

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
Martin A. Hubert, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

November 17, 2006

TO: Persons on the attached mailing list.

RE: Houston Intercontinental Trade Center, L.P.
TPDES Permit No. WQ0014671001

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 Montgomery County Memorial Library System, South Regional Library, 2101 Lake Robbins Drive, The Woodlands, 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

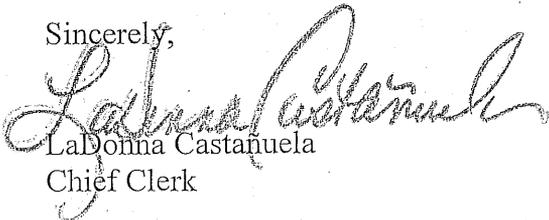
Processing of Requests.

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/cz

Enclosures

MAILING LIST

for

Houston Intercontinental Trade Center, L.P.

TPDES Permit No. WQ0014671001

FOR THE APPLICANT:

Michael Barsi, President
Houston Intercontinental Trade Center, L.P.
14405 Walters Road, Suite 800
Houston, Texas 77014

Mark Urback, P.E.
Edminster, Hinshaw, Russ and Associates,
Inc.
10555 Westoffice Drive
Houston, Texas 77042

PROTESTANTS/INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR:

Celia Castro, Staff Attorney
Texas Commission on Environmental Quality
Environmental Law Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087

David Akoma, Technical Staff
Texas Commission on Environmental Quality
Water Quality Division MC-148
P.O. Box 13087
Austin, Texas 78711-3087

FOR OFFICE OF PUBLIC ASSISTANCE:

Jodena Henneke, Director
Texas Commission on Environmental Quality
Office of Public Assistance MC-108
P.O. Box 13087
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL:

Blas J. Coy, Jr., Attorney
Texas Commission on Environmental Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

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

RUSSELL BANNING
2328 COBBLECREEK DR
CONROE TX 77384-3702

CHRISTIAN & KIRSTINA HANSEN
1114 WOODSTONE CT
CONROE TX 77384-3705

JAMES G RYAN
2302 COBBLECREEK DR
CONROE TX 77384-3701

DICK & GAY BASKIN
2411 STABLERIDGE DR
CONROE TX 77384-3365

DEEANNA & DOUGLAS HEERMANN
1237 BERGMAN CT
CONROE TX 77384-3710

MARK L URBACK PE
EDMINSTER, HINSHAW, RUSS, & ASSOC
10555 WESTOFFICE DR
HOUSTON TX 77042-5310

JEANNE BONNETTE
2402 HOLLOWBROOK LN
CONROE TX 77384-3627

BOB HENDERSON
2336 CARRIAGE RUN E
CONROE TX 77384-3304

LEWIS & SHARON WALKER
1221 COBBLECREEK CT
CONROE TX 77384-3707

MORRIS DUBS
2109 CARRIAGE RUN W
CONROE TX 77384-3318

GARY & MERCEDES JONES
2308 COBBLECREEK DR
CONROE TX 77384-3701

SHEILA DUBS
2109 CARRIAGE RUN W
CONROE TX 77384-3318

DANIEL KALDOR
2419 CARRIAGE RIDGE LN
CONROE TX 77384-3346

JENNIFER L ELMS PE
EDMINSTER, HINSHAW, RUSS, & ASSOC
10555 WESTOFFICE DR
HOUSTON TX 77042-5310

KARA KERN
2325 COBBLECREEK DR
CONROE TX 77384-3703

THE KAISER FAMILY & CHARLIE KAISER
1235 BERGMAN CT
CONROE TX 77384-3710

JOHN & MARILYN LESTER
2415 MUSTANG DR
CONROE TX 77384-3358

PATRICIA A FINCH
1107 JACOBS CT
CONROE TX 77384-3704

JOHN E LESTER & GAYLE E MITCHEL
2415 MUSTANG DR
CONROE TX 77384-3358

MARGIE A GODAR
1229 COBBLECREEK CT
CONROE TX 77384-3707

HD LOWERY
2308 STABLERIDGE DR
CONROE TX 77384-3363

MATTHEW J GODAR
1229 COBBLECREEK CT
CONROE TX 77384-3707

ROBERT MORGAN
2325 COBBLECREEK DR
CONROE TX 77384-3703

TCEQ PROPOSED PERMIT NO. WQ0014671001

APPLICATION BY
HOUSTON INTERCONTINENTAL
TRADE CENTER, L.P.

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§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CHIEF CLERK'S OFFICE

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TEXAS
COMMISSION ON
ENVIRONMENTAL
QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the Houston Intercontinental Trade Center, L.P.'s (Applicant) application for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014671001 and on the ED's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section 55.156, before a permit is issued, the ED prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk timely received comment letters from Russell Banning, Dick and Gay Baskin, Jeanne Bonnette, Morris and Sheila Dubs, Patricia A. Finch, Matthew and Margie Godar, Christian and Kristina Hansen, Douglas and Deeanna Heermann, Bob Henderson, Gary and Mercedes Jones, Charlie Kaiser and family, Daniel M. Kaldor, Dr. Kara Lea Kern, John E. Lester and Gayle E. Mitchel, H. D. Lowery, Robert Morgan, James G. Ryan, and Lewis and Sharon Walker. This response addresses all such timely public 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 at our website at www.tceq.state.tx.us.

BACKGROUND

Description of Facility

Applicant has applied to the TCEQ for a new permit, proposed TPDES Permit No. WQ0014658001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day (gpd) in the interim I phase, 250,000 gpd in the interim II phase, and 500,000 gpd in the final phase. The proposed wastewater treatment facility will serve the Applicant. The facility will be located approximately 4,400 feet north of Farm-to-Market Road 1488 and 10,100 feet west of Interstate Highway 45 in southwest Montgomery County, Texas.

The Houston Intercontinental Trade Center Wastewater Treatment Facility is an activated sludge process plant operated in the complete mix mode. Treatment units in the interim I phase will include an aeration basin, final clarifier, sludge digester, and a chlorine contact chamber. Treatment units in the interim II phase will include two aeration basins, one final clarifier, two aerobic digesters and one chlorine contact chamber. Treatment units in the final phase will include four aeration basins, two final clarifiers, four aerobic digesters and one chlorine contact chamber. The facility has not been constructed. The draft permit authorizes the disposal of sludge at a TCEQ registered or permitted land application site, commercial land application site or co-disposal landfill.

The effluent limitations in the interim I and interim II phases of the draft permit, based on a 30-day average, are 10 mg/l five-day Carbonaceous Biochemical Oxygen Demand (CBOD₅), 15 mg/l Total Suspended Solids (TSS), 3 mg/l Ammonia-Nitrogen (NH₃-N), and 6.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow. The effluent limitations in the final phase of the draft permit, based on a 30-day average, are

7 mg/l CBOD₅, 15 mg/l TSS, 2 mg/l NH₃-N, and 6.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The treated effluent will be discharged to a drainage channel and then to West Fork San Jacinto River in Segment No. 1004 of the San Jacinto River Basin. The unclassified receiving water uses are no significant aquatic life uses for the drainage channel. The designated uses for Segment No. 1004 are high aquatic life uses, public water supply and contact recreation. Segment No. 1004 is currently listed on the State's inventory of impaired and threatened waters, the 2004 Section 303(d) list. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in West Fork San Jacinto River. The effluent limitations in the draft permit will maintain and protect the existing instream uses.

Procedural Background

The permit application for a proposed new permit was received on December 9, 2005 and declared administratively complete on January 25, 2006. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on February 3, 2006 in *The Courier*. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on June 9, 2006 in *The Courier*. The public comment period ended on July 10, 2006. This application is subject to the procedural requirements of House Bill 801, 76th Legislature, 1999.

COMMENTS AND RESPONSES

COMMENT 1:

Margie and Matthew Godar, Robert Morgan and Dr. Kara Lea Kern, Jeanne Bonnette,

Russell Banning, Bob Henderson, Morris and Sheila Dubs, Charles Kaiser, James G. Ryan, H. D. Lowery, Douglas and Deeanna Heermann, Gary and Mercedes Jones, Daniel M. Kaldor, John Lester and Gayle Mitchel, Dick and Gay Baskin, and Christian and Kristina Hansen are concerned about the potential for noxious odors due to the proximity of the proposed wastewater treatment facility to their residences.

RESPONSE 1:

TCEQ rules require domestic wastewater treatment facilities to meet buffer zone requirements for the abatement and control of nuisance odors 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 can meet this requirement by owning the buffer zone area, by obtaining a restrictive easement from the adjacent property owners for any part of the buffer zone not owned by the Applicant, or by providing odor control. The draft permit requires that the Applicant meet the requirement by obtaining legal restrictions prohibiting residential structures within the part of the buffer zone not owned by the Applicant. This language is included in Item No. 4 in the "Other Requirements" section of the draft permit. The Applicant has submitted a site map that indicates compliance with the 150-foot buffer zone requirements set out in TCEQ rules.

COMMENT 2:

Morris and Sheila Dubs are concerned about the proposed location of the wastewater treatment facility, and wondered why it could not be located in the northeast corner next to the flood plain. They do not see the need for the construction of a new wastewater treatment plant when the use of septic tank systems is prevalent in Carriage Hills. Margie and Matthew Godar, Gary and

Mercedes Jones, James G. Ryan, Daniel M. Kaldor, John E. Lester and Gayle E. Mitchel, H. D. Lowery, Dick and Gay Baskin, and Christian and Kristina Hansen, Patricia A. Finch, Lewis and Sharon Walker, Robert Morgan and Dr. Kara Lea Kern, and Douglas and Deeanna Heermann also object to the proposed location and state various alternate locations for the facility.

RESPONSE 2:

The process for reviewing an application for a domestic wastewater treatment facility includes a determination of compliance with location standards found in 30 TAC Chapter 309, Subchapter B. The purposes of the review are to minimize possible contamination of ground and surface waters; to define the characteristics that make an area unsuitable or inappropriate for a wastewater treatment facility; to minimize the possibility of exposing the public to nuisance conditions; and to prohibit issuance of a permit for a facility to be located in an area determined to be unsuitable or inappropriate, unless the design, construction, and operational features of the facility will mitigate the unsuitable site characteristics. The ED does not determine the method of wastewater treatment required by the applicant or the exact physical location of a wastewater treatment facility. The ED has concluded that the Applicant's proposed wastewater treatment plant complies with the TCEQ's location standards.

COMMENT 3:

Concerns about potential health hazards to humans and animals including potential runoff, contamination of a nearby creek, and increased mosquito population were expressed by Morris and Sheila Dubs, Christian and Kristina Hansen, James G. Ryan, H. D. Lowery, and Margie and Matthew Godar. Morris and Sheila Dubs are also concerned that the proposed volume of wastewater discharge could cause unintended environmental problems should there be flooding or torrential

rainfalls.

RESPONSE 3:

The water quality permitting process is intended to control the discharge of pollutants into water in the state and to protect the water quality of the state's rivers, lakes, and coastal waters. All discharges to surface water must comply with the Texas Surface Water Quality Standards in 30 TAC Chapter 307. The purpose of the TSWQS is to maintain the quality of water in the state and to protect aquatic life, human health and wildlife along the discharge route.

To ensure compliance with the TSWQS, the ED has proposed effluent limits in the draft permit. The effluent limitations will maintain and protect the existing instream uses. 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. Failure to comply with the requirements in the draft permit can subject the Applicant to enforcement actions, including administrative penalties.

As specified in the draft permit, the treated effluent will be disinfected through means of chlorination to remove harmful bacteria in the effluent. This facility will be designed with sufficient detention time to allow for disinfection. The draft permit includes effluent limitations and monitoring requirements to ensure that the disinfection is adequate.

The draft permit includes effluent limits and other requirements that the Applicant must meet even during rainfall events and periods of flooding. The Applicant must also maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, or retention of inadequately treated wastewater. In addition, the plans and specifications for domestic sewage collection and

treatment works associated with any domestic permit must be approved by TCEQ.

If an unauthorized discharge occurs, the Applicant is required to report it to TCEQ within 24 hours. The public may report suspected permit violations by calling the statewide toll-free number at 1-888-777-3186. Citizen complaints may also be filed on-line at <http://www.tnrcc.state.tx.us/cgi-bin/enforcement/complaints>. If the facility is found to be out of compliance with the terms or conditions of its permit or with TCEQ regulations, the facility is subject to enforcement action. In addition, Special Provision No. 7 requires the Applicant to provide for the protection of its wastewater treatment facilities from a 100-year flood.

COMMENT 4:

Dr. Kara Lea Kern and Robert Morgan, Jeanne Bonnette, Russell Banning, Bob Henderson, Charles Kaiser, James G. Ryan, H. D. Lowery, Lewis and Sharon Walker, Dick and Gay Baskin, Gary and Mercedes Jones, and Christian and Kristina Hansen are concerned about the facility's impact on their quality of life. They are also worried about the adverse effect on their property values. Christian and Kristina Hansen are also concerned about air quality and the visual effect of the facility.

Gary and Mercedes Jones, Russell Banning, James G. Ryan, H. D. Lowery, Dick and Gay Baskin, Douglas and Deeanna Heermann, Charles Kaiser, Bob Henderson, Matthew and Margie Godar, and Christian and Kristina Hansen are concerned about the potential for noise. Bob Henderson and H. D. Lowery are concerned about traffic issues.

RESPONSE 4:

Chapter 26 of the Texas Water Code (TWC) authorizes the Commission to issue permits for wastewater discharge facilities to maintain and protect water quality in the state. Potential effects on

property values, noise, and traffic issues are not considered in the review of a wastewater permit application.

The TWC, Chapter 26, does not provide for consideration of air emissions in regards to a water quality permit application. Air emission authorizations are handled by a separate program in the air permits division. In accordance with 30 TAC Section 106.531, air emissions from sewage treatment facilities are permitted by rule. 30 TAC Chapter 106 identifies certain type of facilities, including sewage treatment facilities, which the commission has determined will not make a significant contribution of air contaminants to the atmosphere pursuant to the Texas Health and Safety Code, the Texas Clean Air Act, Sections 382.057 and 382.05196.

The draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effect on human health or welfare, animal life, vegetation, or property. Also, to report complaints about the operation of the proposed facility should it be authorized, please contact the TCEQ Region 12 Office at (713) 767-3500 or call the Environmental Compliance Hotline at 1-888-777-3186.

COMMENT 5:

Patricia A. Finch states that the topographical map available for viewing is approximately 25 years old, and did not show the development of the Carriage Hills subdivision where she lives. She is requesting a new map which shows the current development and streets.

RESPONSE 5:

The Applicant is required to submit a USGS map which shows the Applicants's property boundary, point of discharge, highlighted discharge route, and treatment plant boundaries. There is

no USGS map that shows the Carriage Hills subdivision. The most current USGS map is older than the subdivision; therefore, the current USGS map would not affect the ED's review of the application. However, although not required to adequately determine the environmental impacts of the facility or discharge, the Applicant has agreed to submit a non-USGS map that includes the Carriage Hills subdivision.

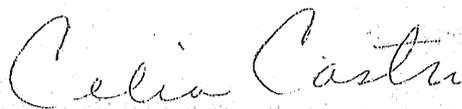
No changes to the draft permit have been made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Glenn Shankle
Executive Director

Robert Martinez, Director
Environmental Law Division



Celia Castro, Staff Attorney
Environmental Law Division
State Bar No. 03997350
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
(512) 239-5692
REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CHIEF CLERK'S OFFICE

NOV 10 PM 4:30

TEXAS
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ON ENVIRONMENTAL
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