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

December 12, 2007

TO: Persons on the attached mailing list.

RE: City of Galveston
TPDES Permit No. WQ0010688005

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 City Hall, 823 Rosenberg Avenue, Room 205, Galveston, 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/mr

Enclosures

MAILING LIST
for
City of Galveston
TPDES Permit No. WQ0010688005

FOR THE APPLICANT:

Steve LeBlanc
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PROTESTANTS/INTERESTED PERSONS:

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Houston, Texas 77002

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FOR OFFICE OF PUBLIC ASSISTANCE:

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FOR PUBLIC INTEREST COUNSEL:

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FOR THE CHIEF CLERK:

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Texas Commission on Environmental Quality
Office of Chief Clerk MC-105
P.O. Box 13087
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TEXAS
COMMISSION
ON ENVIRONMENTAL
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CHIEF CLERKS OFFICE

Proposed Amendment of TPDES Permit No. WQ0010688005

Application by the	§	Before the
CITY OF GALVESTON	§	**TEXAS COMMISSION ON**
for **TPDES Permit No. WQ0010688005**	§	**ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the application by the City of Galveston (Applicant) for a major amendment to Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0010688005 and on the Executive Director's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code, Section 55.156, before a permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant, comments. The Office of Chief Clerk timely received a comment letter from **Anthony Osso** (representing Terramar Home Owners Association). This Response addresses all comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

BACKGROUND

Description of Facility

The City of Galveston has applied to the TCEQ for a major amendment to its TPDES permit that would authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 0.50 millions gallons per day to an annual average flow not to exceed 1.0 million gallons per day. The Terramar Wastewater Treatment Facility is an activated sludge process plant operated in the extended aeration mode. Treatment units in the interim and final phases include sequencing batch reactors, sludge digesters, and chlorine contact chambers. The facility is operating in the interim phase. The facility is located approximately 4.5 miles north of the San Luis Bridge and 1,900 feet west of the San Luis Pass Road (Farm-to-Market 3005) in Galveston County, Texas. The treated effluent is discharged via pipeline into West Bay in Segment No. 2424 of the Bays and Estuaries. The designated uses for Segment 2424 are high aquatic life uses, oyster waters, and contact recreation.

Procedural Background

The application was received on February 28, 2007, and declared administratively complete on May 21, 2007. Notice of Receipt of Application and Intent to Obtain a Water Quality Permit

(NORI) was published June 15, 2007, in the *Galveston County Daily News*. The TCEQ Executive Director completed the technical review of the application on August 16, 2007, and prepared a draft permit. Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD) was published September 7, 2007, in the *Galveston County Daily News* and the comment period closed October 8, 2007. This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801 (76th Legislature, 1999).

Access to Rules, Laws and Records

Secretary of State website for all administrative rules: www.sos.state.tx.us
TCEQ rules in Title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac/ (select "TAC Viewer" on the right, then "Title 30 Environmental Quality")
Texas statutes: www.capitol.state.tx.us/statutes/statutes.html
TCEQ website: www.tceq.state.tx.us (for downloadable rules in WordPerfect or Adobe PDF formats, select "Rules, Policy, & Legislation," then "Rules and Rulemaking," then "Download TCEQ Rules")
Federal rules in Title 40 of the Code of Federal Regulations: www.epa.gov/epahome/cfr40.htm
Federal environmental laws: www.epa.gov/epahome/laws.htm

Commission records for this facility are available for viewing and copying and are located at TCEQ's main office in Austin, 12100 Park 35 Circle, Building E, Room 103 (Central Records, for existing or past permits), or Building F, 1st Floor (Office of Chief Clerk, for the current application until final action is taken), and at TCEQ's Region 12 Office in Houston at 5425 Polk St., Ste. H, in Houston. The application for this facility has been available for viewing and copying at Galveston City Hall, 823 Rosenberg Avenue, Room 205, in Galveston, Texas since publication of the NORI and the application draft permit, statement of basis/technical summary, and Executive Director's preliminary decision have been available for viewing and copying at the same location since publication of the NAPD.

If you would like to file a complaint about the facility concerning its compliance with provisions of its permit or with TCEQ rules, you may contact the Agency at 1-888-777-3186 or you may contact the TCEQ Region 12 Office at 713-767-3500. Citizen complaints may also be filed on-line at the TCEQ website (select "Reporting," then "Reporting Environmental Problems," then "Reporting an Environmental Complaint"). If the facility is found to be out of compliance it will be subject to enforcement action.

COMMENTS and RESPONSES

COMMENT 1

Anthony Osso presented concerns regarding the existing treatment and compliance history since there had been several instances of plant failure during the past 12 months resulting in emissions of obnoxious odors and solid waste into the environment.

RESPONSE 1

To the Executive Director's knowledge, the Applicant has notified TCEQ of all violations immediately upon occurrence. The current plant went on line in September 2006. The new equipment experienced a broken force main and two power failures since that time. The sequencing batch reactors causing the first problem have been fixed and are now working well with the variable flow from the beach homes. These and all previous violations and inspection deficiencies have been classified as moderate or minor. This facility has a compliance rating and classification of 0.33 Average. The City of Galveston has an overall compliance rating and classification of 4.14 Average.

COMMENT 2

Anthony Osso questioned the identification of West Bay as having high aquatic life uses for the purpose of determining effluent standards and whether existing recreational contact had been taken into consideration in determining the existing standards.

RESPONSE 2

West Bay (Segment 2424) has been designated as having high aquatic life use and a corresponding dissolved oxygen criterion of 4.0 milligrams per liter in Appendix A of the Texas Surface Water Quality Standards (Texas Administrative Code, Title 30, Chapter 307). This dissolved oxygen criterion was used to calculate effluent limitations (such as biochemical oxygen demand) necessary to protect the designated aquatic life use in West Bay.

West Bay also has a designated use of contact recreation and a corresponding criterion of 14 colonies per 100 milliliters for Enterococci, a saltwater-specific indicator bacteria. The contact recreation use is protected in the permit by way of an effluent disinfection requirement.

COMMENT 3

Anthony Osso asked whether recreational contact required higher standards for any discharged wastewater as opposed to aquatic life use.

RESPONSE 3

Both uses are equally protected by the draft permit. The permit limitations necessary to protect the designated uses of aquatic life and contact recreation target different effluent parameters. In the draft permit, aquatic life uses in the bay are protected by limiting effluent parameters that affect dissolved oxygen levels in the receiving water, namely effluent concentrations of biochemical oxygen demand and dissolved oxygen. The bay's contact recreation use is protected through the permit's requirement of specific chlorine exposure times and residual concentrations for the treated effluent to help ensure the removal of potential pathogenic microorganisms.

No changes to the draft permit have been made.

Respectfully submitted,

Texas Commission on Environmental Quality

Glenn Shankle
Executive Director

Robert Martinez, Director
Environmental Law Division

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

CERTIFICATE OF SERVICE

I certify that on December 7, 2007, the "Executive Director's Response to Public Comment" for Permit No. WQ0010688005 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.

John E. Williams, Staff Attorney
Environmental Law Division
State Bar No. 24004991

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