR A TEXAS HEALTH AND SAFETY  
CODE §366.031 ORDER

§  
§  
§  
§

BEFORE THE EXECUTIVE  
DIRECTOR OF THE TEXAS  
COMMISSION ON  
ENVIRONMENTAL  
QUALITY

On March 27, 2017 the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of the County of Titus 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 the County of Titus has satisfied the requirements of §366.031, THSC. The Commission finds that the County of Titus Order should be approved.

FINDINGS OF FACT

1. The County of Titus drafted a proposed Order which regulates on-site sewage facilities.
2. On January 18, 2017 the County of Titus caused notice to be published, in a newspaper regularly published and of general circulation, in the County of Titus area of jurisdiction, of a public meeting to be held on January 23, 2017.
3. The County of Titus held a public meeting to discuss its proposed Order on January 23, 2017.
4. The County of Titus Order regulating on-site sewage facilities was adopted on January 23, 2017.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the County of Titus Order was submitted to the Commission.
7. The Order is at least equivalent to the standards of the Commission.

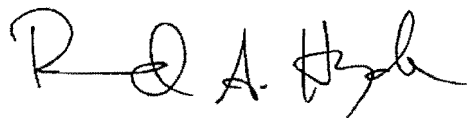
## CONCLUSIONS OF LAW

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 the County of Titus' intent to adopt a new County Order was properly provided. TEXAS HEALTH & SAFETY CODE § 366.031 and TEXAS ADMINISTRATIVE CODE § 285.10.
4. The County of Titus agreed to the proposed Order in writing.
5. The proposed Order is uncontested.
6. The County of Titus' 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. The County of Titus is hereby authorized to implement its new County Order regulating on-site sewage facilities.
2. Any amendments to the County of Titus 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 County of Titus' adopted Order, marked as Exhibit "A," to the County of Titus and all other parties and to issue the Order and cause it to be recorded in the files of the Commission.

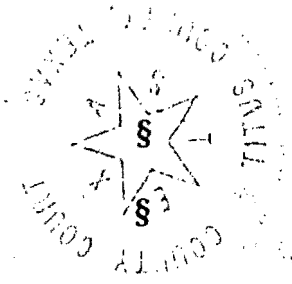
Issued this date: March 27, 2017



Executive Director  
Texas Commission on Environmental Quality

# EXHIBIT A

COUNTY OF TITUS  
STATE OF TEXAS



A CERTIFIED COPY  
Attest: 2-13, 2017  
Titus County Clerk  
Titus County, Texas  
By Joey Simpson, Deputy

**AFFIDAVIT**

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

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

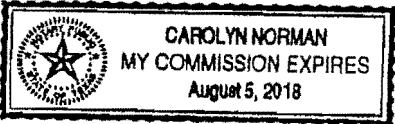
I am the custodian of the records of the County Clerk's Office for the County of Titus, Texas. Attached hereto are **six (6)** pages of records known as Titus County Orders for On-Site Sewage Facilities. The records are kept by me as County Clerk, County of Titus, in the regular course of business with 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.

Joan Newman

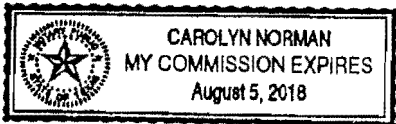
BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Joan Newman, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledge to me that she executed the same for the purposes and consideration therein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

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 23<sup>rd</sup> day of January, 2017.

(SEAL)



Carolyn Norman  
Notary/Public, State of Texas  
My commission expires:



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

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 Legislature has 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 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 Titus County, Texas should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in the County of Titus, Texas; and

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

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

**NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF TITUS 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 Titus County, Texas is causing or may cause pollution or is injuring or may injure the public health;

SECTION 3. THAT an Order for Titus 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 (OSSF) Order for Titus County, Texas.

##### SECTION 5. ON-SITE SEWAGE FACILITY REGULATION AND ENFORCEMENT.

The County of Titus, 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 (THSC) 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.

The Rules shall apply to all the areas lying within Titus County, Texas, except for areas regulated under an existing Order, Ordinance or Resolution.

##### SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any permit issued for an on-site sewage facility within the jurisdictional area of Titus 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 30, Subchapters A and G, and Chapter 285, promulgated by the TCEQ for on-site sewage facilities are hereby adopted, and all officials and employees of Titus 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 Chapter 30, Subchapters A and G, and Chapter 285 and all future amendments and revisions thereto are incorporated by reference and are thus made a part of these Rules.

## SECTION 10. AMENDMENTS.

The County of Titus, Texas wishing to adopt more stringent Rules for its OSSF Order understands that the more stringent local Rule shall take precedence over the corresponding TCEQ requirement. Listed below are the more stringent Rules adopted by Titus County, Texas:

- (A) **Elimination of 10 acre Exemption for OSSF Permitting:** Titus County, to provide greater health and safety protection, shall require an application, permit and inspection for **all** construction, alteration, extension, or non-emergency repair to a residential, or commercial on-site sewage facility regardless of the size of the tract of land. (plain language Titus County no longer recognizes the 10 acre exemption for OSSF permitting.)
- (B) Designs plans and documents related to the construction for **all** OSSFs in Titus County shall be completed by a Registered Professional Sanitarian or Licensed Professional Engineer before being submitted to the Designated Representative for review and approval. **OSSF systems designated as standard system type in TAC 285.91(9) Table IX, OSSF System Designation may be designed by a licensed OSSF Installer.** The design plans and documents shall be submitted to the DR by the homeowner or their agent (i.e. Installer) along with the permit application, affidavits to the public, a receipt of payment for permit, soil and site evaluation, and all other planning materials.
- (C) All single family dwellings, whether site built, manufactured housing or other, shall have individual OSSF systems. (Each home will have its own individual OSSF.) This does not eliminate the connection of a recreational vehicle (RV) or similar to a homeowner's OSSF for temporary use.
- (D) All platted or un-platted subdivisions of single family dwellings, whether site built, manufactured housing or other, that use OSSFs for sewage disposal shall have individual lots of at least one (1) acre of usable property. (Usable property is less pools, ponds, lakes, flood areas, and easements.)
- (E) All **MANUFACTURED HOME RENTAL COMMUNITIES** shall have individual OSSF systems for each home. (Each home will have its own individual OSSF.)

- (F) All MANUFACTURED HOME RENTAL COMMUNITIES shall have **minimum individual** lot sizing for each manufactured home of one (1) acre of usable property. (Usable property is less pools, ponds, lakes, and flood areas.)
- (G) All platted or un-platted subdivisions of multifamily/multiunit residential housing **maintained for rental purposes and not intended for individual unit ownership** to wit apartments, duplex houses and similar are to have OSSF systems designed with disposal areas calculated at twice the water volume "Q" as established in TAC 285.91(3) Table III. Septic Tank and Aerobic Treatment Unit Sizing shall be based in accordance with TAC 285.91(2) Table II.
- (H) All platted or un-platted subdivisions of multifamily/multiunit residential housing **intended for individual unit ownership**, to wit condominiums, must meet the minimum lot sizing requirement of 1 acre per unit and have individual OSSF systems for each unit or be serviced by a central wastewater treatment sanitary sewage system (municipal waste water treatment plant or package plant).
- (I) All businesses, business parks, RV parks, campgrounds, hotels, motels, and other locations of temporary occupancy that are serviced by OSSF systems shall meet all applicable requirements of TAC 285
- (J) All structures equipped with kitchens, bathrooms, lavatories, toilets, sinks, showers, and bathtubs or similar and serviced by a public water system or by public or private water well must be connected to either a central wastewater treatment sanitary sewage system (municipal waste water treatment plant or package plant) or an approved OSSF.

#### SECTION 11. DUTIES AND POWERS.

The OSSF Designated Representative (DR) (30 TAC § 285.2(17) of Titus County, Texas, must be certified by the TCEQ before assuming the duties and responsibilities.

#### SECTION 12. COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to Titus 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 17. 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 TCEQ.

AND IT IS SO ORDERED:

PASSED AND APPROVED THIS 23 DAY OF January, 2017.

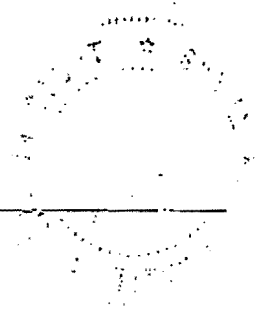


APPROVED:

*Ben P. Lu*  
County Judge

ATTEST:

*Jane Newman*  
County Clerk



Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
Jon Niermann, *Commissioner*  
Richard A. Hyde, P.E., *Executive Director*



RECEIVED

APR 03 2017

TITUS COUNTY JUDGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

March 31, 2017

The Honorable Brian P. Lee, County Judge  
Carloyn Norman, Assistant  
Titus County  
100 West First Street, Suite 200  
Mount Pleasant, Texas 75455

RE: Titus County  
On Site Sewage Facility No. 620182

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

You may file a **motion to overturn** with the chief clerk. A motion to overturn is a request for the commission to review the TCEQ executive director's approval of the application. Any motion must explain why the commission should review the TCEQ executive director's action. 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.

A motion to overturn 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 approval. According to Texas Water Code Section 5.351 a person affected by the ED's approval must file a petition appealing the ED's approval in Travis County district court within 30 days after the effective date of the approval. Even if you request judicial review, you still must exhaust your administrative remedies, which includes filing a motion to overturn in accordance with the previous paragraphs.

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/lg

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

P.O. Box 13087 • Austin, Texas 78711-3087 • 512-239-1000 • [tceq.texas.gov](http://tceq.texas.gov)

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Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
Jon Niermann, *Commissioner*  
Richard A. Hyde, P.E., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

March 31, 2017

Judge Brian P. Lee  
Titus County  
100 West First Street, Suite 200  
Mt. Pleasant, Texas 75455

Re: On-Site Sewage Facilities Order for Titus County

Dear Judge Lee:

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

Should you have any questions, please contact Mr. Michael Price, of the Texas Commission on Environmental Quality, On-Site Sewage Facilities Program, MC-235, at 512-239-2150.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Beatty".

Michael Beatty, Water Group Work Leader  
Program Support Section, MC-174  
Office of Compliance and Enforcement