

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 5, 2008

TO: Persons on the attached mailing list.

RE: City of Dripping Springs
TPDES Permit No. WQ0014488002

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 Dripping Springs Community Library, 501 Sportsplex Drive, Dripping Springs, 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 **received** by the Chief Clerk's office no later than **30 calendar days** after the date of this letter. You may submit your request electronically at <http://www.tceq.state.tx.us/about/comments.html> or by mail to the following address:

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

Processing of Requests.

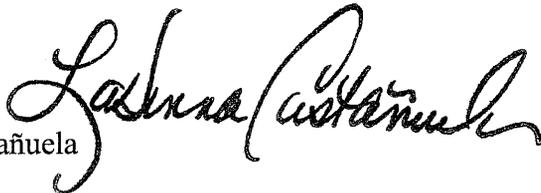
Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the alternative dispute resolution director and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will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



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Enclosures

MAILING LIST
For
City of Dripping Springs
TPDES Permit No. WQ0014488002

FOR THE APPLICANT:

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Proposed New TCEQ Permit No. WQ0014488002

2008 DEC -3 PM 1:52

Application by the
CITY OF DRIPPING SPRINGS
for TCEQ Permit No. WQ0014488002

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Before the
TEXAS COMMISSION ON 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 by the City of Dripping Springs (Applicant) for a new TCEQ Permit Number WQ0014488002 and on the Executive Director's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code (30 TAC), 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 the Chief Clerk timely received comment letters from **Karen and W. Jene Glass** and from **Andrew Hawkins** representing the **Save Our Springs Alliance (SOS)**. Karen and W. Jene Glass later withdrew their comments. 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 Dripping Springs has applied to the TCEQ for a new TCEQ permit that would authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 0.0625 million gallons per day (MGD) via public access subsurface drip irrigation system with a minimum area of 14.35 acres in the Interim I Phase, 0.125 MGD via public access subsurface drip irrigation system with a minimum area of 28.70 acres in the Interim II Phase, and 0.250 million gallons per day via public access subsurface drip irrigation system with a minimum area of 57.39 acres in the Final Phase. Application rates shall not exceed 0.1 gallons per square foot per day. The Applicant will maintain Bermuda grass overseeded with winter rye grass on the disposal site. The draft permit will not authorize a discharge of pollutants into water in the state. The wastewater treatment facility will serve the Scenic Greens Subdivision in Hays County.

The Scenic Greens Wastewater Treatment Facility will consist of an activated sludge process plant using the single stage nitrification mode in all phases. Treatment units will include bar screens, aeration basins, final clarifiers, aerobic digesters, and chlorine contact chambers. The Applicant is required to provide at least three days of temporary storage for times when the facility is out of service due to an emergency or for scheduled maintenance. The facility has not been constructed.

Sludge generated from the treatment facility will be hauled by a registered transporter and disposed of at a TCEQ permitted landfill.

The wastewater treatment facility and disposal site will serve and be located within the Scenic Greens development, located approximately 4.4 miles west of Dripping Springs along U.S. Highway 290 in Hays County, Texas. The wastewater treatment facility and disposal site will be located in the drainage basin of Onion Creek in Segment No. 1427 of the Colorado River Basin.

Procedural Background

The application was received on August 16, 2007, and declared administratively complete on September 26, 2007. Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (NORI) was published October 9, 2007 in the *Austin American-Statesman*. The TCEQ Executive Director completed the technical review of the application on February 28, 2008, and prepared a draft permit. Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD) was published June 23, 2008 in the *Austin American-Statesman* and the comment period closed July 23, 2008. 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," then "Current TCEQ Rules," 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 F, 1st Floor (Office of Chief Clerk). The application for this facility has been available for viewing and copying at the Dripping Springs Community Library, 501 Sportsplex Drive, Dripping Springs, 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.

COMMENTS and RESPONSES

COMMENT 1

SOS claimed that because the proposed wastewater treatment facility and irrigation site are in close proximity to Blue Creek, Barton Creek, and Onion Creek, the effluent could enter these creeks, subsequently recharge the Edwards Aquifer, and pollute the Barton Springs and the Colorado River.

RESPONSE 1

This draft permit is for a subsurface drip dispersal system, and consequently allows no discharge to water in the state. The draft permit includes provisions to protect surface and groundwater through the use of buffers from creeks and wells, requirements to maintain crop coverage and health, survey and sampling of any seeps or springs quarterly, no application of wastewater when the ground is saturated, and weekly inspections of the irrigation fields.

Special Provision No. 7 requires a minimum horizontal distance of 100 feet between surface water in the state and the subsurface area drip dispersal system irrigation areas per 30 TAC Section 222.81(a), a minimum horizontal distance of 500 feet from public water wells, springs, or other similar sources of public drinking water, and 150 feet from private water wells as described in 30 TAC Section 309.13(c)(1). The Applicant shall not locate a subsurface area drip dispersal system within a floodway according to the requirements of 30 TAC Section 222.81(d). Special Provision No. 10 requires the subsurface drip irrigation system to be designed and managed to prevent seepage or percolation out of the root zone, other than leaching in the amount required to maintain the health of the vegetative cover, and prohibits surfacing and ponding. Special Provision No. 11 requires the maintenance of Bermuda grass overseeded with winter rye grass on the disposal site for wastewater and nutrient uptake. Special Provision No. 15 mandates that wastewater shall not be applied for irrigation when the ground is saturated. Special Provision No. 29 requires the monitoring of the physical condition of the drip irrigation fields on a weekly basis, and the recording and immediate correction of problems such as surface runoff, surficial erosion, stressed or damaged vegetation, etc. Special Provision No. 32 requires the development of a seeps/springs monitoring plan.

COMMENT 2

SOS claimed that there was inadequate space with soil, vegetation, and other natural features between the proposed irrigation site and Blue Creek, Barton Creek and Onion Creek to allow for proper attenuation of effluent to protect the Edwards Aquifer from pollution.

RESPONSE 2

The requirements of the draft permit are intended to minimize the potential for percolation of effluent beyond the rooting depth so that effluent is used by the cover crops and does not reach Blue Creek, Barton Creek, or Onion Creek. The draft permit is for subsurface drip irrigation and consequently allows no discharge to water in the state. The Applicant proposes to use the irrigated areas for Bermuda grass (a warm season grass) and rye grass (a cool season grass). Each of these plant species requires a certain volume of water for its growth and development. The draft permit also includes Special Provisions 9, 10, 23, 24, 26, 28, 29, and 32 which require the Applicant not to exceed an application rate of 0.1 gallons per square foot per day, to prevent seepage or percolation out of the root zone, maintain the health of the grass vegetation including harvesting, maintain a minimum rootable soil depth below the drip irrigation lines of twelve inches, install moisture sensing devices, obtain regular soil samples, and implement a seep/springs monitoring plan.

Special Provision No. 9 requires that application rates shall not exceed 0.1 gallons per square foot per day, and the Applicant is responsible for providing equipment to determine the application rate and for maintaining accurate records of the volume of effluent applied. Special Provision No. 10 requires the subsurface drip irrigation system to be designed and managed to prevent seepage or percolation out of the root zone, other than leaching in the amount required to maintain the health of the vegetative cover, and prohibits surfacing and ponding. Special Provision No. 23 requires the Applicant to use cultural practices to promote and maintain the health and propagation of the grass vegetation and avoid plant lodging. It also requires harvesting (cutting and removing from the field), at least once per year. Special Provision No. 24 requires the Applicant to maintain a minimum rootable soil depth below the drip irrigation lines of twelve inches. Special Provision No. 26 requires that each drainfield (zone) must have at least one moisture sensing device placed at twelve inches below the drip lines that will automatically shut off irrigation to the drainfield when the soil becomes saturated. Special Provision No. 28 requires the Applicant to obtain representative soil samples from the root zones of the irrigation area on an annual basis. Special Provision No. 29 requires the monitoring of the physical condition of the drip irrigation fields on a weekly basis, and the recording and immediate correction of problems such as surface runoff, surficial erosion, stressed or damaged vegetation, etc. Special Provision No. 32 requires the development of a seeps/springs monitoring plan.

COMMENT 3

SOS noted that several sites in excess of the minimum area required by the draft permit were proposed in the application, and suggested that the actual locations of areas for irrigation should first be determined before evaluating the application.

RESPONSE 3

The Applicant indicates that out of 118.65 acres, an aggregate of 57.4 acres will be installed with drip lines. The 118.65 acres shown by the Applicant as potential subsurface drip irrigation

areas were assessed for their suitability for subsurface drip irrigation. The terms and conditions of the draft permit are such that any area selected within the assessed area will be consistent with 30 TAC Chapter 222.

COMMENT 4

SOS claimed that since it was impossible to predict the timing, amount, and rate of rainfall, irrigation during wet weather might not be avoided and could supersaturate the irrigation fields and cause runoff of effluent into Blue Creek, Barton Creek and Onion Creek.

RESPONSE 4

30 TAC Chapter 222 does not proscribe irrigation during wet weather. Saturation at 12 inches below the drip lines will trigger a stop of treated effluent to the affected drain field. The subsurface drip system is designed to avoid saturated conditions from occurring at the terrain surface. Runoff from the proposed drip irrigation fields is not expected to be high given that a cover of introduced and managed grasses will grow on the terrain surface (Bermuda and winter rye grass). The subsurface drip irrigation system is designed so that the emitted treated effluent will not commingle with the normal surface runoff that naturally occurs on terrain surfaces. Further, Special Provision No. 31 requires that all run on be diverted away from the drip fields.

COMMENT 5

SOS stated that the calculations of wastewater irrigation evaporation and nutrient loadings appeared to assume uniform application when, in reality, distribution would be uneven in the uptake of water nutrients. SOS claimed that uneven irrigation would result from design limitations of drip irrigation, clogging and intentional operation (desiring greener turf in certain or during certain events or times of the year). SOS further stated that uneven uptake would result from slope, exposure to sunlight, depth and make-up of soil, temperature, etc. SOS cited the TCEQ February 2008 site assessment which noted “the presence of ‘very thin, rocky soil’” and that “[t]he depth of soil coverage is variable over many of the proposed rip irrigation areas.” (quote by SOS). SOS claimed that the application did not fully address these issues or explain how to address these issues.

RESPONSE 5

The provision of 30 TAC Section 222.117 requires the subsurface drip dispersal system to supply effluent uniformly throughout each dispersal zone in the system. Clogging prevention modes are built into the irrigation system as required by Section 222.117 by flushing the system with flow velocities of at least two feet per second and this flushing done at least every two months as required also by Special Provision No. 14. The information contained in the application indicates that the

irrigation delivery and plant cover systems are designed for the plant cover to take up the added water and nutrients in the treated effluent. The Applicant has proposed the importation of soils - class II (sandy loams) and class III (silty clay loam) to ensure a minimum of 18 inches of soil and at least 12 inches of soil below the drip lines. Special Provision No. 24 requires that a plan be submitted for review/revision and approval when imported soils are proposed to be used in the construction of the drip fields. Assessment of the information contained in the application indicates that the concerns mentioned in this comment have been addressed by the Applicant.

COMMENT 6:

SOS stated that nitrogen and phosphorus (from the irrigation area) would enter the Edwards Aquifer and Barton Springs through Blue Creek, Barton Creek and Onion Creek and would cause further degradation of the Barton Springs aquatic habitat. SOS claimed that the interests of one of its members, Mr. Colin Clark, would be harmed by effluent polluting Barton Creek, Onion Creek and Barton Springs.

RESPONSE 6

Treated effluent and nutrient input into the irrigation field will be applied at least six inches below the terrain surface. The Applicant proposes to remove all surface rocks from the irrigation fields that are 6 inches or greater in size. Most all rocks are not free standing as they are partially buried with a portion (face) exposed to the surface. The location of the rocks in the terrain is such that the rock removal operation will disturb at least the top six inches of soil. Importation of soil is also proposed to be used in areas to ensure a minimum soil depth of 18 inches. Based on the Applicant's proposal, there will not be any lateral conduits for effluent surfacing after the above proposed field preparation operations. Further, the introduced grasses will use all the effluent and nutrients (nitrogen and phosphorus included) contained in the treated effluent applied through the emitters. Nutrients and effluent are not expected to leave the land application area or affect areas downslope of the irrigation areas.

COMMENT 7

SOS claimed that soil moisture monitors were not failsafe and that rainfall could still supersaturate the irrigation fields undetected causing runoff into Blue Creek, Barton Creek and Onion Creek.

RESPONSE 7

Soil moisture monitoring devices in current drip irrigation systems are some of the most advanced methods of controlling wastewater disposal available today. The drip system is not

designed to fail. The dosing is designed to provide the volume of effluent sufficient for plants to take up for their growth. Weekly inspections of the irrigation system are required by Special Provision No. 29 with immediate corrective measures to be implemented. Nutrients in the treated effluent and the emitted volume of effluent are not expected to leave the land application area or affect areas downslope of the irrigation areas.

COMMENT 8

SOS claimed that the draft permit and the application did not ensure that there would be no runoff of effluent in saturated conditions, even with three-day storage.

RESPONSE 8

Moisture sensing devices in each drain field will stop effluent application to that field upon sensing saturated conditions at the 12-inch depth below the drip lines. The system is designed so that surfacing of treated effluent will not occur given that the dosings and volume of treated effluent applied will be taken up by the roots for plant growth. The land preparation prior to the installation of the drip lines is such that lateral conduits will not be present for effluent to surface and commingle with surface runoff. Special Provision No. 13 requires the Applicant to pump and haul treated effluent if the drip system shuts down or if the 3-day storage capacity is exceeded. Nutrients in the treated effluent and the emitted volume of effluent are not expected to leave the land application area or affect areas downslope of the irrigation areas.

COMMENT 9

SOS stated that application did not provide a procedure “in place” to prohibit the public use of the irrigation fields during irrigation.

RESPONSE 9

The requirement to irrigate only when the irrigation area is not in use is a provision in the draft permit. Having a procedure “in place” and describing or incorporating this in the application would be premature, because no authorization to irrigate has been issued. A procedure should be in place to implement this provision of the draft permit when the permit is issued and before commencing irrigation.

COMMENT 10

SOS claimed the direction of groundwater flow was not established and recommended that this should first be established before proceeding with the processing of the application.

RESPONSE 10

The direction of groundwater flow is discussed in the Recharge Feature Plan. A revised Recharge Feature Plan, signed and sealed by Mr. Stan Reece, P.G., was received by the Water Quality Assessment Team on December 17, 2007. In Section 3.3 Groundwater Characteristics, Mr. Reece states, "However, information provided in the 'Trinity-Hill Country GAM [Groundwater Availability Model]' updated June 2005 indicates a regional flow to the east-northeast."

COMMENT 11

SOS expressed concern that nearby homes would be exposed to nuisance odors from the facilities and may suffer from noise and visual pollution.

RESPONSE 11

One of the alternatives that 30 TAC Section 309.13(e) requires to control a nuisance of odor is to maintain a distance of at least 150 feet from the wastewater treatment plant units to the nearest property line. The Applicant indicates that the nearest property line to the proposed wastewater treatment facility is approximately 176 feet.

In addition, the proposed wastewater treatment would be an aerobic biological process, i.e., an activated sludge process plant using the single stage nitrification mode in all three phases. Aerobic biological processes use oxygen from the air to reduce the organic content of the wastewater through biological action. Oxygen turns sulfide compounds (the most common odor-causing compounds) into odorless sulfates. Wastewater without dissolved oxygen can also produce offensive odors. The design of an activated sludge plant will require a residual dissolved oxygen throughout the entire aeration process.

Neither the Texas Water Code nor agency regulations governing wastewater permitting address visual and noise pollution concerns or traffic concerns. Consequently, the agency does not have jurisdiction to regulate visual and noise pollution or traffic in the draft permit.

COMMENT 12

SOS claimed that the proposed irrigation areas directly overlie the recharge area of the Trinity Aquifer, and water wells from the Trinity Aquifer are vulnerable to pollution.

RESPONSE 12

Mr. Stan Reece, P.G., signed and sealed a Recharge Feature Plan (RFP) for the permit on December 5, 2007. Mr. Reece states, "No springs, seeps, potential seeps, or wetlands were identified within the subject area. No sinkholes, caves, solution cavities, or solution-enlarged fractures were observed to occur within the subject area."

Three water wells were identified on the property. One well was an old windmill located in irrigation area C. The windmill was removed, but the well hole remained open. The RFP states that the well will be plugged and abandoned per 16 TAC Section 76.1004. According to the RFP, another well (New Well) was located near the center of the property, adjacent to a stock pond. The well is about 500 feet from irrigation area D and E. A third well (#52215) was located just southwest of proposed irrigation area A. It is located about 500 feet from the irrigation area. The well survey prepared by GeoSearch for CMA Engineering, located an additional well along the far eastern boundary of the facility along McGregor Lane, and two other wells located along the far southern boundary of the facility. In a response dated October 26, 2007, Mr. Craig Gonzalez, P.E. of CMA Engineering, Inc., indicated that the well located along McGregor Lane could not be found during a site visit to verify the location of the well. The water wells meet the required buffer distances of 30 TAC Section 222.81 and Special Provision Nos. 6 and 7. Special Provision No. 6 requires compliance with the buffer zone setbacks required by 30 TAC Section 309.13(a-e). Special Provision No. 7 requires a minimum horizontal distance of 100 feet from surface water in the state and the subsurface area drip dispersal system irrigation areas per 30 TAC Section 222.81(a), a minimum horizontal distance of 500 feet from public water wells, springs, or other similar sources of public drinking water, and 150 feet from private water wells as described in 30 TAC Section 309.13(c)(1). The Applicant shall not locate a subsurface area drip dispersal system within a floodway according to the requirements of 30 TAC Section 222.81(d).

In addition, the requirements of the draft permit are set to minimize the potential for percolation of effluent beyond the rooting depth so that effluent is completely used by the cover crops and does not reach groundwater. Special Provision No. 20 requires that the Applicant address and provide appropriate best management practices that prevent impact from wastewater application and prevent groundwater contamination for any recharge features uncovered by construction activities in an updated and certified Recharge Feature Plan (RFP).

COMMENT 13

SOS stated that the draft permit did not ensure no discharge of effluent into Blue Creek, Barton Creek and Onion Creek.

RESPONSE 13

The drip irrigation fields are designed to provide the amount of effluent that the proposed grass vegetative cover will take up for its growth and propagation. Lateral effluent flow will not occur because of the site preparation prior to drip line installation. Moisture sensing devices located

12 inches below the drip lines will shut off supply of effluent to the drain fields in saturated conditions. The drip irrigation system is designed so that all effluent and nutrients will be used in the land application area. Nutrients in the treated effluent and the emitted volume of effluent are not expected to leave the land application area or affect areas downslope of the irrigation areas.

Special Provision No. 10 requires the subsurface drip irrigation system to be designed and managed to prevent seepage or percolation out of the root zone, other than leaching in the amount required to maintain the health of the vegetative cover, and prohibits surfacing and ponding. Special Provision No. 11 requires the maintenance of Bermuda grass overseeded with winter rye grass on the disposal site. Special Provision No. 15 mandates that wastewater shall not be applied for irrigation when the ground is saturated. Special Provision No. 29 requires the monitoring of the physical condition of the drip irrigation fields on a weekly basis, and the recording and immediate correction of problems such as surface runoff, surficial erosion, stressed or damaged vegetation, etc. Special Provision No. 32 requires the development of a seeps/springs monitoring plan. Furthermore, Special Provision No. 13 requires the Applicant to pump and haul wastewater from the facility to prevent the discharge of treated or untreated wastewater if complete shutdown of the wastewater treatment facility becomes necessary or if the storage capacity is exceeded.

Any discharge from the irrigation area would constitute a violation of the terms of the permit for which an enforcement action will be prosecuted against the Applicant. To file an environmental complaint against this or any 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 14

SOS expressed concern over increased traffic due to the proposed facility and the development it would serve.

RESPONSE 14

Neither the Texas Water Code nor agency regulations governing wastewater permitting address traffic concern. Consequently, the agency does not have jurisdiction to regulate traffic in the draft permit.

COMMENT 15

SOS expressed concern over the increased discharge of nutrients and toxic chemicals into Barton Springs as that pollution would affect the Barton Springs salamander.

RESPONSE 15

The proposed effluent is essentially domestic in origin, from residential toilets, bathrooms, laundry rooms, and kitchens. Nutrients would be components of the discharge, but toxic chemicals would typically be contributed only by industrial sources and would not be expected in the effluent.

The Executive Director has not identified any water quality impacts due to the draft permit that would adversely affect aquatic organisms, including endangered species, since the draft permit requires disposal by land application and does not allow discharge into water in the state. Nonetheless, the Texas Parks and Wildlife Department and the U.S. Fish and Wildlife Service were notified about the permit application. No comment was received from either agency.

In addition, moisture sensing devices in each drain field will stop effluent application to that field upon sensing saturated conditions at the 12-inch depth below the drip lines. The system is designed so that surfacing of treated effluent will not occur given that the dosings and volume of treated effluent applied will be taken up by the roots for plant growth. The land preparation prior to the installation of the drip lines is such that lateral conduits will not be present for effluent to reach the surface and commingle with surface runoff. Special Provision No. 13 requires the Applicant to pump and haul treated effluent if the drip system shuts down or if the 3-day storage capacity is exceeded. Nutrients in the treated effluent and the emitted volume of effluent are not expected to leave the land application area or affect areas downslope of the irrigation areas.

COMMENT 16

SOS expressed concern that the use and enjoyment of the property of one of its members, Mr. Wierman, would be threatened by nuisance odors, runoff pollution, pollution from the development to be served by the property, and the devaluation of his property.

RESPONSE 16

Texas Water Code Chapter 26 and applicable wastewater regulations do not authorize the agency to consider devaluation of property when reviewing a permit application. Thus, the TCEQ has no regulatory authority to consider property values when reviewing wastewater applications and draft permits. Development issues are not addressed in the wastewater permitting process. The scope of the wastewater discharge/land application permit application is limited to the treatment and disposal of the wastewater generated and collected from a proposed residential development.

One of the alternatives that 30 TAC Section 309.13(e) requires to control a nuisance of odor is to maintain a distance of at least 150 feet from the wastewater treatment plant units to the nearest property line. The Applicant indicates that the nearest property line to the proposed wastewater treatment facility is approximately 176 feet. In addition, Special Provision No. 10 of the draft permit prohibits the creation of conditions at the treatment facility and the drip dispersal zones that contributes to vector attraction and odor.

COMMENT 17

Karen and W. Jene Glass stated that the water well map on file does not show the location of their well and they included a map of their well location. The Glasses later withdrew this comment.

RESPONSE 17

The information by the Glasses on their well location in reference to the proposed permit boundary, wastewater treatment plant, and subsurface drip irrigation fields indicates their well is 325 feet south and 348 feet east of the boundary between their property and the subsurface drip irrigation field E. No additional information about the construction of the well, depth of the well, water level, or water quality was provided. Special Provision No. 7 requires the maintenance of a minimum horizontal distance of 150 feet from private water wells as described in 30 TAC Section 309.13(c)(1). From the information provided, it appears that the application and the draft permit satisfy this requirement.

COMMENT 18

Karen and W. Jene Glass stated that the water well listed as one on the property site of the application is incorrect and is a well located a mile up U.S. Highway 290 and on the opposite side of the highway in Los Lagos Subdivision. The Glasses later withdrew this comment.

RESPONSE 18

We are unable to determine exactly which well has an incorrect location as described by the Glasses. Three water wells were identified and verified in the Recharge Feature Plan. The well in question is described as being located a mile away. Special Provision No. 7 requires the maintenance of a minimum horizontal distance of 150 feet from private water wells as described in 30 TAC Section 309.13(c)(1). From the information provided, it appears that the draft permit satisfies this requirement.

COMMENT 19

Karen and W. Jene Glass provided a conceptual plan map and a well location map to show their property relative to the proposed wastewater treatment plant and the subsurface drip irrigation fields. The Glasses suggested moving the treatment plant and drip irrigation fields. The Glasses later withdrew this comment.

RESPONSE 19

In a letter dated June 20, 2008, the Applicant proposed to move the proposed treatment facility to another location, i.e., approximately 400 feet to the northeast in the same property. Attachment A was subsequently updated to show this new location.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

In response to public comment, the Executive Director revised Attachment A, which shows the proposed wastewater treatment plant's new site and the subsurface drip irrigation areas.

In response to public comment, the Executive Director added the following new provision, Special Provision No. 34: The water well identified as a windmill on the USGS topographic map located in irrigation area C shall be plugged and abandoned per 16 TAC Section 76.1004 within 30 days of permit issuance.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division

By 

John E. Williams, Staff Attorney
Environmental Law Division

State Bar No. 24004991

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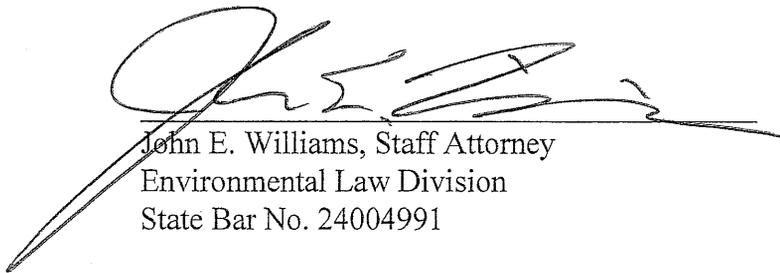
Austin, Texas 78711-3087

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Representing the Executive Director of the Texas
Commission on Environmental Quality

CERTIFICATE OF SERVICE

I certify that on December 3, 2008, the "Executive Director's Response to Public Comment" for Permit No. WQ0014488002 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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