

Kathleen Hartnett White, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 1, 2005

TO: Persons on the attached mailing list.

RE: Wynne Jackson, Inc. and West Foundation
TPDES Permit No. WQ0014535001

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** Unless a timely request for contested case hearing or reconsideration is received (see below), the TCEQ executive director will act on the application and issue the permit.

Enclosed with this letter is a copy of the Executive Director's Response to Comments. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Kaufman County Courthouse, 100 West Mulberry Street, Kaufman, Texas.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. A brief description of the procedures for these two requests follows.

How To Request a Contested Case Hearing.

It is important that your request include all the information that supports your right to a contested case hearing. You must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group; and
 - (B) one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.
- (3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (4) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."

Your request must demonstrate that you are an **"affected person."** An affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application. The request must be based on issues that were raised during the comment period. The request cannot be based solely on issues raised in comments that have been withdrawn. The enclosed Response to Comments will allow you to determine the issues that were raised during the comment period and whether all comments raising an issue have been withdrawn. The public comments filed for this application are available for review and copying at the Chief Clerk's office at the address below.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.

How To Request Reconsideration of the Executive Director's Decision.

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be in writing and must be **received by** the Chief Clerk's office no later than **30 calendar days** after the date of this letter: You should submit your request to the following address:

LaDonna Castañuela, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

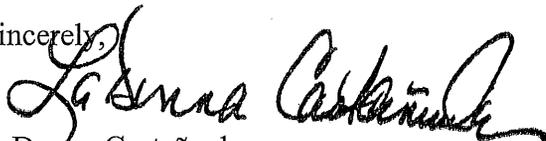
Processing of Requests.

Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the alternative dispute resolution director and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

How to Obtain Additional Information.

If you have any questions or need additional information about the procedures described in this letter, please call the Office of Public Assistance, Toll Free, at 1-800-687-4040.

Sincerely,



LaDonna Castañuela
Chief Clerk

LDC/spb

Enclosures

MAILING LIST

for

Wynne Jackson, Inc. and West Foundation
TPDES Permit No. WQ0014535001

FOR THE APPLICANT:

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FOR OFFICE OF PUBLIC ASSISTANCE:

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FOR PUBLIC INTEREST COUNSEL:

Blas J. Coy, Jr., Attorney
Texas Commission on Environmental Quality
Public Interest Counsel MC-103
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FOR THE CHIEF CLERK:

LaDonna Castañuela
Texas Commission on Environmental Quality
Office of Chief Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087

PROTESTANTS/INTERESTED PERSONS:

See attached list.

THE HONORABLE ROBERT F DEUELL
ATTN MS CINDY BURKETT
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MESQUITE TX 75150-6439

JOHN K MCKISSICK
12832 GLENWOOD TRL
FORNEY TX 75126-6414

F LAWERENCE OAKS
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PO BOX 12276
AUSTIN TX 78711-2276

JAMES M PARKS EXECUTIVE DIRECTOR
NORTH TEXAS MUNICIPAL WATER DISTRICT
PO BOX 2408
WYLIE TX 75098-2408

JACK & JOAN PHILLIPS
15002 VALLEY VIEW RD
FORNEY TX 75126

PATRICIA & RONNIE RAINS
15522 VALLEY VIEW RD
FORNEY TX 75126

JOHNNIE C STEPHENS
14876 VALLEY VIEW RD
FORNEY TX 75126

Proposed New TPDES Permit No. WQ0014535001

Application by
**WYNNE JACKSON, INC., and the
WEST FOUNDATION**
for TPDES Permit No. 14535-001

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Before the
**TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the application by Wynne Jackson, Inc., and the West Foundation (Applicants) for a new Texas Pollutant Discharge Elimination System (TPDES) Permit Number 14535-001 and on the Executive Director's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code, Section 55.156, before a permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant, comments. The Office of Chief Clerk timely received comment letters from **John K. McKissick, F. Lawrence Oaks** representing the **Texas Historical Commission (THC)**, **James M. Parks** representing the **North Texas Municipal Water District (NTMWD)**, **Jack and Joan Phillips, Patricia and Ronnie Rains**, and **Johnnie C. Stephens**. This Response addresses all comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found on our website at www.tceq.state.tx.us.

TEXAS
COMMISSION
ON
ENVIRONMENTAL
QUALITY
OFFICE
OF
PUBLIC
ASSISTANCE
7 PM 4-09

BACKGROUND

Description of Facility

Wynne Jackson, Inc., and the West Foundation have applied to the TCEQ for a new TPDES permit that would authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 40,000 gallons per day in the interim phase and a daily average flow not to exceed 634,700 gallons per day in the final phase. The West Foundation Wastewater Treatment Facility will be an activated sludge process plant operated in the extended aeration mode. Treatment units for the interim phase will include a bar screen, a grit chamber, three aeration basins, two clarifiers, two sludge digesters, and a chlorine contact chamber. The final phase will include a bar screen, a grit chamber, four aeration basins, three clarifiers, three sludge digesters, and four chlorine contact chambers. The facility has not been constructed. The draft permit authorizes the disposal of sludge only at a TCEQ registered or permitted land application site, commercial land application site, or co-disposal landfill.

The facility will be located approximately 2 miles northeast of the intersection of Highway 740 and Highway 80 in Kaufman County, Texas. The wastewater treatment facility will serve the West Foundation development.

The treated effluent will be discharged to an unnamed tributary, which flows into a National Resource Conservation Service (NRCS) reservoir, which flows into Buffalo Creek, which flows into the East Fork Trinity River in Segment No. 0819 of the Trinity River Basin. The unclassified receiving water uses are limited aquatic life uses for the unnamed tributary, high aquatic life uses for the NRCS reservoir, and limited aquatic life uses for Buffalo Creek. The designated uses for Segment No. 0819 are intermediate aquatic life uses and non-contact recreation. Segment No. 0819 is currently listed on the State's 2000 inventory of impaired and threatened waters (the Clean Water Act Section 303(d) list). The listing is specifically for elevated bacteria levels in the lower 14 miles of the segment. The facility has proposed to disinfect the effluent by means of chlorination and is therefore not expected to contribute to the segment impairment.

Procedural Background

The application was received on May 28, 2004, and declared administratively complete on July 8, 2004. Notice of Receipt of Application and Intent to Obtain a Water Quality Permit was published July 26, 2004, in the *Dallas Morning News*. The TCEQ Executive Director completed the technical review of the application on November 16, 2004, and prepared a draft permit. Notice of Application and Preliminary Decision for a Water Quality Permit was published January 13, 2005, in the *Forney Messenger* and the comment period closed February 14, 2005. This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801 (76th Legislature, 1999).

Access to Rules, Laws and Records

Secretary of State website: www.sos.state.tx.us

TCEQ rules in Title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac/ (select "TAC Viewer" on the right, then "Title 30 Environmental Quality")

Texas statutes: www.capitol.state.tx.us/statutes/statutes.html

TCEQ website: www.tceq.state.tx.us (for downloadable rules in WordPerfect or Adobe PDF formats, select "Rules, Policy, & Legislation," then "Rules and Rule-making," then "Download TCEQ Rules")

Federal rules in Title 40 of the Code of Federal Regulations: www.epa.gov/epahome/cfr40.htm

Federal environmental laws: www.epa.gov/epahome/laws.htm

Commission records for this facility are available for viewing and copying and are located at TCEQ's main office in Austin, 12100 Park 35 Circle, Building E, Room 103 (Central Records, for existing or past permits), or Building F, 1st Floor (Office of Chief Clerk, for the current application), and at TCEQ's Region 4 Office in Fort Worth at 2309 Gravel Drive.

If you would like to file a complaint about the facility concerning its compliance with provisions of its permit or with TCEQ rules, you may contact the Agency at 1-888-777-3186 or you

may contact the TCEQ Region 4 Office at 1-817-588-5800. Citizen complaints may also be filed on-line at the TCEQ website (select "Reporting," then "Reporting Environmental Problems," then "Reporting an Environmental Complaint"). If the facility is found to be out of compliance it will be subject to enforcement action.

COMMENTS and RESPONSES

COMMENT 1

John McKissick questioned if a study had been completed to determine what would happen to property values within a five mile radius. Ronnie and Patricia Rains expressed concern that the discharge route would greatly affect their property. Johnnie Stephens was concerned about his property value.

RESPONSE 1

TCEQ does not have jurisdiction to address or consider property values in its determination of whether to issue a wastewater discharge permit. The permitting process is limited to controlling discharges into or adjacent to water in the state and protecting water quality of the state's rivers, lakes, and coastal waters.

COMMENT 2

NTMWD indicated that the district would be able to centralize wastewater flow by providing a regional wastewater plant to this area.

RESPONSE 2

TCEQ's Domestic Wastewater Permit Application requires that an applicant review a three-mile area surrounding the proposed facility to determine if there is an existing wastewater treatment plant or existing sewer collection lines within that area that the applicant can use. The wastewater treatment plant must have sufficient existing capacity to accept the additional waste. The application indicates that there are no existing wastewater treatment facilities located within a three mile radius from the proposed plant.

COMMENT 3

Jack and Joan Phillips expressed their concern that the proposed sewage plant would be an eye sore and create additional air pollution to the already polluted area.

RESPONSE 3

TCEQ rules require domestic wastewater treatment facilities to meet buffer zone requirements for the abatement and control of nuisance odor. All wastewater treatment plant units may not be located closer than 150 feet to the nearest property line.

TCEQ is the agency responsible for enforcing the air pollution laws. The Texas Clean Air Act provides that certain facilities may be exempt from the requirements of an air quality permit and may be permitted by rule if, upon a protectiveness review, it is found that those facilities will not make a significant contribution of air contaminants to the atmosphere and that human health and the environment will be protected. Wastewater treatment plants have undergone this review and are permitted by rule as long as the wastewater treatment plant only performs certain functions as defined in TCEQ rules.

COMMENT 4

Jack and Joan Phillips indicated that families fish in the East Trinity Creek and children play in the surrounding area. They were concerned about inherent health problems that could be attributed to the discharge permit.

RESPONSE 4

The draft permit was developed to protect aquatic and terrestrial life and human health. The requirements in the draft permit were established to be protective as long as the Applicant operates and maintains the facility according to the TCEQ rules and the requirements in the draft permit. As part of the permit application process TCEQ must determine the uses of the receiving water and set limits that are protective of them. The effluent limits in the draft permit are set to maintain and protect the existing instream uses.

In this case, the unclassified receiving water uses are limited aquatic life uses for the unnamed tributary, high aquatic life uses for the NRCS reservoir and limited aquatic life uses for Buffalo Creek. The designated uses for Segment No. 0819 are intermediate aquatic life uses and contact recreation. The Executive Director determined that these uses will be protected if the facility is operated and maintained as required by the draft permit and regulations.

The draft permit requires the treated effluent to be disinfected prior to discharge. Chlorination of the treated effluent is required to provide adequate disinfection and reduce pathogenic organisms. The effluent must be chlorinated in a chlorine contact chamber to a chlorine residual of 1.0 mg/l with a minimum detention time of 20 minutes. The chlorine residual must be monitored five times per week by grab sample according to the draft permit requirements.

COMMENT 5

Johnnie Stephens expressed his concern that the discharge route would come within 75 to 100 yards from his back door. He was concerned with the smell to be produced from the wastewater treatment plant. Jack and Joan Phillips were concerned about odorous pollutants.

RESPONSE 5

Wastewater devoid of dissolved oxygen can produce offensive odors. The draft permit requires that the wastewater discharge contain a minimum of 6.0 mg/l dissolved oxygen so that the treated effluent will be constantly and adequately oxygenated once it is discharged.

TCEQ rules require domestic wastewater treatment facilities to meet buffer zone requirements for the abatement and control of nuisance odor according to 30 TAC Section 309.13(e). These rules provide three options for applicants to satisfy the nuisance odor abatement and control requirement. The applicant may meet this requirement by ownership of the buffer zone area, restrictive easement from the adjacent property owners, or by providing an odor control plan. The applicant meets the buffer zone requirements by ownership.

No wastewater treatment plant units may be located closer than 150 feet to the nearest property line.

COMMENT 6

The THC requested a cultural resources survey of the proposed project area.

RESPONSE 6

The Applicant conducted a cultural resources survey for the THC and the THC issued a letter indicating its concerns had been addressed.

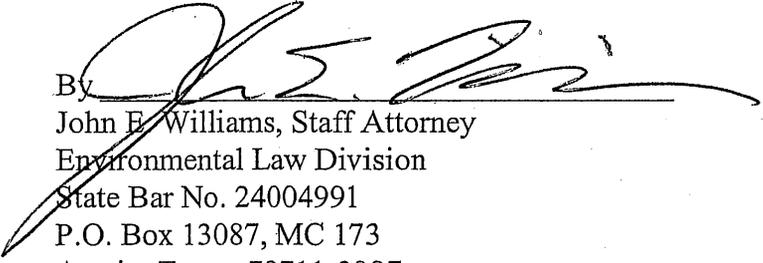
No changes to the draft permit have been made.

Respectfully submitted,

Texas Commission on Environmental Quality

Glenn Shankle
Executive Director

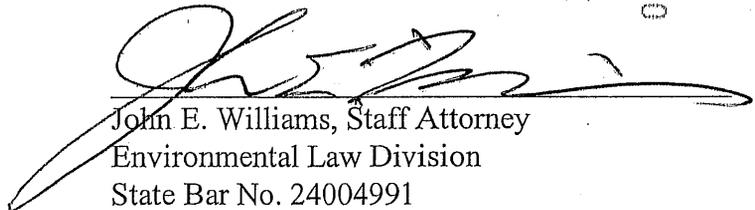
Stephanie Bergeron Perdue, Director
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By 
John E. Williams, Staff Attorney
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State Bar No. 24004991
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
512-239-0455
Representing the Executive Director of the Texas
Commission on Environmental Quality

CERTIFICATE OF SERVICE

I certify that on May 27, 2005, the "Executive Director's Response to Public Comment" for Permit No. 14535-001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.

TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY
2005 MAY 27 3:10 PM
CHIEF CLERK'S OFFICE


John E. Williams, Staff Attorney
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