

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for a Petition for Rulemaking

AGENDA REQUESTED: February 26, 2014

DATE OF REQUEST: February 7, 2014

INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Derek Baxter, (512) 239-2613

CAPTION: Docket No. 2014-0021-RUL. Consideration of a petition for rulemaking under Section 20.15 of 30 Texas Administrative Code (TAC) Chapter 20, Rulemaking.

The petition was filed with the Texas Commission on Environmental Quality on January 7, 2014, by Lloyd Gosselink Rochelle & Townsend, P.C. on behalf of the Upper Neches River Municipal Water Authority (petitioner). The petitioner requested that the commission amend 30 TAC Chapter 311 to establish the Lake Palestine Water Quality Area and impose a specified effluent set for future permits authorizing discharges to the Lake Palestine Water Quality Area and Lake Palestine Watershed. (Gregg Easley, Stefanie Skogen) (Project No. 2014-013-PET-NR)

L'Oreal Stepney, P.E

Deputy Director

David W. Galindo

Division Director

Derek Baxter

Agenda Coordinator

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** February 7, 2014

Thru: Bridget C. Bohac, Chief Clerk
Richard A. Hyde, P.E., Executive Director

From: L'Oreal Stepney, P.E., Deputy Director
Office of Water

Subject: Consideration of a Petition for Rulemaking

Docket No.: 2014-0021-RUL

Project No.: 2014-013-PET-NR

Who Submitted the Petition:

On January 7, 2014, the Texas Commission on Environmental Quality received a petition for rulemaking from Lloyd Gosselink Rochelle & Townsend, P.C. on behalf of the Upper Neches River Municipal Water Authority (petitioner).

What the Petitioner Requests:

The petitioner requests that 30 Texas Administrative Code (TAC) Chapter 311 be amended to establish the Lake Palestine Water Quality Area and impose a specified effluent set for future permits authorizing discharges to the Lake Palestine Water Quality Area and Lake Palestine Watershed.

Recommended Action and Justification:

The petitioner identifies Lake Palestine water quality concerns for depressed dissolved oxygen and elevated chlorophyll *a* and impairments for elevated pH as listed in the 2012 Texas Integrated Report of Surface Water Quality. However, not all available water quality data from Lake Palestine indicate corresponding water quality concerns due to factors such as nutrient enrichment. For example, the petitioner points to an increasing trend in chlorophyll *a* concentrations in Lake Palestine, but other water quality parameters that are directly (nitrogen and phosphorus) and indirectly (Secchi depth) related to nutrient enrichment have remained relatively unchanged over that same period of time.

The Executive Director has processes in place for evaluating wastewater discharges and their potential effects on receiving water quality. During the Executive Director's review of a wastewater discharge permit application, discharge impacts to dissolved oxygen are modeled on a site-specific basis, and this evaluation results in the establishment of effluent limits for biochemical oxygen demand (five-day), total suspended solids, ammonia nitrogen, and dissolved oxygen that are protective of water quality. In addition, the Executive Director employs procedures to determine whether discharge limits for nutrient parameters, such as total phosphorus, are needed to further safeguard receiving water quality. Using these evaluation processes, the Executive Director would establish discharge permit requirements that protect water quality in Lake Palestine and that could meet, exceed, or be less stringent than the levels of wastewater treatment requested in the petition.

Re: Docket No. 2014-0021-RUL

In outlining the need for the requested rulemaking, the petitioner has not provided demonstrations of increased threats to water quality due to expected future wastewater discharges to the Lake Palestine watershed. Furthermore, the petitioner has not provided technical analyses of how future discharges to the lake would affect water quality, why the permitting procedures that are currently in place would not adequately protect water quality, and why the minimum levels of each effluent parameter requested in the petition are justified. To address these information needs, the Executive Director recommends denial of the petition. The Executive Director can partner with stakeholders to continue to gather additional technical information regarding Lake Palestine and its surrounding watershed.

Applicable Law:

- Texas Government Code, §2001.021, which establishes the procedures by which an interested person may petition a state agency for the adoption of a rule;
- Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission over other areas of responsibility as assigned to the commission under the TWC and other laws of the state;
- TWC, §5.102, which establishes the commission's authority necessary to carry out its jurisdiction;
- TWC, §5.103 and §5.105, which authorizes the commission to adopt rules and policies necessary to carry out its responsibilities and duties under TWC, §5.013;
- TWC, §5.120, which authorizes the commission to promote maximum conservation and protection of the quality of the environment and natural resources of the state;
- TWC, §26.0135, which authorizes the commission to monitor and assess the water quality of each watershed and river basin in the state;
- TWC, §26.027, which authorizes the commission to issue permits; and
- TWC, §26.121, which provides the commission's authority to prohibit unauthorized discharges.

Agency contacts:

Gregg Easley, Rule Project Manager, (512) 239-4539, Water Quality Division

Stefanie Skogen, Staff Attorney, (512) 239-0575

Derek Baxter, Texas Register Coordinator, (512) 239-2613

Attachment

Petition

Commissioners
Page 3
February 7, 2014

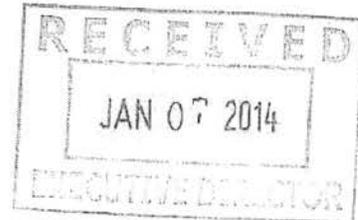
Re: Docket No. 2014-0021-RUL

cc: Chief Clerk, 2 copies
Executive Director's Office
Marshall Coover
Tucker Royall
John Bentley
Office of General Counsel
Gregg Easley
Derek Baxter



LLOYD GOSSELINK ROCHELLE & TOWNSEND PC 2 Hr Regular
 LLOYD GOSSELINK ROCHELLE & TOWNSEND PC 2014-01-07 1:41 PM
 816 CONGRESS AVE STE 1900 Pieces: 1
 AUSTIN TX 78701-2442 Weight: 1

SHIP TO:
 ATTN: ZAK COVAR
 TCEQ
 12100 PARK 35 CIRCLE BLDG F ROOM 4208
 AUSTIN TX 78753
 ROUND TRIP. PLS FILE & RETURN 1 FILE STAMPED
 COPY OF LETTER & PETITION(MARKED IN
 PACKET). ?S CALL JEFF @512-322-5853



TRACKING NUMBER: 279629



References: 2694-05
JDG

Signature:

Back Print Cancel

prontoaustin.com | P: 512-524-0441

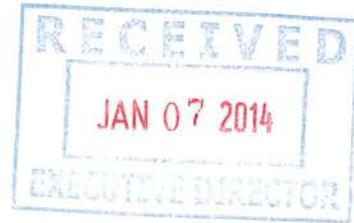
40904
DLS

Mr. Castleberry's Direct Line: (512) 322-5856
bcastleberry@lglawfirm.com

January 7, 2014

Mr. Zak Covar
Executive Director
Texas Commission on Environmental Quality
12100 Park 35 Circle, Building F, Suite 4208
Austin, Texas 78753

VIA HAND-DELIVERY



Re: Petition for Rulemaking (1280-1)

Dear Mr. Covar:

Enclosed please find one (1) original and seven (7) copies of a Petition for Rulemaking filed on behalf of the Upper Neches River Municipal Water Authority ("UNRMWA") requesting a new subchapter of 30 Tex. Admin. Code Chapter 311 to establish the Lake Palestine Water Quality Area and to impose a specified effluent set for future permits authorizing discharges to the Lake Palestine Water Quality Area and Lake Palestine Watershed. Please date stamp one of the enclosed copies and return it to us via our courier. We respectfully request that this Petition be set for consideration and Commission action as soon as possible and look forward to working with all concerned on this matter.

If you have any questions regarding this petition, please feel free to call me at your convenience.

Sincerely,

Brad B. Castleberry

BBC/jdg
ENCLOSURE

cc: Ms. Anne Idsal
Mr. Marshall Coover
Mr. Tucker Royall
Mr. David Galindo
Mr. Monty Shank

PETITION FOR RULEMAKING

BY UPPER NECHES RIVER §
MUNICIPAL WATER AUTHORITY § BEFORE THE TEXAS COMMISSION
FOR NEW SUBCHAPTER J § ON ENVIRONMENTAL QUALITY
OF 30 TAC CHAPTER 311 §

ORIGINAL PETITION FOR RULEMAKING

NOW COMES Upper Neches River Municipal Water Authority (“UNRMWA”) and pursuant to 30 Texas Administrative Code (“TAC”) Chapter 20 hereby presents this Petition for Adoption of a Rule (“Petition”) to the Texas Commission on Environmental Quality (“TCEQ” or “Commission”) seeking a new Subchapter J of 30 TAC Chapter 311, to establish a new subchapter for the Lake Palestine Water Quality Area and to impose a specified effluent set for future permits authorizing discharges to the Lake Palestine Water Quality Area, as identified herein, for the Lake Palestine Watershed, and respectfully requests that the Commission consider this Petition and the proposed rule as set out herein (the “Rule”) and initiate proceedings necessary to adopt the Rule. Pursuant to the provisions of 30 TAC § 20.15, UNRMWA would respectfully show the following:

I. PUBLIC POLICY BENEFITS

This Petition is submitted in the interest of protecting the water quality of Lake Palestine. Lake Palestine is used for contact recreation and as a public water supply. It is in the public interest to protect the water quality, aquatic health and viability of Lake Palestine for existing and future uses. The intent of the Petition is to establish a basic framework to ensure that the addition of pollutants to Lake Palestine, if authorized pursuant to a permit issued under Chapter 26 of the Texas Water Code, will be done in such a manner that protects water quality for the designated uses of Lake Palestine.

II. PETITIONER'S NAME AND ADDRESS

Petitioner's name is Upper Neches River Municipal Water Authority. Petitioner's address is P.O. Box 1965, Palestine, Texas 75802. For purposes of this Petition, correspondence for the Petition should be directed to Mr. Brad B. Castleberry at 816 Congress, Ste. 1900, Austin, Texas 78701.

III. BACKGROUND

UNRMWA is a conservation and reclamation district authorized pursuant to the Texas Constitution, Article XVI, Section 59. UNRMWA was created with the power to store, control, conserve, protect, distribute, and utilize storm and floodwaters and unappropriated flow of the Neches River and its tributaries as are located within all of Anderson, Cherokee, Henderson, and Smith Counties. UNRMWA provides surface raw water to municipalities and other users for municipal, domestic, industrial, and irrigation purposes. The service area of UNRMWA includes all or portions of Anderson, Cherokee, Henderson, and Smith Counties. UNRMWA serves Anderson, Cherokee, Henderson, and Smith Counties either directly, or through UNRMWA's primary customers. UNRMWA owns and operates Lake Palestine.

IV. WATER QUALITY PROTECTION

The Petition is being submitted in the interest of protecting water quality in Lake Palestine. TCEQ's water quality management information indicates that Lake Palestine has existing water quality issues related to nutrient enrichment (as characterized by the nutrient enrichment-related indicators of dissolved oxygen and pH) and excessive algae growth (as characterized by chlorophyll *a* levels). The primary nutrient of concern is phosphorous.

2012 Texas Integrated Report

The 2012 Texas Integrated Report indicates water quality problems in Lake Palestine

related to elevated chlorophyll *a* levels, high pH, and depressed dissolved oxygen. Chlorophyll *a* levels are an indicator of algal growth that can lead to periodic taste and odor problems in drinking water supplies. For evaluation purposes, the TCEQ has divided Lake Palestine into six zones: Lower Portion (0605_01), Lower Portion to SH155 (0605_02), Upper Mid-Lake (0605_03), Flat Creek Arm (0605_09), Upper Lake (0605_10), and SH155 to Flat Creek Arm (0605_11). The following table shows the parameters that have problems related to the Level of Support for each zone:¹

<u>Zone</u>	<u>Level of Support Problems</u>
0605_01	depressed dissolved oxygen (CS), high pH (CN), chlorophyll <i>a</i> (CS)
0605_03	high pH (NS), chlorophyll <i>a</i> (CS)
0605_09	high pH (NS), chlorophyll <i>a</i> (CS)
0605_10	high pH (NS), chlorophyll <i>a</i> (CS)
0605_11	high pH (NS), chlorophyll <i>a</i> (CS)

CS=Screening Level Concern; CN=Use Concern; NS=Nonsupport

Five of the zones are listed as having concerns for chlorophyll *a*. Four of the zones are not supporting the uses (high pH) and have been placed on the 303(d) list for non-attainment.

Non-Attainment of Chlorophyll *a* Criterion

On June 30, 2010, the TCEQ approved the Texas Surface Water Quality Standards that included chlorophyll *a* criteria for 75 reservoirs in Texas. Among these was Lake Palestine (Segment 0605) where the chlorophyll *a* criterion was set to 27.34 µg/L at monitoring site 16159 (Lake Palestine near Blackburn Crossing Dam). The standards state that “criteria for chlorophyll *a* are attained when they are not exceeded by the median of monitoring data results.”

The following table summarizes the chlorophyll *a* data taken from the Texas Clean Rivers program database and collected at monitoring site 16159 (Lake Palestine near Blackburn

¹ A range of water quality conditions and assessment status is expressed by a level of support established for each parameter, and for the use in each assessment unit and in some instances for each station. Support status reflects (1) that data are not sufficient to allow assessment, (2) when only a concern can be established from limited data, and (3) when the assessment can confidently establish the level of support.

Crossing Dam) through July 30, 2013:

<u>Year</u>	<u>No. of Samples</u>	<u>Minimum (µg/L)</u>	<u>Mean (µg/L)</u>	<u>Maximum (µg/L)</u>	<u>Median (µg/L)</u>
1998	1	1.420	1.420	1.420	1.420
1999	4	1.000	4.773	9.970	4.060
2000	4	1.000	8.460	12.800	5.850
2001	4	10.000	14.650	20.400	15.200
2002	5	10.700	15.440	23.100	16.000
2003	4	10.000	68.525	237.000	10.000
2004	4	10.200	21.250	42.200	29.900
2005	5	21.400	29.620	41.100	21.400
2006	2	23.200	26.100	29.000	26.100
2007	2	26.400	34.100	41.800	34.100
2008	4	15.700	23.550	37.400	28.850
2009	4	26.700	31.225	35.500	27.400
2010	3	12.800	19.900	25.400	25.400
2011	4	9.440	18.410	28.200	15.870
2012	5	13.800	25.160	36.400	30.800
2013	2	26.500	27.350	28.200	27.350

Since the chlorophyll *a* criterion of 27.34 µg/L was adopted by the TCEQ in 2010, it can be seen that the criterion was exceeded in 2012 and may be exceeded in 2013 (depending on any sampling results obtained after July 30, 2013).

EPA Rejection of TCEQ's Chlorophyll *a* Criterion

Non-attainment of chlorophyll *a* as shown in the preceding section will worsen if the chlorophyll *a* criterion is further lowered. Even though TCEQ adopted a chlorophyll *a* criterion of 27.34 µg/L for Lake Palestine, EPA (in a letter to TCEQ dated July 2, 2013) determined that the criterion adopted by TCEQ is not protective of the reservoir's designated uses and disapproved TCEQ's chlorophyll *a* criterion for Lake Palestine. Based on TCEQ data, EPA indicated that Lake Palestine has shifted from a eutrophic classification in 2000 to a hypereutrophic classification in 2010. Additionally, EPA conducted a trend analysis for chlorophyll *a* indicating a very high rate of chlorophyll *a* accumulation (0.498 µg/L chlorophyll *a*

per year) in combination with TCEQ's identification of 24 nutrient concerns that were repeating. A Technical Support Document that accompanied EPA's letter of July 2, 2013 provides a detailed discussion of EPA's review.

Lake Palestine is experiencing elevated levels of algae (as indicated by elevated chlorophyll *a* concentrations and high pH). Although the phosphorous concentrations in the lake do not yet exceed the screening criterion set by TCEQ, the data indicate that a definitive eutrophication issue exists in Lake Palestine that will only be exacerbated by additional phosphorous loading. There are currently only six wastewater discharges to Lake Palestine (Segment 0605). Of these, three have no constituents of concern because they are water treatment plant discharges. If additional wastewater discharges are allowed into Lake Palestine, phosphorous limits must be imposed to prevent further eutrophication of the lake.

V. EXISTING AND FUTURE CUSTOMERS THAT OPERATE PUBLIC WATER SYSTEMS

UNRMWA currently sells raw water to the City of Tyler, who in turn sells treated water to a number of surrounding communities, including but not limited to the City of Whitehouse, Community Water Co., Montgomery Garden and Walnut Grove Water Supply Corporation. UNRMWA also sells raw water released from the dam for downstream diversion by the City of Palestine, who in turn sells treated water to Pleasant Springs Water Supply Corporation, Dogwood Hills North and Dogwood Hills East. UNRMWA also has a number of other small raw water supply customers.

Additionally, UNRMWA has a contract to sell raw water to the City of Dallas. A pipeline to convey this water is currently being designed, with construction estimated to be complete as early as 2016. The City of Dallas currently sells treated water to the following

entities: Cities of Desoto, Duncanville, Hutchins, Lancaster, Seagoville, Carrollton, Cedar Hill, Cockrell Hill, Coppell, Farmer's Branch, Grand Prairie, Irving, Glenn Heights, Lewisville and The Colony; Towns of Flower Mound and Addison; Dallas County WCID 6, Danieldale Community Water Service, and the Dallas Fort Worth Airport.

As evident by this list of entities that either currently receive raw water or will receive raw water, there are a number of indirect potable water customers that will be impacted by any impairments to the water quality in Lake Palestine.

VI. CURRENT STATE OF TREATMENT TECHNOLOGY

Municipal wastewaters may contain from 5 to 20 mg/L of total phosphorous ("TP"), of which 1 to 5 mg/L is organic and the rest is inorganic. The usual forms of phosphorous found in aqueous solutions include:

- Orthophosphates: available for biological metabolism without further breakdown; and
- Polyphosphates: molecules with 2 or more phosphorous atoms, oxygen and in some cases hydrogen atoms combine in a complex molecule. Usually polyphosphates undergo hydrolysis and revert to the orthophosphate forms. This process is usually quite slow.

Normally secondary treatment can only remove 1 to 2 mg/L, so a large excess of phosphorous is discharged in final effluent, causing eutrophication in surface waters.

Chemical treatment for phosphorous removal involves the addition of metal salts to react with soluble phosphate to form solid precipitates that are removed by the solids separation processes including clarification and filtration. The most common metal salts used are in the form of alum (aluminum sulfate), sodium aluminate, ferric chloride, ferric sulfate,

ferrous sulfate, and ferrous chloride. Chemical treatment is the most common method used for phosphorous removal to meet effluent concentrations below 1.0 mg/L.

Chemical and biological phosphorous removal processes have been used to reliably reduce phosphorous to 1 mg/L and often to 0.5 mg/L. A 0.5 to 1.0 mg/L limit is achievable by many conventional chemical and biological processes, while lower limits are attainable with advanced processes. *See, Nutrient Management Volume II: Removal Technology Performance and Reliability, Water Environment Research Federation (WERF), NUTRIR06k, 2011.*

A research study performed by WERF identified common treatment technologies for treatment facilities across the United States. *Id.* In that report, chemical addition for the removal of TP was considered as standard technology, with advanced technology being enhanced with biological activity. *Id.* Enhanced technology was only necessary to remove TP to limits at or below 0.5 mg/L. *Id.*

VII. EXISTING PERMITTED FACILITIES

As noted, TP treatment is common technology at this time. UNRMWA understands that it is fairly commonplace to include TP limits in permits issued in the Colorado and Brazos River Basins. Indeed, one permit issued just west of the City of Austin included a TP limit of 0.15mg/L. *See, TPDES Permit No. WQ0014293001.* And, in the adjoining Trinity River Basin, at least one direct discharge to a reservoir includes a TP limit of 0.5 mg/L. The North Texas Municipal Water District, which discharges treated effluent to Lake Lavon, is required to treat to remove TP to a limit of 0.5 mg/L for its Wilson Creek Wastewater Treatment Plant. Likewise, a similar permit was issued for a 0.1 MGD facility into that same reservoir in 2010. *See, TPDES Permit No. WQ0014778001.* Including TP limits in discharges to reservoirs is becoming

common practice, and as such, Lake Palestine should be given similar consideration for future permits.

VIII. RECOMMENDATION

UNRMWA recommends that a rule be adopted such that new or amended permits authorizing discharges within the Lake Palestine watershed have proven and established effluent limits that i) are protective of water quality, ii) acknowledge the fact that this reservoir is an existing source of drinking water and will become an increasing source of same, iii) include current acceptable treatment technology to address nutrient concerns in reservoirs, and iv) promote sound decision-making in establishing the best disposal method for treated effluent. In this regard, UNRMWA requests that the following language be adopted for inclusion in 30 TAC Chapter 311.

IX. PROPOSED NEW 30 TAC, CHAPTER 311, SUBCHAPTER J

A. PROPOSED NEW RULE 30 TAC §311.100

Texas Administrative Code

TITLE 30
PART 1
CHAPTER 311
SUBCHAPTER J
RULE §311.100

ENVIRONMENTAL QUALITY
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
WATERSHED PROTECTION
LAKE PALESTINE WATERSHED
Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) BOD₅ – Biochemical oxygen demand (five-day).
- (2) DO – Dissolved oxygen.
- (3) Lake Palestine Water Quality Area—Those portions of Lake Palestine from the Dam up to five (5) stream miles upstream of the normal pool level of Lake Palestine Lake Segment 0605 (345.0 feet, mean sea level).
- (4) Lake Palestine Watershed – Lake Palestine and its tributaries located within a 0.5 mile radius of any portion of Lake Palestine and its tributaries.

B. PROPOSED NEW RULE 30 TAC §311.101

Texas Administrative Code

<u>TITLE 30</u>	ENVIRONMENTAL QUALITY
<u>PART 1</u>	TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
<u>CHAPTER 311</u>	WATERSHED PROTECTION
<u>SUBCHAPTER J</u>	LAKE PALESTINE WATERSHED
RULE §311.101	Scope

These sections apply to discharges into the Lake Palestine Water Quality Area of Lake Palestine Watershed

C. PROPOSED NEW RULE 30 TAC §311.102

Texas Administrative Code

<u>TITLE 30</u>	ENVIRONMENTAL QUALITY
<u>PART 1</u>	TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
<u>CHAPTER 311</u>	WATERSHED PROTECTION
<u>SUBCHAPTER J</u>	LAKE PALESTINE WATERSHED
RULE §311.102	Effluent Requirements For Segment 0605

(a) All discharges of treated sewage effluent into the Lake Palestine Water Quality Area of Lake Palestine Watershed shall, at a minimum, achieve the following level of effluent treatment:

- (1) 10 milligrams per liter of biochemical oxygen demand, based on a 30-day average;
- (2) 15 milligrams per liter of total suspended solids, based on a 30-day average;
- (3) 3 milligrams per liter of ammonia nitrogen, based on a 30-day average; and
- (4) 1 milligram per liter of total phosphorous, based on a 30-day average.

(b) Subsection (a) of this section does not apply to any existing facilities, or expansions of same, that discharge treated domestic sewage effluent into tributaries of Segment 0605 of the Neches River Basin. This subsection shall not preclude the commission from imposing more stringent treatment levels to such facilities in the future if the results of water quality studies show that such is necessary.

(c) The treatment level in subsection (a) of this section may be modified if the results of water quality studies show that revisions are necessary to ensure protection of the water quality of the Lake Palestine Watershed.

D. PROPOSED NEW SECTION 30 TAC §311.103

Texas Administrative Code

TITLE 30
PART 1
CHAPTER 311
SUBCHAPTER J
RULE §311.103

ENVIRONMENTAL QUALITY
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
WATERSHED PROTECTION
LAKE PALESTINE WATERSHED
Existing Facilities In Water Quality Area

(a) Any currently permitted treatment facility in the Lake Palestine Water Quality Area may continue operation in accordance with the terms and conditions of the existing permit for the facility and can apply for renewal of the permit unless the facility becomes substantially noncompliant or an expansion of the treatment facility is included in the application for renewal.

(b) Any modification of a facility described in subsection (a) of this section that requires a permit amendment and which results in additional treatment capacity will also require treatment as for the total wastewater flow from the permitted facility.

(c) Any permitted facility not meeting its permit limitations because of overloading of sewage will be subject to amendment as described in §305.62 of this title (relating to Amendment) in order to impose permit limitations consistent with §311.102(a).

E. PROPOSED NEW SECTION 30 TAC §311.104

Texas Administrative Code

<u>TITLE 30</u>	ENVIRONMENTAL QUALITY
<u>PART 1</u>	TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
<u>CHAPTER 311</u>	WATERSHED PROTECTION
<u>SUBCHAPTER J</u>	LAKE PALESTINE WATERSHED
RULE §311.104	More Stringent Requirements

The Commission may impose, in permits, more stringent requirements than those specified in this subchapter, on a case-by-case basis, wherever appropriate to maintain desired water quality levels.

F. PROPOSED NEW SECTION 30 TAC §311.105

Texas Administrative Code

<u>TITLE 30</u>	ENVIRONMENTAL QUALITY
<u>PART 1</u>	TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
<u>CHAPTER 311</u>	WATERSHED PROTECTION
<u>SUBCHAPTER J</u>	LAKE PALESTINE WATERSHED
RULE §311.105	Effluent Quality Monitoring

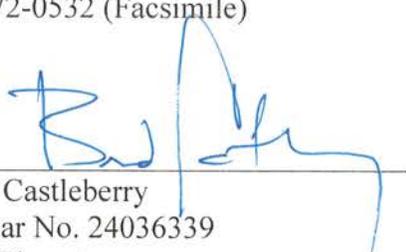
At a minimum, the permittee shall collect 24-hour composite samples of the effluent at least once each month for the permitted parameters. More frequent monitoring requirements may be specified in the permit in accordance with Chapter 319 of this title (relating to General Regulations Incorporated into Permits).

X. PRAYER

WHEREFORE, Petitioner respectfully prays that the Commission adopt the proposed addition of 30 TAC Chapter 311, Subchapter J to impose the effluent limitations as set forth above, or in the alternative, direct the Executive Director to further evaluate the Petition, the positions asserted therein, the public interest, and the potential for water quality impacts, and direct him to establish a stakeholder group to develop an alternative proposal to the Rule for future consideration and adoption within the next twelve (12) calendar months.

Respectfully Submitted,

LLOYD GOSSELINK ROCHELLE & TOWNSEND, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
(512) 322-5800 (Telephone)
(512) 472-0532 (Facsimile)

By 
Brad B. Castleberry
Texas Bar No. 24036339
Sara R. Thornton
Texas Bar No. 24066192

Texas Commission on Environmental Quality



DECISION OF THE COMMISSION REGARDING THE PETITION FOR RULEMAKING FILED BY THE UPPER NECHES RIVER MUNICIPAL WATER AUTHORITY

Docket No. 2014-0021-RUL
Project No. 2014-013-PET-NR

On February 26, 2014, the Texas Commission on Environmental Quality (Commission) considered the petition for rulemaking filed by the Upper Neches River Municipal Water Authority. The petition, filed on January 7, 2014, requests that the agency initiate rulemaking to amend 30 Texas Administrative Code Chapter 311 to establish the Lake Palestine Water Quality Area and impose a specified effluent set for future permits authorizing discharges to the Lake Palestine Water Quality Area and Lake Palestine Watershed.

IT IS THE DECISION OF THE COMMISSION, pursuant to Administrative Procedure Act, Texas Government Code, § 2001.021 and Texas Water Code, § 5.102, to deny the petition. The petitioner did not adequately demonstrate the need for the proposed rulemaking based on existing water quality in Lake Palestine, the adequacy and protectiveness of current discharge evaluation procedures employed by the Executive Director when issuing wastewater permits, and potential threats to Lake Palestine's water quality.

This Decision constitutes the decision of the Commission required by Texas Government Code, § 2001.021(c).

Issued date:

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Bryan W. Shaw, Ph.D., P.E., Chairman