Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Glenn Shankle, *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 4, 2008

TO: Persons on the attached mailing list.

RE: City of Castroville
TPDES Permit No. WQ0010952001

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 Castroville City Hall, 1209 Fiorella Street, Castroville, 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/er

Enclosures

MAILING LIST
for
City of Castroville
TPDES Permit No. WQ0010952001

FOR THE APPLICANT:

Elva Miranda
City of Castroville
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Castroville, Texas 78009

Bruce Alexander
City of Castroville
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Castroville, Texas 78009

Gustavo Gonzalez, P.E
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FOR THE EXECUTIVE DIRECTOR:

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Amewusika Aku-Clara Dake, Technical Staff
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FOR OFFICE OF PUBLIC ASSISTANCE:

Bridget Bohac, Director
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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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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

PROTESTANTS/INTERESTED PERSONS:

See attached list.

ROSE ALDAPE
3706 ANACONDA DR
SAN ANTONIO TX 78228-2523

DAVID O CHAVEZ
PO BOX 999
CASTROVILLE TX 78009

ARTHUR GOOCH
15943 COUNTY ROAD 582
LA COSTE TX 78039-2405

OLGA N ANGELES
5423 MAGNES ST
SAN ANTONIO TX 78227-2234

SULA COMBS
PO BOX 208
CASTROVILLE TX 78009-0208

JARI GRAMS
3946 VIEWSITE DR
SAN ANTONIO TX 78223-2862

CHRISTINA BARBEE
CASTROVILLE NEWS-BULLETIN
501 MADRID ST
CASTROVILLE TX 78009

CONCERNED CITIZEN
PO BOX 580
LA COSTE TX 78039

CLINTON GROFF
2381 CR 4713
LA COSTE TX 78039

STEPHEN L BECERRA
PO BOX 303
LA COSTE TX 78039

BRITTNEY CONN
210 PR 5753
LA COSTE TX 78039

SIDNEY GROFF
2381 CR 4713
LA COSTE TX 78039

EVANGELINE BIPPERT
13898 W US HWY 90
SAN ANTONIO TX 78245

MEG CONNER
811 WASHINGTON ST
CASTROVILLE TX 78009-3833

JANICE HABY
217 MAY ST
CASTROVILLE TX 78009

BRENDA BOWMAN
8222 OLD PEARSALL RD
SAN ANTONIO TX 78252

MICHAEL & RITA R COPP
PO BOX 459
LA COSTE TX 78039

JOHN HALL
479 CR 5711
LA COSTE TX 78039

CONSUELO & ROBERTO CHAPA
NO 20
244 CR 579
LA COSTE TX 78039

LAUREL D'ORSOGNA
PO BOX 302
LA COSTE TX 78039-0302

JENNIFER & RUSSELL HINSON
1639 CR 4713
LA COSTE TX 78039

ISAC CHAPA
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SAN ANTONIO TX 78207-5119

BERNARD ECHTLE
15241 GROSS LN
LA COSTE TX 78039-9419

RUSSELL HINSON
1639 CR 4713
LA COSTE TX 78039-1703

ROBERTO L CHAPA
244 COUNTY ROAD 579
LA COSTE TX 78039-2001

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4102 CLIFF RUN
SAN ANTONIO TX 78222-2731

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3090 COUNTY ROAD 4713
LA COSTE TX 78039-2105

ROBERTO L CHAPA
CR 579 #20 LOWER LA COSTE
LA COSTE TX 78039

MARIO GARCIA
807 SW 40TH ST
SAN ANTONIO TX 78237-3303

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3090 CR 4713
LA COSTE TX 78039

PATRICK HITZFELDER
2686 CR 4713
LA COSTE TX 78039

RODNEY HITZFELDER
3250 CR 4713
LA COSTE TX 78039

ROYCE HITZFELDER
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LA COSTE TX 78039

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JANIS & JANIS HUNT
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CASTROVILLE TX 78009

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LA COSTE TX 78039

VIRGIL JUNGMAN
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LA COSTE TX 78039

CURTIS KELLER
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LA COSTE TX 78039

JOSEPH KELLER
PO BOX 213
LA COSTE TX 78039

FRANKIE KEMPF
1814 CONSTANTINOPLE
CASTROVILLE TX 78009

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LA COSTE TX 78039-2000

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CASTROVILLE TX 78009

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SAN ANTONIO TX 78245

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LA COSTE TX 78039-1906

MATT MANGOLD
16011 GARDEN ST
LA COSTE TX 78039-1906

SHANE MENCHACA
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211 CR 579
LA COSTE TX 78039

N TERRY MONDAY
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LA COSTE TX 78039

JAMES MUELLER
PO BOX 670
LA COSTE TX 78039

JOHN MUELLER
PO BOX 670
LA COSTE TX 78039

ROSAELIA G NAVARRE
19354 FM 471 S
NATALIA TX 78059-2341

RAY PACKARD
3310 CR 3713
LA COSTE TX 78039

CHERYL & DAVID PARKER
PO BOX 595
LA COSTE TX 78039

JOHN H RAMSEY
19354 FM 471 S
NATALIA TX 78059-2341

ERBEY RENDON III
PO BOX 756
CASTROVILLE TX 78009

LUCILLE & RAY RESPONDEK
2330 ESTATE GATE DR
SAN ANTONIO TX 78260-2208

DONNA L SCHUELING
PO BOX 507
CASTROVILLE TX 78009

RODNEY REUS
908 COUNTY ROAD 5711
LA COSTE TX 78039-1802

KAREN DALGLISH SEAL
LAW OFFICE
202 E PARK AVE
SAN ANTONIO TX 78212-4330

STEPHEN REUS
728 CR 5711
LA COSTE TX 78039

JANET STOCK
816 CR 5711
LA COSTE TX 78039-1801

JERRY RIHN
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LA COSTE TX 78039-0624

STEVE STROUDT
380 CR 6751
DEVINE TX 78016

STANLEY RIHN
279 CR 579
LA COSTE TX 78039

R L WAGNER
479 CR 5711
LA COSTE TX 78039

BRYAN ROYAL
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JIM WARNKE
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LA COSTE TX 78039-2109

CHRISTI & TODD RUDEWICK
16695 STATE HIGHWAY 16 S
SAN ANTONIO TX 78264-3402

DENNIS WENGENROTH
3212 COUNTY ROAD 4713
LA COSTE TX 78039-2106

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MCGREGOR TX 76657-0336

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ROBERT ZIEBELL
1813 SAN JACINTO ST
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2634 CR 4713
LA COSTE TX 78039

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

PROPOSED AMENDMENT TO TCEQ TPDES PERMIT NO. WQ0010952001

2008 FEB 26 PM 2:05

Application By	§	**Before the**
City of Castroville for an Amendment to	§	**TEXAS COMMISSION ON**
TPDES Permit No. WQ0010952001	§	**ENVIRONMENTAL QUALITY**

CHIEF CLERKS OFFICE

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 of the City of Castroville, (Applicant) for a major amendment to Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010952001, and the Executive Director's preliminary decision on the application. Pursuant to 30 Texas Administrative Code (TAC) Section 55.156, before an application is approved and a permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk timely received comment letters and comments at the public meeting from the following persons: Rose Aldape, Evangeline Bippert, Brenda Bowman, Roberto L. and Consuelo Chapa, David O. Chavez, Brittney Conn, Laurel D'Orsogna, Clinton Groff, Sidney Groff, Janice Haby, John Hall, Russell and Jennifer Hinson, Anna Mae Hitzfelder, Patrick Hitzfelder, Royce Hitzfelder, Janis Hunt, Debra L. Jungman, Virgil Jungman, Curtis Keller, Joseph Keller, Ladislaus J. Kowalik, Albert Krueger, Crystal M. Krueger, Cynthia L. Lange, Constance E. Mangold, Matt Mangold, Shane Menchaca, Loretta Moczygemba, James Mueller, John Mueller, Rosaelia G. Navarre, Ray Packard, David and Cheryl Parker, John H. Ramsey, Rodney Reus, Stephen Reus, Jerry Rihn, Stanley Rihn, Bryan Royal, Ike Salinas, Joseph D. Schott, Donna L. Schueling, Janet Stock, R. L. Wagner, Jim Warnke, Dennis Wengenroth, Ray Youngblood, Michael S. Copp and Rita R. Copp, Robert Ziebell, Rodney Hitzfelder, Concerned Citizen at 3212 CR 4713, LaCoste, Texas 78039, Concerned Citizen at 1003 S. San Eduardo, San Antonio, Texas 78237, and Concerned Citizen at P.O. Box 580, LaCoste, Texas 78039, collectively referred to as "Interested Persons." On January 24, 2008, N. Terry Monday filed a late comment. This response addresses all 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

The City of Castroville, has applied to the TCEQ for a major amendment to its Texas Land Application Permit (TLAP), Permit No. 10952-001, to change from disposal via irrigation at a daily average flow not to exceed 350,000 gallons per day to discharges into water in the state at a daily average flow not to exceed 900,000 gallons per day. The proposed draft permit is structured in four phases. In the Interim I phase only, the draft permit authorizes the disposal of

the treated effluent at a daily average flow not to exceed 350,000 gallons per day via surface irrigation of 26.6 acres of a public access park, and 166.8 acres of non-public access pastureland. Application rates shall not exceed 2.03 acre-feet per year per acre irrigated. The draft permit authorizes the discharge of treated domestic wastewater at a volume not to exceed a daily average flow of 350,000 gallons per day in Interim II phase; at a volume not to exceed a daily average flow of 450,000 gallons per day in Interim III phase; and at a volume not to exceed a daily average flow of 900,000 gallons per day in the final phase.

The effluent limitations in the Interim I phase of the draft permit, based on a 30-day average, are 20 mg/l BOD_5, and 20 mg/l TSS. The effluent limitations in Interim II, III, and the final phase of the draft permit, based on a 30-day average, are 10 mg/l BOD_5, 15 mg/l TSS, 1.0 mg/l Total Phosphorus, and 4.0 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 into an unnamed natural drainage swale; then to the Medina River below the Medina Diversion Lake in Segment No. 1903 of the San Antonio River Basin. The unclassified receiving water uses are no significant aquatic life use for the unnamed natural drainage swale. The designated uses for Segment No. 1903 are contact recreation, public water supply, and high aquatic life use.

Procedural Background

The amendment application for the City of Castroville was received on December 18, 2006 and declared administratively complete on February 13, 2007. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on March 8, 2007 in the *Hondo Anvil Herald.* The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on May 31, 2007 in the *Hondo Anvil Herald.* A public meeting was held on November 29, 2007 in the City of Castroville. The Notice of Public Meeting was published on October 25, 2007 in the *Hondo Anvil Herald.* The public comment period ended on November 29, 2007. This application was administratively complete on or after September 1, 1999; therefore, it is subject to the procedural requirements adopted pursuant to House Bill 801, (76th Legislature, 1999).

COMMENTS AND RESPONSES

COMMENT 1:

The Interested Persons commented that the proposed discharge will adversely affect the health and safety of the general public who utilize the Castroville Regional Park. They expressed concerns that the recreational interests in the Medina River watershed would be affected. They stated that the park is used by the general public, including children for activities such as soccer, high contact recreation activities including swimming, fishing, hiking, and permitted boating. They commented that the volume of discharge will cause serious groundwater and surface water impacts for the personal, agricultural, and business interests in the Medina River watershed. They stated that Medina River is designated as one of the State's most pristine rivers.

RESPONSE 1:

The proposed draft permit was developed to protect aquatic life, human health and the environment in accordance with the Texas Surface Water Quality Standards. As part of the permit application process, the Executive Director must determine the uses of the receiving water and set effluent limits that are protective of those uses. The effluent limits in the draft permit are set to maintain and protect the existing instream uses. In this case, the treated wastewater from the plant will be discharged into an unnamed natural drainage swale; then to the Medina River below the Medina Diversion Lake in Segment No. 1903 of the San Antonio River Basin. The unclassified receiving water uses are no significant aquatic life use for the unnamed natural drainage swale. The designated uses for Segment No. 1903 are contact recreation, public water supply, and high aquatic life use. The permit is intended to protect these uses.

The proposed draft permit includes effluent limitations and monitoring requirements for 5-day Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), Total Phosphorus, minimum Dissolved Oxygen (DO), Chlorine Residual, and pH to ensure that discharges from the wastewater treatment plant meet water quality standards for the protection of surface water, groundwater, and human health in accordance with TCEQ rules and policies. The proposed draft permit includes requirements for the disposal of domestic sludge generated from the wastewater treatment facility based on TCEQ rules. The Executive Director expects that human health and the environment will be protected if the Applicant operates and maintains the facility as permitted and in accordance with TCEQ rules. The Executive Director has determined that the proposed draft permit is protective of the environment, water quality, and human health in accordance with TCEQ rules and requirements. Any noncompliance with the terms of the proposed draft permit could result in enforcement action against the Applicant.

COMMENT 2:

The Interested Persons commented that the permit application did "not consider the Texas Parks and Wildlife review and survey of affected wildlife including aquatic species, or the Federal Endangered Species Act."

RESPONSE 2:

No priority watershed of critical concern has been identified in Segment No. 1903. The facility associated with this permit action is located within Medina County, and the Peck's Cave Amphipod (*Stygobromus pecki*), Comal Springs Dryopid Beetle (*Stygoparnus comalensis*), and the San Marcos Springs Salamander (*Eurycea nana*) are listed in the county. However, they are listed for the county only because they potentially occur within the watersheds in the county due to recharge features of the Edwards Aquifer. This facility is located below the recharge zone. Accordingly, the discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic dependent species, proposed species, or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System (TPDES; September 14, 1998; *updated*, October 21, 1998). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic

dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species.

COMMENT 3:

The Interested Persons commented that the application did not adequately address public comments regarding a major discharge into "a State of Texas river" (Medina River).

RESPONSE 3:

This document provides response to all relevant and material, or significant public comment (formal or informal, written or oral) received during the public comment period between March 8, 2007, (when the NORI was published) and November 29, 2007, (when a public meeting was held to receive comments on this application).

COMMENT 4:

The Interested Persons stated that the proposed discharge in the draft permit violates the "Federal Water Quality Act.[1]"

RESPONSE 4:

The draft permit for this facility was prepared in compliance with the requirements of Section 402 of the Clean Water Act (CWA)[2] and the regulations promulgated by the United States Environmental Protection Agency (EPA) to implement the Act.[3] On September 14, 1998, EPA delegated the National Pollutant Discharge Elimination System to the State of Texas.[4] The State of Texas accordingly enacted laws and regulations instituting the Texas Pollutant Discharge Elimination System. The discharges authorized by this permit comply with the CWA, the TPDES permits, the Texas Surface Water Quality Standards, and the TCEQ rules and regulations relating to water quality.

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[1] The Executive Director assumes that the Interested Persons are referring to the Federal Water Pollution Control Act (FWPCA) or the federal Clean Water Act (CWA), 33 U.S.C.A. §§ 1251-1387 as amended. The response to Comment No. 4 is provided in the context of the FWPCA or CWA. All references to the CWA refer to 33 U.S.C.A. §§ 1251-1387 as amended.

[2] 33 U.S.C.A. § 1342.

[3] Specifically, see 40 Code of Federal Regulations (CFR), Part 123 as it relates to state program requirements.

[4] See Memorandum of Agreement Between the Texas Natural Resources Conservation Commission and the U.S. Environmental Protection Agency, Region 6, Concerning the National Pollutant Discharge Elimination System (September 14, 1998).

COMMENT 5:

The Interested Persons stated that the proposed discharge will impact natural resources of the Medina River. They stated that this is the time to protect their natural heritage by not allowing pollution of surface waters that would follow their children and all future generations. **Mr. Robert Ziebell** stated that he owns property in Castroville that is downstream from the Castroville sewage plant, on the Medina River. He stated that over the last seven years he has seen the quality of water continue to decline and become choked with algae and other pollutants that aggravate such growth in the river. **Loretta Rihn Moczygemba** commented that she was concerned for the children who swim in Medina River and would like to know the types of chemicals going into the river.

RESPONSE 5:

All permits under the TPDES program are written to contain effluent limitations that protect existing uses and preclude degradation of existing water quality. The proposed draft permit was developed to protect aquatic life, human health and the environment in accordance with the Texas Surface Water Quality Standards. As part of the permit application process, the Executive Director must determine the uses of the receiving water and set effluent limits that are protective of those uses. The effluent limits in the draft permit are set to maintain and protect the existing instream uses. The proposed draft permit includes effluent limits and monitoring requirements to ensure that discharges from the wastewater treatment plant meet water quality standards for the protection of surface water, groundwater, and human health in accordance with TCEQ rules and policies. In this case, the treated wastewater from the plant will be discharged into an unnamed natural drainage swale; then to the Medina River below the Medina Diversion Lake in Segment No. 1903 of the San Antonio River Basin. The unclassified receiving water uses are no significant aquatic life use for the unnamed natural drainage swale. The designated uses for Segment No. 1903 are contact recreation, public water supply, and high aquatic life use. The Executive Director determines that these uses will be protected if the facility is operated and maintained as required by the proposed permit and TCEQ regulations.

The proposed discharge would consist of domestic municipal wastewater. The permit application indicates that the plant will treat only municipal domestic wastewater. The numeric effluent limitations in the draft permit for Interims II, III, and the final phase based on a 30-day average, are 10 mg/l BOD5, 15 mg/l TSS, 1.0 mg/l Total Phosphorus, 4.0mg/l 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 Applicant is prohibited from "accepting or generating wastes which are not described in the permit application or which would result in a significant change in the quantity or quality of the existing discharge," without prior notice to the Commission. The Applicant must report the proposed changes to the Commission and "must apply for a permit amendment reflecting any necessary changes in permit conditions, including effluent limitations for pollutants not identified and limited by this permit." See Permit Condition No. 4(d). This facility will be permitted to accept, store and process only domestic wastewater. Acceptance of any other waste is unauthorized.

COMMENT 6:

The Interested Persons stated that the "proposed discharge location is into a man-made open ditch that currently serves as an over flow channel for the current effluent ponds." They commented that the drainage swale is not a natural stream. They indicated that the channel is in violation of current discharge permits that require effluent to be treated before being pumped on to land.

RESPONSE 6:

The application submitted to the TCEQ indicated that the discharge was into an unnamed natural drainage swale. The fact that the drainage ditch or swale is man-made or naturally occurring does not affect the permit application process as long as it is surface water in the state. If the drainage ditch or swale is man-made, and receives surface water or runoff, the water would be considered surface water in the sate. Texas Surface Water Quality Standards apply to all surface waters in the state.

The current permit requires effluent to be treated before being land applied for irrigation. The permit authorized the permittee to dispose of treated domestic wastewater effluent via surface irrigation not to exceed a daily average flow of 350,000 gallons. The permit prohibits the unauthorized discharge of wastewater or any other waste. Permit Condition, No. 2(g) defines unauthorized discharge as "any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Special Provisions section" of the current permit. Under Special Provision, No. 5 in the current permit, "wastewater shall not be applied for irrigation during rainfall events or when the ground is frozen or saturated." Special Provision, No. 4 in the current permit states that irrigation practices shall be designed and managed so as to prevent ponding of effluent or contamination of ground and surface waters and to prevent the occurrence of nuisance conditions in the area. Tailwater control facilities shall be provided as necessary to prevent the discharge of any wastewater from the irrigated land." Any deviation from the discharges authorized in the current permit would constitute a noncompliance for which an enforcement action can be brought against the Applicant. To file an environmental complaint against this or any other entity regulated by the TCEQ, please visit our website at www.tceq.state.tx.us/compliance/complaints/index.html and complete our online form. You may also report a complaint by sending us an e-mail at cmplaint@tceq.state.tx.us, or by calling us toll-free at 1-888-777-3186.

COMMENT 7:

The Interested Persons expressed concern that the Applicant has a record of violations of its current permit "with untreated sewage being discharged into the Medina River." They stated that "a discharge permit must not be granted to an entity with such records of violations under the current permit."

RESPONSE 7:

The Commission must consider the Applicant's compliance history in an application to renew or amend a permit. Compliance with all permit conditions is required under the Applicant's current permit, and failure to comply could result in the denial of a permit amendment. In this case, the ED has considered the Applicant's compliance history and finds nothing in the compliance history that would justify the denial of the instant amendment application.

A review of the compliance history for the Applicant reveals that the facility has an "average" classification with a rating of 2.55. In addition to conducting periodic inspections of wastewater treatment facilities, the TCEQ regional office conducts investigations based on complaints received from the public. The facility under consideration was investigated on May 22, 2003, June 24, 2005, January 1, 2006, September 28, 2007, and January 14, 2008. Between December 18, 2002, and February, 2008, the facility received only one written notice of violation (NOV) for a minor noncompliance for failure to obtain necessary authorization to expand or upgrade the wastewater treatment facility and/or collection facilities.

TCEQ investigates noncompliance with TCEQ rules or permit. A noncompliance may result in the Applicant receiving an NOV. If violations are discovered, they may be resolved by the TCEQ Field Operations Division or referred to the TCEQ Enforcement Division for formal enforcement proceedings. Under Section 7.052 of the Texas Water Code, a maximum administrative penalty of $10,000 per day per violation may be assessed against a noncompliant entity. Interested Persons are encouraged to report any environmental violations by this or any other entity regulated by the TCEQ by calling toll-free 1-888-777-3186, or 1-210-490-3096 to reach the TCEQ regional office in your area, or by e-mail at cmplaint@TCEQ.state.tx.us.

COMMENT 8:

The Interested Persons contend that the application must consider all landowners within one mile upstream and downstream from any discharge point into the Medina River. They stated that the application incorrectly considered only three land owners who are within one mile downstream from the point of discharge. They maintain that there are landowners entitled to notice who were not provided notice of this application because the Applicant did not identify all the landowners within one mile radius of the point of discharge. **John Hall** commented that if the treated effluent will be discharged into the natural drainage swale, then the one mile radius ("buffer zone") should be calculated from the point of discharge into the swale. He indicated that additional landowners were excluded because the one mile radius was not calculated from the point of discharge into the swale. **R. L. Wagner** commented that the discharge point was "calculated to limit the number of affected parties who can" request a contested hearing. He indicated that the regional park owned by the Applicant should not be included in the calculation of the one mile radius (the calculation should start at the edge of the park where the treated wastewater is discharged into the river).

RESPONSE 8:

The Commission rules require the Applicant to submit an ownership map which shows the facility and each of its intake and discharge structures. "The map shall depict the approximate boundaries of the tract of land owned or to be used by the applicant and shall extend at least one mile beyond the tract boundaries sufficient to show . . . the ownership of tracts of land adjacent to the facility and within a reasonable distance from the proposed point or points of discharge." 30 TAC § 305.45(a)(6)(D). An application for a wastewater discharge permit "for the disposal of any waste into or adjacent to a watercourse . . . shall show the ownership of the tracts of land adjacent to the treatment facility and for a reasonable distance along the watercourse from the proposed point of discharge. The applicant shall list on a map, or in a separate sheet attached to a map, the names and addresses of the owners of such tracts of land as can be determined from the current county tax rolls or other reliable sources. The application shall state the source of the information." 30 TAC § 305.48(a)(2).

For most water quality applications, the agency prepares two public notices; the Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (NORI) (30 TAC § 39.551(b) and the Notice of Application and Preliminary Decision (NAPD) (30 TAC § 39.551(c). The applicant is required to publish these notices in the newspaper of largest circulation in the county where the facility is located. With respect to a facility located in a municipality, the applicant shall publish the notices in a newspaper of general circulation in the municipality. 30 TAC § 39.405(f)(1) and 39.418(b)(1). The Applicant is required to provide a copy of the application, proposed draft permit and the Executive Director's preliminary decision in a public place for viewing and copying. See 30 TAC §§ 405(g); 39.413; 39.418; and 39.419. Where applicable, Section 39.418(b)(2) requires the Office of the Chief Clerk to provide mailed notice of the NORI to the adjacent landowners named on the application map. See also, 30 TAC § 39.413(1). The Office of the Chief Clerk is required to provide mailed notice of the NAPD to the adjacent landowners named on the application map. The notice requirement for a water quality application does not require the Applicant or the Office of the Chief Clerk to provide mailed notice to every landowner within one mile radius of the facility. Adjacent landowners and downstream landowners within a reasonable distance along the watercourse are entitled to mailed notice. The Applicant identified 19 adjacent and downstream property owners in the adjacent landowners' map attached to the application. Lastly, the draft permit does not authorize the Applicant to discharge treated wastewater into tidally affected water, therefore there is no requirement to consider landowners one mile upstream from the point of discharge.

The Applicant does not determine who is an "affected person" for purposes of requesting a contested case hearing. Any individual or entity potentially affected by the activities to be conducted under the application may request a contested case hearing under Chapter 55 of the Commission rules. The Commissioners will determine the merits of each person's claim and make a determination as to whether the person qualifies as an affected person entitled to a contested case hearing under the rules.

COMMENT 9:

The Interested Persons stated that the application does not address alternative beneficial reuse options available to the Applicant, such as wastewater irrigation of adjacent lands. They questioned why the wastewater cannot be recycled for other agricultural uses. They indicated that recycled water could be of great benefit for the immediate region and have not been fully researched. **Mr. John Hall** cited Marble Falls as an example of a city utilizing its wastewater for beneficial reuse for irrigation purposes.

RESPONSE 9:

The Texas Water Code, Section 26.027, authorizes the TCEQ to issue permits for discharges into water in the state. The Executive Director does not have the authority to mandate beneficial reuse of wastewater, different discharge location, or a different type of wastewater treatment plant. The Executive Director evaluates applications for wastewater treatment plants based on the information provided in the application. The Executive Director can recommend issuance or denial of an application based on whether the application complies with TCEQ regulations and water quality standards. It is the responsibility of the applicant to decide what to do with the effluent from the wastewater treatment plant consistent with the Texas Water Code and the Texas Surface Water Quality Standards. Under Chapter 210, Title 30 TAC, a permittee may obtain authorization to reuse its effluent if it has a permit.

In this case however, the Applicant is currently operating under a Texas Land Application Permit (TLAP) which authorizes disposal of wastewater via surface irrigation at a daily average flow not to exceed 350,000 gallons per day. Interim phase I of the proposed draft permit authorizes disposal of treated domestic wastewater at a daily average flow not to exceed 350,000 gallons per day via surface irrigation of 26.6 acres of a public access park and 166.8 acres of non-public access pasture land.

COMMENT 10:

The Interested Persons expressed concerns that the volume of discharge will cause serious groundwater problems which would affect the personal, agricultural, business and recreational interests in the Medina River watershed. **Mr. Rodney L. Reus** stated that he gets drinking water from a source which is the same depth as the river; and the well is approximately 100 yards from the river.

RESPONSE 10:

The Texas Water Development Board's (TWDB) records show that the groundwater used for public water supply (PWS), and the City of Castroville's PWS wells, comes from the Edwards Aquifer which produces groundwater from 700 feet to over 1,000 feet below ground level. The confining sediment layers between the surface and the Edwards Aquifer prevents the Edwards groundwater quality degradation from the wastewater discharge. Other water wells were located along the water course of the Medina River that produce shallow groundwater from 39 feet to 67 feet below ground level. This shallow groundwater is likely connected to the

surface water contained in the Medina River. The mixing and dilution of the wastewater discharged to the Medina River is not expected to pose a measurable water quality change in water wells producing groundwater adjacent to the Medina River used for agricultural or business purposes. In the interest of public safety, the agency would further recommend water treatment disinfection for anyone using surface water, or shallow groundwater that is in connection with surface water. This would treat elevated bacteria that occur from natural stormwater events resulting from precipitation runoff. Finally, the numeric effluent limits in the draft permit are set to protect water quality, the environment, and human health. The Executive Director expects that water quality will be protected if the Applicant operates and maintains the facility as permitted and in accordance with TCEQ rules.

COMMENT 11:

The Interested Persons requested that their names be added to the mailing list for this application and any application affecting water quality in Medina County.

RESPONSE 11:

In accordance with Sections 39.407 and 39.413(14) of the Commission rules, the Office of the Chief Clerk will add your names to the mailing list for this application. Section 39.407 requires the Office of the Chief Clerk to "maintain a list of persons requesting notice of an application," while Section 39.413 directs the Office of the Chief Clerk to provide mail notice to "persons who filed public comment or hearing requests on or before the deadline for filing public comment or hearing requests."

COMMENT 12:

Mr. Stanley Rihn stated that he lives three miles down the river from the proposed discharge and owns 121 acres of land that "goes to the river." He would like to know the quality of water after the effluent is discharged to the river for a prolonged period of time. **Mr. John Hall** asked if TCEQ will strive for the highest quality of water for all streams in the state of Texas, including the Medina, without regard to the streams location, the privileged cities and towns that are near its banks, or the money necessary for those cities and towns to bring the stream and rivers up to the highest state standard due to their discharge of waste effluent into them.

RESPONSE 12:

At three miles downstream of the proposed discharge, the quality of the water in the Medina River is predicted to be very close to background levels. Water quality model predicted concentrations of 6.0 mg/l DO, 1.6 mg/l BOD_5, and 0.6 mg/l ammonia nitrogen (NH3-N) are very similar to the background concentrations of 6.1 mg/l DO, 1.3 mg/l BOD_5, and 0.1 mg/l NH3-N. The Water Quality Assessment Team of TCEQ evaluates the dissolved oxygen impacts for every new, renewed, and amended wastewater permit at the discharger's final permitted flow, operating on a continuous basis, to meet the numerical criteria of the receiving waters. The

Medina River below the Medina Diversion Lake (Segment No. 1903) is not currently listed on the State's inventory of impaired and threatened waters.

In accordance with 30 TAC § 307.5 and the TCEQ implementation procedures (January 2003) for the Texas Surface Water Quality Standards, the Executive Director performed an antidegradation review of the receiving waters. A Tier I antidegradation review determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses are imposed as permit conditions in the proposed draft permit. A Tier II review determined that by adding permit requirements for a phosphorus limit of 1.0 mg/l to the permit, no significant degradation of water quality is expected in the Medina River below the Medina Diversion Lake. The Executive Director expects that existing uses in the Medina River below the Medina Diversion Lake will be maintained and protected if the Applicant operates and maintains the facility as permitted and in accordance with TCEQ rules.

COMMENT 13:

Mr. John Hall wanted to know the exact location of the point of discharge from the wastewater treatment facility.

RESPONSE 13:

The location of the point of discharge is defined in the permit application. The discharge point, as shown in the permit application, is approximately 0.8 km (0.5 mi) upstream of the swale's confluence with the Medina River.

COMMENT 14:

Mr. John Hall asked why TCEQ would allow the proposed effluent limitations of 20 mg/l BOD_5 and 20 mg/l TSS into the receiving water without raising the quality standard to the highest levels possible. Mr. Hall stated that New Braunfels and Kerrville had 5 mg/l BOD_5, 5 mg/l TSS, 2 mg/l Nitrogen and 1 mg/l Phosphorus limitations. Mr. Hall asked if TCEQ based criteria for the quality of effluent into the river on the quality of water in that river. **Mike and Rita Copp** requested that the effluent limitations and monitoring requirements be set consistent with all other discharge sites within the State of Texas. **Mr. Wagner** demands stricter effluent limits similar to the limits for New Braunfels and Kerrville.

RESPONSE 14:

The 20 mg/l BOD_5 and 20 mg/l TSS effluent set is only a temporary effluent set for the interim I phase. No discharges into waters in the state are authorized under this phase; the only authorized disposal with the effluent set above is via surface irrigation. The required effluent set in the draft permit of 10 mg/l BOD_5, 15 mg/l TSS, 1.0 mg/l Total Phosphorus, and 4.0 mg/l DO, are based on the impacts from the discharge and maintaining the numerical criteria of the unnamed drainage ditch, and the Medina River. Effluent limits for New Braunfels and Kerrville were not derived from water quality modeling. They were voluntarily requested (New Braunfels), or set by watershed rule (Kerrville).

COMMENT 15:

Mr. John Hall asked if TCEQ differentiates between the rivers of the State of Texas, as to which ones should have a higher quality of water, and a higher quality of effluent pumped into them.

RESPONSE 15:

The TCEQ, in the Texas Surface Water Quality Standards (§§307.1-307.10), identifies the designated segments (rivers) of the State of Texas and their associated different uses and criteria. The Texas Surface Water Quality Standards are revised every three years and are subject to public review and comment.

Generally, deterministic water quality modeling is done to recommend effluent limits to meet numerical criteria. Site specific uses and criteria are established based on the available information, and a preliminary determination of the aquatic life uses in the area. This is then used to assign aquatic life uses and to set the corresponding dissolved oxygen criterion for both classified segments, as well as unclassified water bodies. This regulatory action was based on the water quality standards which used background data specific to the Medina River. The antidegradation policy also requires that no activities subject to regulatory action will be allowed that lowers water quality by more than a de minimis extent with the one exception that it is shown to the Commission's satisfaction that the lowering of water quality is necessary for important economic or social development. The Applicant has not requested the economic or social development exception to the antidegradation policy.

COMMENT 16:

Mr. John Hall asked if TCEQ was allowing lower quality standard for the effluent due to City of Castroville's monetary situation.

RESPONSE 16:

Effluent limit recommendations are only based on impacts to the receiving waters. TCEQ is specifically prohibited from considering economic factors in setting water quality effluent limits. Also, as previously stated, there should be no lowering of water quality as a result of the proposed discharge.

COMMENT 17:

Mr. John Hall asked for clarification of the following statement: "The effluent limitations in the draft permit have been reviewed for consistency with the State of Texas Water Quality Management Plan (WQMP). The proposed effluent limitations are not contained in the approved WQMP." Mr. Hall asked if the statement means that TCEQ is contemplating changing a permit that does not have or meet effluent limitations.

RESPONSE 17:

The Applicant currently has a land application permit which does not authorize discharge into or adjacent to water in the state. The Applicant has now applied for a permit to be able to discharge treated domestic wastewater. If the application is approved, the Commission will issue a permit changing the City of Castroville's permit from a no discharge permit to a discharge permit.

The WQMP started referencing discharge permits since March 1, 2007. The Applicant does not currently have a discharge permit. It was not referenced in the State's WQMP at the time of the last permit action, on March 1, 2007. However, the Environmental Protection Agency (EPA) has since reviewed the proposed discharge and approved the draft effluent limits; as of July 2, 2007, the City of Castroville was included in the WQMP.

COMMENT 18:

Mr. John Hall asked what considerations TCEQ has made for the next severe drought where the Medina River dries up so that there is no flow.

RESPONSE 18:

Effluent limits are based on low flow conditions when effect on water quality is greatest. The EPA determined that critical low flow in the Medina River (Segment No. 1903) is 17.9 cfs (11.6) MGD. This is over 12 times greater than the proposed discharge of 900,000 gallons per day.

COMMENT 19:

Mr. John Hall asked what safeguards TCEQ and the City of Castroville have in place for noncompliance if the City of Castroville is allowed to discharge into the Medina River. He stated that the City of Castroville had exceeded the limit of the existing permit for BOD by 8% and TSS by 21% in the last 24 months. He warned about the possibilities of a catastrophe if City of Castroville is permitted to discharge treated wastewater into the Medina River from their current plant and their current effluent limits of 20 mg/l BOD5 and 20 mg/l TSS. He is concerned that the City of Castroville might exceed their effluent limitations by neglect or mechanical failure.

RESPONSE 19:

The Commission takes environmental noncompliance seriously. When noncompliance occurs, the Commission investigates the noncompliance and assesses a fine, penalty, or other sanctions as the situation warrants. The TCEQ Regional Office conducts periodic inspections of wastewater facilities and conducts investigations based on complaints received from the public. To report complaints about this or any other facility, please contact the TCEQ at 1-888-777-3186, or 1-210-490-3096 to reach the TCEQ Regional Office in your area, or by e-mail at cmplaint@TCEQ.state.tx.us. Noncompliance with TCEQ rules or permit may result in the

Applicant receiving a notice of violation. If violations are discovered, they may be resolved by the TCEQ's Field Operations Division or referred to the TCEQ Enforcement Division for formal enforcement proceedings. Under Texas Water Code (TWC), Section 7.052, a maximum administrative penalty of $10,000 per day per each violation may be assessed. TWC, Section 7.053 and TCEQ's Enforcement Policy and Guidelines delineate the factors TCEQ may consider when determining a penalty. A fine for an environmental violation will vary for a variety of reasons, including: the severity of the violation, the compliance history of the permittee, the permittee's degree of responsibility for the violation, and the permittee's good faith. For more information regarding TCEQ enforcement actions and procedures, please visit TCEQ's website at www.tceq.state.tx.us/ and click on "Compliance, Enforcement and Cleanups."

The Applicant is required to take certain steps to minimize the possibility of an accidental discharge of untreated wastewater. For example, Operational Requirement No. 4 in the proposed draft permit states that 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, and/or retention of inadequately treated wastewater. In addition, the plans and specifications for domestic sewage treatment works associated with any domestic wastewater permit must be approved by TCEQ. Permit Condition No. 2(d) in the proposed draft permit requires the Applicant to take all reasonable steps to minimize or prevent any discharge, disposal or other permit violation which has a reasonable likelihood of adversely affecting human health and the environment. Permit Condition No. 2(g) in the proposed draft permit states that there shall be no unauthorized discharge of wastewater or any other waste. These permit provisions are designed to help prevent unauthorized discharges of raw sewage. If an unauthorized discharge occurs, the Applicant is required to report it 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 an enforcement action by TCEQ. At the time of any accidental discharge, TCEQ and other local governmental entities will determine if nearby residents need to be notified of any leak or runoff based on the severity and potential health impact of the discharge.

The Applicant is required to maintain the quality and quantity of effluent in the permit. Permit Condition No. 4(d) in the proposed draft permit contains the following provision: "prior to accepting or generating wastes which are not described in the permit application or which would result in a significant change in the quantity or quality of the existing discharge, the permittee must report the proposed changes to the Commission. The permittee must apply for a permit amendment reflecting any necessary changes in permit conditions, including effluent limitations for pollutants not identified and limited by this permit."

The draft permit includes effluent limitations and monitoring requirements designed to ensure that treated effluent meets the Texas Surface Water Quality Standards for the protection of surface water and human health according to TCEQ rules and policies. The City of Castroville must meet all the design criteria in TCEQ rules; abide by all the permit conditions and requirements, including the numerical effluent limitations, monitoring and reporting, and prohibition against unauthorized discharges. Permit Condition No. 2(b) requires the Applicant to comply with all permit conditions. Failure to comply with any permit condition constitutes a

violation, and is ground for an enforcement action, denial of permit amendment or renewal, or permit revocation or suspension.

COMMENT 20:

Mr. Robert Ziebell asked how he could help the state to use the effluent for recycling. He asked if there are programs or motivation for the discharge to be used for recycling.

RESPONSE 20:

Information on recycling of wastewater may be found in 30 TAC Chapter 210. The Water Quality Division has personnel who conduct statewide seminars on the beneficial reuse or recycling of wastewater.

COMMENT 21:

Mr. Robert Ziebell asked if there was an overview of other communities upstream in terms of the amount of effluent being discharged, and if there was a maximum total standard for the Medina River.

RESPONSE 21:

When reviewing a permit application, technical staff (modeler) considers the cumulative impacts of all point source that discharges into the receiving waters. The cumulative impacts to the Medina River (Segment No. 1903) have been quantified. There are no other permitted point source discharges to the Medina River upstream of the City of Castroville. The maximum waste loading for the Medina River, Segment No. 1903 at this location is 813 lb/day Ultimate Oxygen Demand (UOD). The proposed discharge of 0.9 MGD and 10 mg/l BOD5 represents 563 lb/day UOD.

COMMENT 22:

Mr. R.L. Wagner objected to the proposed discharge through a natural drainage swale which goes through a public park used by children. Mr. Wagner admitted 24 photos to illustrate that the drainage swale does not have the capacity to carry the proposed 900,000 gallons per day. Mr. Wagner would like additional assurances regarding what would happen during flood events.

RESPONSE 22:

The proposed maximum discharge of 0.9 MGD in the final phase of this facility is predicted to increase the "natural drainage swale" to an average 0.7 feet deep and 25.3 feet wide. TCEQ has no jurisdiction to address flooding issues in the wastewater permitting process. The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes and coastal waters. The draft permit includes effluent limits and other requirements that the Applicant must meet even during rainfall events and periods of flooding. Other Requirement No. 4 in the draft permit requires the

Applicant to "provide facilities for the protection of its wastewater treatment facility from the 100-year flood." the Applicant indicates the facility is located above the 100-year flood plain. For flooding concerns, please contact the local flood plain administrator for your area. If you need help finding the local flood plain administrator, please call the TCEQ Resource Protection Team at 512-239-4691. The flood plain administrator for your area can request a low-interest loan for flood control protection from the Texas Water Development Board.

COMMENT 23:

Mr. R.L. Wagner questioned whether TCEQ does its job of public safety and requested assurances that it will. He asked about TCEQ fines and said he brought a news headline from the "Castroville Anvil" of October 18, 2007, which stated that "city assures that water is safe, despite notices from TCEQ." He indicated that he wanted the newspaper clip placed in the records to show that there are differences of opinion as to whether the agency does its job of "public safety."

RESPONSE 23:

The Texas Surface Water Quality Standards (30 TAC Chapter 307) state that "surface waters will not be toxic to man, or to terrestrial or aquatic life." The methodology in the "Implementation of the TCEQ Standards via Permitting" is designed to ensure that no source will be allowed to discharge any wastewater which: (1) results in instream aquatic toxicity; (2) causes a violation of an applicable narrative or numerical state water quality standard; (3) results in the endangerment of drinking water supplies, or (4) results in the aquatic bioaccumulation which threatens human health.

The Applicant is required to take certain steps to minimize the possibility of an accidental discharge of untreated wastewater. For example, Operational Requirement No. 4 in the proposed draft permit states that 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, and/or retention of inadequately treated wastewater. In addition, the plans and specifications for domestic sewage treatment works associated with any domestic wastewater permit must be approved by TCEQ. Permit Condition No. 2(d) in the proposed draft permit requires the Applicant to take all reasonable steps to minimize or prevent any discharge, disposal or other permit violation which has a reasonable likelihood of adversely affecting human health and the environment. Permit Condition No. 2(g) in the proposed draft permit states that there shall be no unauthorized discharge of wastewater or any other waste. These permit provisions are designed to help prevent unauthorized discharges of raw sewage. If an unauthorized discharge occurs, the Applicant is required to report it to the TCEQ within 24 hours. If the Applicant fails to report the unauthorized discharge to the TCEQ within the prescribed time period, the Applicant may be subject to enforcement. At the time of any accidental discharge, TCEQ and other local governmental entities will determine if nearby residents need to be notified of any leak or runoff based on the severity and potential health impact of the discharge.

As part of the application process, TCEQ must determine the uses of the receiving water and set effluent limits that are protective of those uses. The TCEQ Water Quality Assessment Section has determined that the proposed draft permit for the facility meets the requirements of the Texas Surface Water Quality Standards which are established to protect human health and terrestrial and aquatic life. In accordance with 30 TAC § 307.5 and the TCEQ implementation procedures for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. This review has preliminarily determined that no significant degradation of high quality waters is expected and that existing uses will be maintained and protected.

The draft permit in this case was developed to protect aquatic life and human health in accordance with the Texas Surface Water Quality Standards. The draft permit was established to be protective of human health and the environment provided the Applicant operates and maintains the facility according to TCEQ rules and the requirements in the permit. The Executive Director has determined that this draft permit would be protective of the environment, water quality, aquatic and terrestrial life, and human health. The draft permit includes effluent limitations and monitoring requirements designed to ensure that treated effluent meets the Texas Surface Water Quality Standards for the protection of surface water and human health according to TCEQ rules and policies.

Finally, the City of Castroville must meet all the design criteria in TCEQ rules; abide by all the permit conditions and requirements, including the numerical effluent limitations, monitoring and reporting requirements, and prohibition against unauthorized discharges. Permit Condition No. 2(b) requires the Applicant to comply with all permit conditions. Failure to comply with any permit condition constitutes a violation, and is ground for an enforcement action, denial of permit amendment or renewal, or permit revocation or suspension. The Commission takes environmental noncompliance seriously. When noncompliance occurs, the Commission investigates the noncompliance and assesses a fine, penalty, or other sanctions as the situation warrants.

The TCEQ Regional Office conducts periodic inspections of domestic wastewater treatment facilities and conducts investigations based on complaints received from the public. To report complaints about this or any other facility, please contact the TCEQ at 1-888-777-3186 or 1-210-490-3096 to reach the TCEQ Regional Office in your area or by e-mail at cmplaint@TCEQ.state.tx.us. Noncompliance with TCEQ rules or the permit may result in the Applicant receiving a notice of violation. If violations are discovered, they may be resolved by the TCEQ field operations Division or referred to the TCEQ Enforcement Division for formal enforcement proceedings. Under Texas Water Code (TWC), Section 7.052, a maximum administrative penalty of $10,000 per day per each violation may be assessed. TWC, Section 7.053 and TCEQ's Enforcement Policy and Guidelines delineate the factors TCEQ may consider when determining a penalty. A fine for an environmental violation will vary for a variety of reasons, including: the severity of the violation, the compliance history of the permittee, the permittee's degree of responsibility for the violation, and the permittee's good faith. For more information regarding TCEQ enforcement actions and procedures, please visit TCEQ's web site at www.tceq.state.tx.us/ and click on "Compliance, Enforcement and Cleanups."

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

No changes were made to the proposed draft permit in response to public comments.

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 February 26, 2008, the "Executive Director's Response to Public Comment" for TPDES Permit No. WQ0010952001 was filed with the Office of the Chief Clerk, Texas Commission on Environmental Quality.

Chris Ekoh, Staff Attorney
Environmental Law Division
State Bar No. 06507015

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2008 FEB 26 PM 2:05
CHIEF CLERKS OFFICE