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Bryan W. Shaw, Ph.D., *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 28, 2008

TO: Persons on the attached mailing list.

RE: Guadalupe-Blanco River Authority
TPDES Permit No. WQ0011496001

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 Tye Preston Memorial Library, 1321 Farm-to-Market Road 2673, Canyon Lake, Texas 78133.

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/er

Enclosures

MAILING LIST

for

Guadalupe-Blanco River Authority
TPDES Permit No. WQ0011496001

FOR THE APPLICANT:

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FOR THE EXECUTIVE DIRECTOR:

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PROTESTANTS/INTERESTED PERSONS:

See attached list.

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PROPOSED TPDES PERMIT NO. WQ0011496001

2008 JAN 22 PM 1:12

APPLICATION BY
GUADALUPE-BLANCO RIVER
AUTHORITY

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§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY CHIEF CLERKS OFFICE

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 (RTC) on Guadalupe-Blanco River Authority's (Applicant) application for Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0011496001 and the ED's preliminary decision. As required by Title 30 of the 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 the Chief Clerk received a timely comment letter from Dr. Seth Parker.

As required by TCEQ rules, this response addresses all such timely public comments received, even if those comments are withdrawn by the original commenter. 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

The Applicant is seeking a major amendment to TPDES Permit No. WQ0011496001 to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 100,000 gallons per day (gpd) to a daily average flow not to exceed 180,000 gpd in the Interim II Phase and a daily average flow not to exceed 260,000 gpd in the Final Phase. The current permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day. The existing wastewater treatment facility serves five resorts (440 connections), a car wash, one restaurant, and residential properties in the unincorporated area of Hancock.

The treated effluent is discharged to an unnamed creek; then to Canyon Lake in Segment No. 1805 of the Guadalupe River Basin. The unclassified receiving water uses are no significant aquatic life uses for the unnamed creek. The designated uses for Segment No. 1805 are exceptional aquatic life uses, public water supply, and contact recreation. The facility is located at 350 Parkview Drive, approximately 0.2 mile west of Farm-to-Market Road 306 and 3.5 miles southeast of the intersection of Farm-to-Market Road (FM) 306 and FM 484 in Comal County, Texas.

Procedural Background

The permit application was received on July 9, 2007 and declared administratively complete on August 23, 2007. The Notice of Application and Intent to Obtain Water Quality Permit (NORI) published August 29, 2007, in *Times Guardian*. The Notice of Application and Preliminary Decision (NAPD) was published November 21, 2007 in *Times Guardian Democrat*. The public comment period ended on December 21, 2007. This application is subject to the procedural requirements of House Bill 801, 76th Legislature, 1999.

COMMENTS AND RESPONSES

COMMENT 1:

Dr. Parker is concerned about the permitting process. Dr. Parker comments that by making a preliminary decision regarding whether to issue the permit, a decision maker's willingness to re-evaluate existing information and to accept and properly consider new information is limited. Dr. Parker comments that the public is more likely to think that their concerns are being heard if there is not a draft permit or a preliminary decision by the ED prior to taking public comment.

RESPONSE 1:

The public participation and notice process that TCEQ goes through before issuing a wastewater discharge permit can be found in TCEQ rules at 30 TAC, Chapter 55, Subchapter E (for applications received after 9/1/99) and 30 TAC, Chapter 39, Subchapters H and J. The first opportunity to provide comment is after the initial publication of the NORI (see Procedural Background section above), whose publication is required by the rules. During this time, TCEQ can receive comments about the proposed permit without existence of a draft permit and without approval of a draft permit.

Following the NORI, the ED is required to draft a permit and issue a preliminary decision. If the preliminary decision is to issue the permit, the Applicant publishes the NAPD. This opens an additional 30 day comment period for the public to comment on the actual conditions and requirements of the draft permit. If the ED recommends denial of a permit application, no NAPD is published. At the end of the comment period and after the two published notices, the ED prepares a response to public comment (this document in this case).

TCEQ rules also have an additional process if the public still has issues with the proposed permit. This proceeding is called a contested case hearing (CCH), which is a legal proceeding similar to a civil trial in a state district court. If a timely hearing request or request for reconsideration is filed, the ED will not issue final approval of the permit, but consideration of the hearing request or request for consideration will be set on a regularly scheduled Commission Agenda meeting. At the scheduled Agenda, TCEQ's commissioners will decide whether to refer the permit to the State Office of Administrative Hearings for a CCH or whether to deny the CCH request and issue the permit. TCEQ rules governing the requirements for requesting a CCH can be found in 30 TAC, Chapter 55, Subchapter F (for applications received after 9/1/99).

Additional instructions regarding requesting a CCH can be found in the cover letter of this document.

COMMENT 2:

Dr. Parker requests that the word "average" be removed from the statement in the permit that reads: "...to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 260,000 gallons per day." Dr. Parker is concerned that this means that one day the facility can discharge 420,000 gpd one day and 100,000 gpd the next, with the higher volume only being partially treated prior to discharge.

RESPONSE 2:

The term "Average" in the Daily Average Flow refers to the arithmetic average of all determinations of the daily flow within a period of one calendar month. By definition, this average flow consists of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily flow, the determination will be the arithmetic average of all instantaneous measurements taken during that month. Daily average flow determination for intermittent discharges consist of a minimum of three flow determinations on days of discharge. TCEQ believes that this method of determining flow of treated wastewater from the treatment facilities is the best available method of describing the actual flow condition.

Additionally, regardless of the amount discharged on any given day, the Applicant is required to meet the effluent limitations at the discharge point for all discharges. The effluent limitations in the draft permit, based on a 30-day average for interim Phase I are 7 milligrams per liter (mg/l) 5-day carbonaceous biochemical oxygen demand (CBOD₅), 15 mg/l total suspended solids (TSS), 2 mg/l ammonia nitrogen (NH₃-N), 1.0 mg/l Total Phosphorus and 4.0 mg/l minimum dissolved oxygen. The effluent limitations in the interim Phase II and the final phase are 5 mg/l CBOD₅, 5 mg/l TSS, 2 mg/l NH₃-N, 1.0 mg/l Total Phosphorus and 4.0 mg/l minimum dissolved oxygen. In all phases, 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.

COMMENT 3:

Dr. Parker comments that his review of Canyon Lake maps indicate that the normal lake level depth, the effluent will be discharged into a shallow part of the lake and if the lake level drops below normal the effluent will be less diluted due to the smaller quantity of water in the lake.

RESPONSE 3:

The shallow depth of Canyon Lake in the cove receiving the discharge from this facility was recognized by TCEQ Staff and factored into the dissolved oxygen modeling of this discharge. Depth information used in the modeling of the cove came from the Texas Water Development Board.

COMMENT 4:

Dr. Parker comments that for public health safety someone with the authority to close the lake to boating and swimming in the area where the discharge occurs needs to monitor water quality.

RESPONSE 4:

The Applicant is required to analyze the treated effluent prior to discharge and provide monthly reports to TCEQ that include the results of the analyses. All samples must be collected and analyzed according to 30 TAC Chapter 319, Subchapter A, Monitoring and Reporting System. The draft permit requires the Applicant to sample outflow five times per week by instantaneous measurement, to see if they are meeting the effluent limitations noted in the previous response for CBOD₅, TSS, and NH₃-N. Additionally, the Applicant must by test minimum dissolved oxygen once per week and the chlorine residual five times per week by grab sample.

The Applicant is required to take certain steps to minimize the possibility of an accidental discharge of untreated wastewater. For example, the Applicant must 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. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by TCEQ. Failure to secure TCEQ approval before starting construction of a wastewater treatment plant or operation is a violation of TCEQ rules.

Moreover, the Applicant is required to report any unauthorized discharge to TCEQ within 24 hours. If the Applicant fails to report the unauthorized discharge to TCEQ within the prescribed time period, the Applicant will be subject to enforcement by TCEQ. At the time of any accidental discharge, TCEQ and other local governmental entities will determine whether nearby residents need to be notified of any leak or runoff based on the severity and potential health impact of the discharge. Failure to comply with TCEQ rules or the permit subjects the Applicant to TCEQ enforcement action.

TCEQ conducts periodic inspections of wastewater facilities and also conducts investigations based on complaints received from the public. To report complaints about the facility, please contact the San Antonio Regional Office at 210-490-3096, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. Complaints phoned in to the toll-free Environmental Complaints Hotline from Comal County are automatically routed to the San Antonio Regional Office. Citizen complaints may also be filed on-line at www.tceq.state.tx.us/compliance/complaints/index.html. The TCEQ investigates all complaints received. If the facility is found to be out of compliance with the terms and conditions of its permit, it will be subject to investigation and possible enforcement action. For more information regarding enforcement, please see TCEQ's web site at www.tceq.state.tx.us/ and click on "Compliance, Enforcement and Cleanups."

COMMENT 5:

Dr. Parker comments that in the interests of public safety, signs need to be posted at public beaches and boat ramps to warn them of the discharge; and notes such signage would not be a boost to tourism.

RESPONSE 5:

The draft permit requires that the effluent discharged meet Texas Surface Water Quality Standards. These standards require the discharges do not impact the designed uses of Canyon Lake. In this case, the designated uses are exceptional aquatic life uses, public water supply, and contact recreation (e.g. swimming). Response #4 generally outlines the public health safeguards that are built into the draft permit and TCEQ rules. However, warning signs are not required in TCEQ rules for this type of discharge.

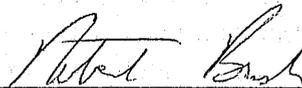
No changes to the draft permit have been made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Glenn Shankle
Executive Director

Robert Martinez, Director
Environmental Law Division

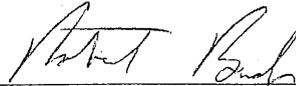


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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on January 22, 2008, the "Executive Director's Response to Public Comment" for Permit No. WQ0011496001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



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