

TCEQ Docket Number 2009-1970-MWD

APPLICATION BY	§	BEFORE THE
THE CITY OF VERNON	§	TEXAS COMMISSION ON
FOR TPDES PERMIT NO. WQ0004868000	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

I. Introduction

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to Hearing Requests (Response) on the application by the City of Vernon (Applicant) for issuance of Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0004868000. TCEQ received multiple hearing requests for this permit application:

- TCEQ received a timely request for a contested case hearing (CCH) from Jose Cardenas and Gloria Cardenas dated May 27, 2009.
- Jose Cardenas submitted two timely “public hearing” requests on behalf of multiple parties, both dated June 17, 2009. The first request contained a list of names and the second was accompanied by separate requests signed by or on behalf of specific individuals. The following individuals requested or had a public hearing requested on their behalf in one of these two submissions: Ken and Lisa Aderholt, Tricia and Tommy Alaniz, Lon Byars, Lee and Mary Castleberry, T. Shane Castleberry, Toby Castleberry, Mary Ann and Ismael Cortez, James and Carolyn Koontz, Kurt Lemon, Dane Mount, Jay H. Pierce, Mary and Luis Rangle, Terry Weaver, Elton and Edna Zoch, and Buffy and Malcolm Borger¹.
- Jose Cardenas and Andy Brumley submitted a timely, joint letter dated November 23, 2009 requesting a CCH. In this letter, Mr. Cardenas and Mr. Brumley state that they are requesting a CCH, “on behalf of a group of ‘affected [p]ersons,’” comprised of Andy Brumley, Jose Cardenas, Sheri Brumley, Ken and Lisa Aderholt, Tommy and Tricia Alaniz, Buffy and Malcolm Borger, Lon Byars, Gloria Cardenas, Rudy Cardona, Lee and Mary Castleberry, Shane and Jennifer Castleberry, Toby Castleberry, Ismael and Mary Ann Cortez, Mike Hardage, Clyde Harlin, Mike Herchman, Carolyn and Jimmy Koontz, Ricky Marshall, Richard and Sara McDuff, Dane Mount, Jay Pierce, Luis and Mary Rangel, Rusty and Dolly Riddle, James and Pat Spears, Tracy Taylor, Terry and Tommy Weaver, Don and Patsy Wilson, and Elton and Edna Zoch.

¹ Malcolm Borger verbally indicated to the Office of Public Assistance that he had not authorized submission of this request on his behalf. However, the ED is evaluating this request because it was not withdrawn in writing.

Attached for Commission consideration are the following:

Attachment A	Satellite Map of Area
Attachment B	Fact Sheet and ED's Preliminary Decision
Attachment C	Draft Permit
Attachment D	Executive Director's Response to Public Comment (RTC)
Attachment E	Compliance History

II. Description Of The Facility

The Applicant has applied to the TCEQ for a new permit to authorize the discharge of ion exchange water treatment system waste at a daily average flow not to exceed 46,000 gallons per day (gpd) via Outfall 001.

The facility is an ion exchange water treatment plant. The facility removes nitrates from a side stream of water produced for drinking and, through blending in on-site ground storage tanks, produces potable water. Wastewater streams from the regeneration nitrate removal resins and softening resins are combined in a wastewater holding tank and discharged via Outfall 001. The facility is not currently in operation.

The facility is located at 2801 Sullivan Street, approximately one mile east of the intersection of U.S. Highway 70 and U.S. Highway 287 in Wilbarger County, Texas. The effluent is discharged via pipeline directly to the Pease River in Segment No. 0230 of the Red River Basin. The designated uses for Segment No. 0230 are intermediate aquatic life use and contact recreation.

III. Procedural Background

TCEQ received this permit application on October 9, 2008 and declared it administratively complete on October 27, 2008. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on November 13, 2008 in *The Vernon Daily Record*. The Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD) was published on May 21, 2009 in *The Vernon Daily Record*. Notice of a Public Meeting on an Application for a Water Quality TPDES Permit for Industrial Wastewater was published on July 29, 2009 in *The Vernon Daily Record*. The public meeting was held on August 31, 2009 in Vernon, Texas. The public comment period closed on August 31, 2009. The ED's Response to Public Comment (RTC) was filed on October 30, 2009, and the period for requesting reconsideration or a contested case hearing ended on December 4, 2009.

IV. The Evaluation Process for Hearing Requests

This application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999. House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings. The Commission implemented HB 801 by adopting procedural rules in 30 Texas Administrative Code (TAC) Chapters 39, 50, and 55.

A. Responses to Requests

“The executive director, the public interest counsel, and the applicant may submit written responses to [hearing] requests” 30 TAC § 55.209(d).

According to 30 TAC § 55.209(e), responses to hearing requests must specifically address:

- (1) whether the requestor is an affected person;
- (2) which issues raised in the hearing request are disputed;
- (3) whether the dispute involves questions of fact or of law;
- (4) whether the issues were raised during the public comment period;
- (5) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment;
- (6) whether the issues are relevant and material to the decision on the application; and
- (7) a maximum expected duration for the contested case hearing.

B. Hearing Request Requirements

In order for the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements. As noted in 30 TAC § 55.201(c):

A request for a contested case hearing by an affected person must be in writing, must be filed with the chief clerk within the time provided . . . and may not be based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment.

According to 30 TAC § 55.201(d), a hearing request must substantially comply with the following:

- (1) give the name, address, daytime telephone number, and where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;
- (2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;

- (4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director's responses to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law or policy; and
- (5) provide any other information specified in the public notice of application.

A group or association may request a contested case hearing only if the group or association meets all of the following requirements:

- (1) one or more members of the group or association would otherwise have standing to request a hearing in their own right;
- (2) the interests the group or association seeks to protect are germane to the organization's purpose; and
- (3) neither the claim asserted nor the relief requested requires the participation of the individual members in the case.

30 TAC § 55.205(a).

C. Requirement that Requestor be an "Affected Person"

In order to grant a contested case hearing, the Commission must determine that a requestor is an "affected person." The factors to consider in making this determination are as follows:

- (a) For any application, 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. An interest common to members of the general public does not qualify as a personal justiciable interest.
- (b) Governmental entities, including local governments and public agencies with authority under state law over issues raised by the application may be considered affected persons.
- (c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
 - (1) whether the interest claimed is one protected by the law under which the application will be considered;
 - (2) distance restrictions or other limitations imposed by law on the affected interest;
 - (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
 - (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
 - (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and

- (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC § 55.203.

D. Referral to the State Office of Administrative Hearings

“When the commission grants a request for a contested case hearing, the commission shall issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing.”
30 TAC § 50.115(b).

The commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue:

- (1) involves a disputed question of fact;
- (2) was raised during the public comment period; and
- (3) is relevant and material to the decision on the application.

30 TAC § 50.115(c).

VI. Evaluation of Hearing Requests

A. Whether the Requestors Complied With 30 TAC §§ 55.201(c) and (d).

All hearing requestors submitted a timely written hearing request that included relevant contact information. With the exception of the hearing request submitted on Kurt Lemon’s behalf, which did not address any disputed issues or identify any personal justiciable interest, and the “public hearing” request submitted on behalf of Buffy and Malcolm Borger, which did not provide a physical address or any other information about the location of their residence relative to the facility or the discharge point, the ED concludes that the hearing requests submitted for this application substantially comply with the requirements of 30 TAC § 55.201.

The ED recommends finding that the “public hearing” requests submitted on behalf of Kurt Lemon and Buffy and Malcolm Borger do not meet the requirements for requesting a contested case hearing.

B. Whether Requestors Meet the Requirements of an Affected Person

1. Jose and Gloria Cardenas

Jose and Gloria Cardenas submitted a form letter requesting a “public hearing,” as well as a separate, more detailed request asking for a “contested case hearing.” The Executive Director is analyzing both requests jointly. Jose Cardenas and Gloria Cardenas own a farm/ranch that they describe as being “directly down stream of the proposed dump site.” The Cardenas’ farm/ranch is located 12.2 miles away from the existing facility and is similarly distant from the proposed discharge point (which is located just under a mile from the facility). *See* Attachment A.

Considering the factors listed in 30 TAC § 55.203(c) to determine affected person status, the distance between their farm/ranch and the facility/proposed discharge point weighs against finding that these individuals have a personable justiciable interest affected by the application. The Cardenas have expressed concern that, “the discharge of contaminated wastes directly into the Pease River...will create a negative health and safety situation,” for themselves and their family. They also expressed concerns about the potential impacts of the proposed discharge on: shallow wells on their property, their livestock, and their soil. The distance between the Cardenas’s property and the discharge point, however, makes it unlikely that the proposed discharge will have an adverse impact on the health and safety of these individuals, their drinking water, their cattle, or their soil. Any potential impacts are likely to be similar to impacts on the general public. Accordingly, based on their location relative to the facility and the proposed discharge point and their concerns, the ED recommends finding that neither Jose nor Gloria Cardenas have a personal justiciable interest in the permit application because they are unlikely to be impacted differently than other members of the general public.

The ED recommends that the Commission find that Jose and Gloria Cardenas are not affected persons.

2. “Public Hearing” Requests

The following requests were made by means of a form letter requesting a “public hearing.”² The requests do not indicate where these requestors live in relation to the facility. However, for purposes of analyzing these requests, the Executive Director assumed that each requestor lived at the address provided in their request letter. It is unclear from the information submitted to TCEQ whether the requestors own these properties.

Based on the addresses provided, it appears that **Ken and Lisa Aderholt, Tricia and Tommy Alaniz, Lon Byars, Lee and Mary Castleberry, T. Shane Castleberry, Toby Castleberry, James and Carolyn Koontz, Kurt Lemon, Dane Mount, Jay H. Pierce, Mary and Luis Rangle, Terry Weaver and Elton and Edna Zoch** all live more than 1.23 miles from the facility. *See* Attachment A. The downstream property closest to the discharge point appears to be at least 4.5 miles away from the discharge point (the distance, if measured along the discharge path is even greater). *Id.* Likewise, based on the address provided, it appears that **Mary Ann and Ismael Cortez** live approximately 0.26 miles away from the existing facility. *See* Attachment A. The Cortezes do not, however, live downstream of the discharge point, and the draft permit proposes that the wastewater be piped nearly a mile away from their property prior to being discharged into the Pease River. *Id.*

Considering the factors listed in 30 TAC § 55.203(c) to determine affected person status, the distance between these protestants’ residences and the proposed discharge point weighs against finding that these individuals have a personable justiciable interest affected by the application. The protestants³ expressed concern that, “the discharge of contaminated wastes directly into the Pease

² Except for the request submitted on behalf of Kurt Lemon, which simply listed his name as a person who was requesting a “public hearing.”

³ Except for the request submitted on behalf of Kurt Lemon, which did not contain any comments about the permit

River...will create a negative health and safety situation” for themselves and their family. The distance between their properties and the discharge point, however, makes it unlikely that the proposed discharge will have an adverse impact on the health and safety of these individuals. Any potential impacts are likely to be similar to impacts on the general public. Accordingly, given the general nature of their concerns and the distance between their residences and the proposed discharge point, the ED recommends finding that none of these protestants have a personal justiciable interest in the permit application because they are unlikely to be impacted differently than other members of the general public.

The ED recommends that the Commission find that Ken and Lisa Aderholt, Tricia and Tommy Alaniz, Lon Byars, Lee and Mary Castleberry, T. Shane Castleberry, Toby Castleberry, James and Carolyn Koontz, Kurt Lemon, Dane Mount, Jay H. Pierce, Mary and Luis Rangle, Terry Weaver, Elton and Edna Zoch and Mary Ann and Ismael Cortez are not affected persons.

3. The Group of “Affected Persons”

This request letter states that it is a request for a “contested case hearing” being made on behalf of a group of “affected [p]ersons.” It is signed by Jose Cardenas and Andy Brumley. While the letter asserts that some members of the group, specifically **Sheri Brumley, Ken and Lisa Aderholt, Tommy and Tricia Alaniz, Buffy and Malcolm Borger, Lon Byars, Gloria Cardenas, Rudy Cardona, Lee and Mary Castleberry, Shane and Jennifer Castleberry, Toby Castleberry, Ismael and Mary Ann Cortez, Mike Hardage, Clyde Harlin, Mike Herchman, Carolyn and Jimmy Koontz, Ricky Marshall, Richard and Sara McDuff, Dane Mount, Jay Pierce, Luis and Mary Rangel, Rusty and Dolly Riddle, James and Pat Spears, Tracy Taylor, Terry and Tommy Weaver, Don and Patsy Wilson, and Elton and Edna Zoch**, would have standing to request a hearing in their own right, it provides no support for this assertion. The request does not demonstrate that the group is an established group that has a particular purpose, nor does it demonstrate that the interests the group seeks to protect are germane to this purpose.

The ED recommends that the Commission find that the group **has not met** the requirements, codified at 30 TAC § 55.205, for requesting a contested case hearing.

If Jose Cardenas and Andy Brumley are considered as individuals for purposes of this request, based on the distances from their residences to the facility (12.2 miles and 2.73 miles respectively),⁴ and the location of their residences relative to the proposed discharge point—Jose Cardenas’s residence is located approximately 12 miles away from the discharge point, and Andy Brumley’s residence is approximately 3.5 miles away from and is not located downstream of the proposed discharge point⁵—the ED likewise recommends finding that they are not affected persons. Considering the factors listed in 30 TAC § 55.203(c) to determine affected person status, the location of their residences relative to the location of the facility and the proposed discharge point weighs against finding that they have a personable justiciable interest affected by the application. These protestants expressed concern about health and safety issues and impacts to drinking water,

application.

⁴ See Attachment A.

⁵ *Id.*

land and water, cattle, crops, and wildlife.⁶ The location of their properties relative to the discharge point, however, makes it unlikely that the proposed discharge will have an adverse impact on the health and safety of these individuals, their drinking water, land, water, cattle, crops or wildlife. Any potential impacts are likely to be similar to impacts on the general public. Accordingly, given the nature of their concerns and the distance between their residences and the discharge point, the ED recommends finding that neither Jose Cardenas nor Andy Brumley have a personal justiciable interest in the permit application because they are unlikely to be impacted differently than other members of the general public.

The ED recommends that the Commission find that Jose Cardenas and Andy Brumley are not affected persons.

C. Whether Issues Raised are Referable to State Office of Administrative Hearings (SOAH) for a Contested Case Hearing.

The Executive Director analyzed the issues raised in the CCH requests in accordance with the regulatory criteria and provides the following recommendations regarding whether the issues are referable to SOAH. All issues identified in the response are considered disputed, unless otherwise noted.

ISSUE 1: Whether the draft permit complies with all applicable state and federal regulations. (RTC #2)

This issue was raised during the comment period, was not withdrawn, and involves a question of fact. If it were shown that the draft permit failed to comply with all applicable state and federal regulations that would be relevant and material to a decision on the permit application. The Executive Director recommends referring this issue to SOAH.

ISSUE 2: Whether the conditions and requirements in the draft permit are protective of human health and safety and the environment. (RTC #6, 7, 8, & 9)

This issue was raised during the comment period, was not withdrawn, and involves a

⁶ It is unclear which of the concerns listed in this request relate specifically to Mr. Cardenas, Mr. Brumley, or individual members of the group, but generally speaking, the letter lists several issues that the requesters believe are relevant and material to the ED's decision on the permit application. These issues relate to: the completeness and accuracy of the permit application, whether the draft permit is in compliance with relevant regulations, and whether the draft permit is protective of human health and safety and the environment. The letter lists several interests it alleges will be affected by issuance of this permit, but does not identify which of the listed people these interests belong to. The letter describes these interests as follows:

[B]ecause our property is directly down-stream of the proposed discharge, our land and water will become contaminated. The proposed discharge represents a direct threat to our safety and health since it will contaminate our source of drinking water on which our very lives depend on. Our livelihoods will be eliminated due to devastating effects of the contamination on both our land and our water; our cattle, our crops and wildlife will die-off due to toxic levels of contamination.

question of fact. If it were shown that the conditions and requirements in the draft permit were not protective of human health and safety and the environment that would be relevant and material to a decision on the permit application. The Executive Director recommends referring this issue to SOAH.

ISSUE 3: Whether the permit application is accurate, and whether the application complies with the applicable state and federal regulations. (RTC #4, 11)

This issue was raised during the comment period, was not withdrawn, and involves a question of fact. If it were shown that the permit application was not accurate or did not comply with applicable state and federal regulations that would be relevant and material to a decision on the permit application. The Executive Director recommends referring this issue to SOAH.

ISSUE 4: Whether the Applicant should consider a different alternative for disposing of wastewater from this facility. (RTC #1)

This is a question of law. Neither TCEQ rules nor applicable statutes authorize TCEQ to require that the Applicant consider alternative methods of disposal prior to granting a permit. The Executive Director recommends not referring this issue to SOAH.

ISSUE 5: Whether the draft permit is consistent with TCEQ's mission statement. (RTC #3)

This is a mixed question of fact and law. Consistency with TCEQ's mission statement is the goal of all TCEQ activities. In the context of evaluating the adequacy of individual wastewater permits, consistency with the mission statement is compliance with the appropriate rules, regulations, and practices. Thus, to the extent that this issue is relevant and material to a decision on the permit application, it is adequately and more specifically covered by Issues #1-3. The Executive Director recommends not referring this issue to SOAH.

ISSUE 6: Whether TCEQ must sample proposed discharges prior to granting a permit and do further testing of area surface and groundwater. (RTC #16)

This is a question of law. Neither TCEQ industrial wastewater permitting rules nor applicable statutes require TCEQ to sample proposed discharges or test area surface or groundwater prior to granting a permit. The Executive Director recommends not referring this issue to SOAH.

ISSUE 7: Whether the Executive Director's name is in the body of the documents outlining his decision or in the signature area of these documents. (Not raised during the comment period.)

This issue was not raised during the comment period. 30 TAC § 50.115(c) requires that issues referred to SOAH must have been raised during the public comment period. In any event, this

is an issue of fact, but the location of the ED's signature is not relevant and material to a decision on the application. The Executive Director recommends not referring this issue to SOAH.

VII. Duration of the Contested Case Hearing

Should there be a contested case hearing on this permit application, the ED recommends that the duration be nine months from the preliminary hearing to the presentation of a proposal for decision before the commission.

IX. Executive Director's Recommendation

The ED recommends the following actions by the Commission:

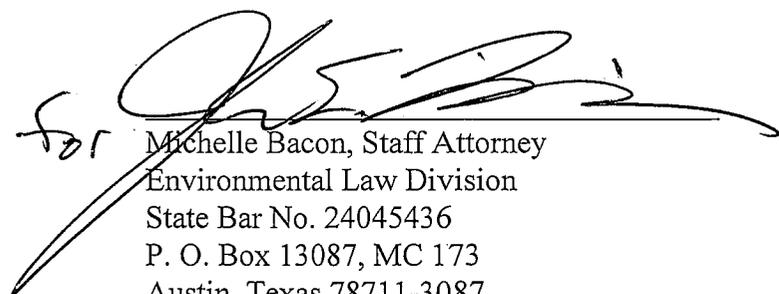
1. Deny all hearing requests.
2. If a contested case hearing is granted, refer issues #1, 2, and 3 to SOAH for a proceeding of nine months duration with the time period beginning with the preliminary hearing and concluding with presentation of a proposal for decision before the Commission.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Mark R. Vickery, P.G., Executive Director

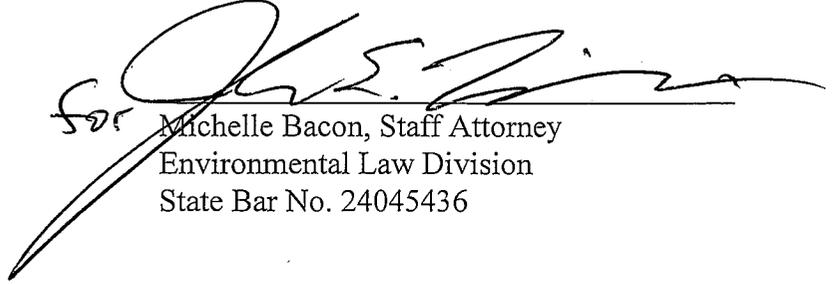
Robert Martinez, Director
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for Michelle Bacon, Staff Attorney
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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on December 30, 2009, the original and seven copies of the "Executive Director's Response to Hearing Requests" for TPDES Permit No. WQ0004868000 were filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk, and a complete copy was mailed to all persons on the mailing list.

A handwritten signature in black ink, appearing to read "Michelle Bacon", is written over a horizontal line. The signature is fluid and cursive.

Michelle Bacon, Staff Attorney
Environmental Law Division
State Bar No. 24045436

**MAILING LIST
CITY OF VERNON
TCEQ Docket NO. 2009-1970-MWD
PERMIT NO. WQ0004868000**

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See attached list of Requesters/Interested Persons.

REQUESTER(S)

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VERNON TX 76384

CAROLYN & JAMES KOONTZ
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OKLAUNION TX 76373-3505

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DANE MOUNT
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ANDY BRUMLEY
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VERNON TX 76384-8020

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LON BYARS
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VERNON TX 76384-4927

LUIS & MARY RANGEL
2325 MAIN ST
VERNON TX 76384-8157

GLORIA & JOSE L CARDENAS
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OKLAUNION TX 76373-3526

TERRY WEAVER
7677 FM 1763 E
VERNON TX 76384-9056

JOSE L CARDENAS
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OKLAUNION TX 76373-3526

EDNA & ELTON ZOCH
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HARROLD TX 76364-2017

LEE CASTLEBERRY
7591 FM 1763 E
VERNON TX 76384-9057

INTERESTED PERSON(S)

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VERNON TX 76384-6129

MARY CASTLEBERRY
7591 FM 1763 E
VERNON TX 76384-9057

SHERI BRUMLEY
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VERNON TX 76384-8020

SHANE CASTLEBERRY
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RUDY CARDONA
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VERNON TX 76384-5960

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MRS WALTER SMITH
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CLYDE HARLIN
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DAVIDSON OK 73530-0342

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ANNETTE HATLEY
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VERNON TX 76384-6719

TRACY TAYLOR
2401 CRESCENT DR
VERNON TX 76384-4908

MIKE HERCHMAN
PO BOX 1975
VERNON TX 76385-1975

TOMMY WEAVER
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VERNON TX 76384-9055

KURT LEMON
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OKLAUNION TX 76373

DON & PATSY WILSON
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RICKEY MARSHALL
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DAVIDSON OK 73530-0396

RICHARD & SARA MCDUFF
4605 COUNTRYAIRE PL
VERNON TX 76384-8004

ANDREW PENNINGTON
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VERNON TX 76384-3269

RUSTY RIDDLE
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VERNON TX 76384-9058

KARYL SCHWARZ
3218 PARADISE ST
VERNON TX 76384-5125

Attachment A

City of Vernon
WQ0004868000
Map Requested by TCEQ Office of Legal Services
for Commissioners' Agenda



Texas Commission on Environmental Quality
 GIS Team (Mail Code 197)
 P.O. Box 13087
 Austin, Texas 78711-3087
 December 15, 2009

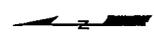


Projection: Texas Statewide Mapping System (TSM5)
 Scale 1:48,452

- Legend**
- Plant Boundary
 - Requestor
 - Proposed Discharge Pipe
 - Proposed Discharge Point

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information and the vector information from the applicant. The vector data are U.S. Census Bureau 1997 TIGER/Line Data (1:100,000). The background of this map is a one-half meter photograph from the 2008 Texas Orthommetry Project.

This map depicts the following:
 (1) The approximate location of the facility. This is labeled "Water Treatment and Water Storage Facility".
 (2) Circle and arrow depicting 1-mile radius. This is labeled "1-Mile Radius".
 (3) Line depicting proposed drainage pipe. This is labeled "Proposed Drainage Pipe".
 (4) Point depicting proposed drainage point. This is labeled "Proposed Drainage Point".
 (5) Points depicting locations of requestors. These are listed in a table.



This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This map was not generated by a licensed surveyor, and is intended for illustrative purposes only. No claims are made to the accuracy or completeness of the data or its suitability for a particular use. For more information concerning this map, contact the Information Resource Division at (512) 259-4800.

M. McWhorter, CRE-091101894



ID	NAME	Distance from Facility
1	Ken & Lisa Aderholt	Not shown; approx. 14.9 miles from the facility
2	Tricia & Tommy Alaniz	Approx. 4.11 miles from the facility
3	Lon Byars	Approx. 1.68 miles from the facility
4	Jose & Gloria Cardenas	Not shown; approx. 12.2 miles from the facility
5	Lee & Mary Castleberry	Approx. 4.27 miles from the facility
6	T. Shane Castleberry	Approx. 1.38 miles from the facility
7	Toby Castleberry	Approx. 1.23 miles from the facility
8	Mary Ann & Ismael Cortez	Approx. .26 miles from the facility
9	James & Carolyn Koontz	Not shown; approx. 11.3 miles from the facility
10	Kurt Lennon	Not shown; approx. 13.5 miles from the facility
11	Dane Mount	Approx. 4.8 miles from the facility
12	Jay H. Pierce	Approx. 4.87 miles from the facility
13	Mary & Luis Rangel	Approx. 1.25 miles from the facility
14	Terry Weaver	Approx. 4.31 miles from the facility
15	Elton & Edna Zoch	Not shown; approx. 14.5 miles from the facility
16	Andy Brumley	Approx. 2.73 miles from the facility

Wilbarger County

The facility is located in Wilbarger County. The red square in the first inset map represents the approximate location of the facility. The second inset map represents the location of Wilbarger County in the state of Texas; Wilbarger County is shaded in red.

Attachment B

STATEMENT OF BASIS/TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

DESCRIPTION OF APPLICATION

Applicant: City of Vernon; Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0004868000, (TX0131792).

Regulated Activity: Industrial Wastewater Permit.

Type of Application: New Permit.

Request: New Permit.

Authority: Federal Clean Water Act §402; Texas Water Code §26.027; 30 TAC Chapter 305, Subchapters C-F, Chapters 307 and 319, Commission Policies; and EPA Guidelines.

EXECUTIVE DIRECTOR RECOMMENDATION

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. It is proposed the permit be issued to expire on December 1, 2014 in accordance with 30 TAC §305.71, Basin Permitting.

REASON FOR PROJECT PROPOSED

The applicant has applied to the TCEQ for a new permit.

PROJECT DESCRIPTION AND LOCATION

The applicant proposes to operate Vernon Nitrate Treatment Plant, an ion exchange wastewater treatment plant (SIC 4941).

The facility removes nitrates from a side stream of water produced for drinking and through blending in on-site ground storage tanks produces a potable water. Wastewater streams from the regeneration nitrate removal resins and softening resins are combined in a wastewater holding tank and discharged via Outfall 001. Domestic wastewater is routed to the City of Vernon Wastewater Treatment Plant, TPDES Permit No. WQ0010377-001 for treatment and discharge.

The plant site is located at 2801 Sullivan Street, approximately one mile east of the intersection of U.S. Highway 70 and U.S. Highway 287 in Wilbarger County, Texas.

The effluent is discharged via pipeline directly to the Pease River in Segment No. 0230 of the Red River Basin. The designated uses for Segment No. 0230 are intermediate aquatic life use and contact recreation. The effluent limits in the draft permit will maintain and protect the existing instream uses. All determinations are preliminary and subject to additional review and/or revisions.

In accordance with 30 TAC §307.5 and the TCEQ implementation procedures (January 2003) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters must be performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in the Pease River, which has been identified as having intermediate aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

STATEMENT OF BASIS / TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION
TPDES Permit No: WQ0004868000

The discharge from this permit is not expected to have an effect on any federal endangered or threatened aquatic or aquatic dependent species or 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; October 21, 1998 update). 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.

Segment No. 0230 is not currently listed on the State's inventory of impaired and threatened waters (the 2008 Clean Water Act Section 303(d) list).

SUMMARY OF EFFLUENT DATA

Self-reporting data is not available because the wastewater generated from this facility is discharge into the sanitary sewer to the City of Vernon wastewater treatment plant for treatment and discharge.

PROPOSED PERMIT CONDITIONS

The draft permit authorizes a discharge of ion exchange water treatment system waste at a daily average flow not to exceed 0.046 million gallons per day and a daily maximum flow not to exceed 0.069 via Outfall 001.

Final effluent limitations are established in the draft permit as follows:

<u>Outfall Number</u>	<u>Pollutant</u>	<u>Daily Average</u>	<u>Daily Maximum</u>
001	Flow (MGD)	(0.046)	(0.069)
	Chemical Oxygen Demand	Report, mg/L	Report, mg/L
	Nitrate Nitrogen	Report, mg/L	Report, mg/L
	Total Dissolved Solids	N/A	Report, mg/L
	Chloride	N/A	Report, mg/L
	Sulfates	N/A	Report, mg/L
	pH	Between 6.0 and 9.0 standard units.	

Regulations promulgated in Title 40 of the Code of Federal Regulations (40 CFR) require technology-based limitations be placed in wastewater discharge permits based on effluent limitations guidelines, where applicable, and/or best professional judgment (BPJ) in the absence of guidelines.

The effluent limitations and/or monitoring and reporting for chemical oxygen demand, total dissolved solids, nitrate nitrogen, chloride, sulfates and pH are based on BPJ.

The mixing zone is defined as 300 feet downstream and 100 feet upstream from the point of discharge. Chronic toxic criteria apply at the edge of the mixing zone.

Biomonitoring requirements are not included in the draft permit at Outfall 001.

SUMMARY OF CHANGES FROM APPLICATION

No changes were made from the application.

STATEMENT OF BASIS / TECHNICAL SUMMARY AND
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TPDES Permit No. WQ0004868000

SUMMARY OF CHANGES FROM EXISTING PERMIT

N/A - New Permit

BASIS FOR PROPOSED DRAFT PERMIT

The following items were considered in developing the proposed permit draft:

1. Application submitted with letter dated October 9, 2008.
2. Existing permits: N/A.
3. TCEQ Rules.
4. Texas Surface Water Quality Standards - 30 TAC §§307.1-307.10, effective April 30, 1997, and Appendix E, effective February 27, 2002.
5. "Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, January 2003.
6. Memos from the Water Quality Standards Team and the Water Quality Assessment Team of the Water Quality Assessment Section of the TCEQ.
7. "Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits," TCEQ Document No. 98-001.000-OWR-WQ, May 1998.
8. EPA Effluent Guidelines: N/A.
9. Consistency with the Coastal Management Plan: N/A.

PROCEDURES FOR FINAL DECISION

When an application is declared administratively complete, the Chief Clerk sends a letter to the applicant advising the applicant to publish the Notice of Receipt of Application and Intent to Obtain Permit in the newspaper. In addition, the Chief Clerk instructs the applicant to place a copy of the application in a public place for review and copying in the county where the facility is or will be located. This application will be in a public place throughout the comment period. The Chief Clerk also mails this notice to any interested persons and, if required, to landowners identified in the permit application. This notice informs the public about the application, and provides that an interested person may file comments on the application or request a contested case hearing or a public meeting.

Once a draft permit is completed, it is sent, along with the Executive Director's preliminary decision, as contained in the technical summary or fact sheet, to the Chief Clerk. At that time, Notice of Application and Preliminary Decision will be mailed to the same people and published in the same newspaper as the prior notice. This notice sets a deadline for making public comments. The applicant must place a copy of the Executive Director's preliminary decision and draft permit in the public place with the application. This notice sets a deadline for public comment.

Any interested person may request a public meeting on the application until the deadline for filing public comments. A public meeting is intended for the taking of public comment, and is not a contested case proceeding. After the public comment deadline, the Executive Director prepares a response to all significant public comments on the application or the draft permit raised during the public comment period. The Chief Clerk then mails the Executive Director's Response to Comments and Final Decision to people who have filed comments, requested a contested case hearing, or requested to be on the mailing list. This notice provides that if a person is not satisfied with the Executive Director's response and decision, they can request a contested case hearing or file a request to reconsider the Executive Director's decision within 30 days after the notice is mailed.

STATEMENT OF BASIS / TECHNICAL SUMMARY AND
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The Executive Director will issue the permit unless a written hearing request or request for reconsideration is filed within 30 days after the Executive Director's Response to Comments and Final Decision is mailed. If a hearing request or request for reconsideration is filed, the Executive Director will not issue the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If the Executive Director calls a public meeting or the Commission grants a contested case hearing as described above, the Commission will give notice of the date, time, and place of the meeting or hearing. If a hearing request or request for reconsideration is made, the Commission will consider all public comments in making its decision and shall either adopt the Executive Director's response to public comments or prepare its own response.

For additional information about this application contact Monica Vallin-Baez at (512) 239-5784.


Monica Vallin-Baez

February 25, 2009 (Revised April 3, 2009)
Date

STATEMENT OF BASIS / TECHNICAL SUMMARY AND
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Appendix A
Calculated Water Quality-Based Effluent Limits

TEXTTOX MENU #3 - PERENNIAL STREAM OR RIVER

The water quality-based effluent limitations demonstrated below are calculated using:

Table 1, 1997 Texas Surface Water Quality Standards (30 TAC 307) for Freshwater Aquatic Life
Table 3, 2000 Texas Surface Water Quality Standards for Human Health
Procedures to Implement the Texas Surface Water Quality Standards, Texas Commission on Environmental Quality, January 2003.

PERMITTEE INFORMATION

Permittee Name:	City of Vernon
TPDES Permit No.:	WQ0004868000
Outfall No.:	001
Prepared by:	Monica Vallin-Baez
Date	February 25, 2009

DISCHARGE INFORMATION

Immediate Receiving Waterbody:	Pease River
Segment No.:	0230
TSS:	9
pH:	7.4
Hardness:	1148
Chloride:	3580
Effluent Flow for Aquatic Life (MGD):	0.046
Critical Low Flow [7Q2] (cfs):	0.28
Chronic Effluent % for Aquatic Life:	20.27
Acute Effluent % for Aquatic Life:	50.42
Effluent Flow for Human Health (MGD):	0.046
Harmonic Mean Flow (cfs):	0.67
Human Health Effluent %:	9.60
Public Water Supply Use?:	no

CALCULATE TOTAL/DISSOLVED RATIO:

<i>Stream/River Metal</i>	<i>Intercept</i>	<i>Slope (m)</i>	<i>Partitioning Coefficient (K_{po})</i>	<i>Dissolved Fraction (C_d/C_t)</i>		<i>Water Effects Ratio (WER)</i>	
Aluminum	N/A	N/A	N/A	1.00	Assumed	1.00	Assumed
Arsenic	5.68	-0.73	96250.49	0.54		1.00	Assumed
Cadmium	6.6	-1.13	332434.40	0.25		1.00	Assumed
Chromium (Total)	6.52	-0.93	429096.00	0.21		1.00	Assumed
Chromium (+3)	6.52	-0.93	429096.00	0.21		1.00	Assumed
Chromium (+6)	N/A	N/A	N/A	1.00	Assumed	1.00	Assumed
Copper	6.02	-0.74	205996.83	0.35		1.00	Assumed
Lead	6.45	-0.8	485966.12	0.19		1.00	Assumed
Mercury	N/A	N/A	N/A	1.00	Assumed	1.00	Assumed
Nickel	5.69	-0.57	139985.09	0.44		1.00	Assumed
Selenium	N/A	N/A	N/A	1.00	Assumed	1.00	Assumed
Silver	6.38	-1.03	249534.28	0.31		1.00	Assumed
Zinc	6.1	-0.7	270414.67	0.29		1.00	Assumed

STATEMENT OF BASIS / TECHNICAL SUMMARY AND
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AQUATIC LIFE

CALCULATE DAILY AVERAGE AND DAILY MAXIMUM EFFLUENT LIMITATIONS

Parameter	Acute	Chronic	WLAa	WLAc	LTAA	LTAc	Daily Avg.	Daily Max.
	Standard	Standard					(ug/L)	(ug/L)
Aldrin	3.000	N/A	5.95	N/A	3.41	N/A	5.01	10.60
Aluminum (d)	991.000	N/A	1965.68	N/A	1126.33	N/A	1655.71	3502.90
Arsenic (d)	360.000	190.000	1332.64	1749.58	763.60	1347.18	1122.49	2374.80
Cadmium (d)	528.602	7.709	4185.51	151.83	2398.30	116.91	171.86	363.60
Carbaryl	2.000	N/A	3.97	N/A	2.27	N/A	3.34	7.07
Chlordane	2.400	0.004	4.76	0.02	2.73	0.02	0.02	0.05
Chlorpyrifos	0.083	0.041	0.16	0.20	0.09	0.16	0.14	0.29
Chromium (+3) (d)	12816.53	1527.658	123598.20	36647.03	70821.77	28218.21	41480.77	87758.64
Chromium (+6) (d)	16.000	11.000	31.74	54.28	18.19	41.79	26.73	56.56
Copper (d)	191.355	102.988	1083.25	1450.27	620.70	1116.70	912.43	1930.38
Cyanide (free)	45.780	10.690	90.81	52.75	52.03	40.61	59.70	126.31
4,4'-DDT	1.100	0.001	2.18	0.00	1.25	0.00	0.01	0.01
Dementon	N/A	0.100	N/A	0.49	N/A	0.38	0.56	1.18
Dicofol	59.300	19.800	117.62	97.70	67.40	75.23	99.08	209.61
Dieldrin	2.500	0.002	4.96	0.01	2.84	0.01	0.01	0.02
Diuron	210.000	70.000	416.54	345.39	238.68	265.95	350.86	742.29
Endosulfan I (alpha)	0.220	0.056	0.44	0.28	0.25	0.21	0.31	0.66
Endosulfan II (beta)	0.220	0.056	0.44	0.28	0.25	0.21	0.31	0.66
Endosulfan sulfate	0.220	0.056	0.44	0.28	0.25	0.21	0.31	0.66
Endrin	0.180	0.002	0.36	0.01	0.20	0.01	0.01	0.03
Guthion	N/A	0.010	N/A	0.05	N/A	0.04	0.06	0.12
Heptachlor	0.520	0.004	1.03	0.02	0.59	0.01	0.02	0.04
Hexachlorocyclohexane (Lindane)	2.000	0.080	3.97	0.39	2.27	0.30	0.45	0.95
Lead (d)	1824.887	71.113	19451.27	1885.53	11145.58	1451.86	2134.23	4515.28
Malathion	N/A	0.010	N/A	0.05	N/A	0.04	0.06	0.12
Mercury	2.400	1.300	4.76	6.41	2.73	4.94	4.01	8.48
Methoxychlor	N/A	0.030	N/A	0.15	N/A	0.11	0.17	0.35
Mirex	N/A	0.001	N/A	0.00	N/A	0.00	0.01	0.01
Nickel (d)	11180.51	1242.930	50116.76	13859.24	28716.90	10671.61	15687.27	33188.71
Parathion (ethyl)	0.065	0.013	0.13	0.06	0.07	0.05	0.07	0.15
Pentachlorophenol	13.558	8.559	26.89	42.23	15.41	32.52	22.65	47.92
Phenanthrene	30.000	30.000	59.51	148.02	34.10	113.98	50.12	106.04
Polychlorinated Biphenyls (PCBs)	2.000	0.014	3.97	0.07	2.27	0.05	0.08	0.17
Selenium	20.000	5.000	39.67	24.67	22.73	19.00	27.92	59.08
Silver, (free ion)	0.920	N/A	65.95	N/A	37.79	N/A	55.55	117.53
Toxaphene	0.7800	0.0002	1.55	0.00	0.89	0.00	0.00	0.00
Tributyltin (TBT)	0.130	0.024	0.26	0.12	0.15	0.09	0.13	0.28
2,4,5 Trichlorophenol	136.000	64.000	269.76	315.78	154.57	243.15	227.22	480.72
Zinc (d)	928.794	838.225	6325.93	14201.59	3624.76	10935.22	5328.40	11273.00

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HUMAN HEALTH

CALCULATE DAILY AVERAGE AND DAILY MAXIMUM EFFLUENT LIMITATIONS

Parameter	Water and	FW Fish	WLAh	LTAh	Daily Avg. (ug/L)	Daily Max. (ug/L)
	FW Fish (ug/L)	Only (ug/L)				
Acrylonitrile	1.28	10.9	113.51	105.56	155.18	328.31
Aldrin	0.00408	0.00426	0.04	0.04	0.06	0.13
Arsenic (d)	50	N/A	N/A	N/A	N/A	N/A
Barium (d)	2000	N/A	N/A	N/A	N/A	N/A
Benzene	5	106	1103.86	1026.59	1509.09	3192.70
Benzidine	0.00106	0.00347	0.04	0.03	0.05	0.10
Benzo(a)anthracene	0.099	0.81	8.44	7.84	11.53	24.40
Benzo(a)pyrene	0.099	0.81	8.44	7.84	11.53	24.40
Bis(chloromethyl)ether	0.00462	0.0193	0.20	0.19	0.27	0.58
Cadmium (d)	5	N/A	N/A	N/A	N/A	N/A
Carbon Tetrachloride	3.76	8.4	87.48	81.35	119.59	253.01
Chlordane	0.021	0.0213	0.22	0.21	0.30	0.64
Chlorobenzene	776	1380	14371.03	13365.06	19646.64	41565.34
Chloroform	100	1292	13454.62	12512.80	18393.81	38914.79
Chromiumd	100	3320	34573.79	32153.62	47265.82	99997.76
Chrysene	0.417	8.1	84.35	78.45	115.32	243.97
Cresols	3313	13116	136587.29	127026.2	186728.5	395051.4
Cyanide (free)	200	N/A	N/A	N/A	N/A	N/A
4,4'-DDD	0.0103	0.01	0.10	0.10	0.14	0.30
4,4'-DDE	0.0073	0.007	0.07	0.07	0.10	0.21
4,4'-DDT	0.0073	0.007	0.07	0.07	0.10	0.21
2,4'-D	70	N/A	N/A	N/A	N/A	N/A
Danitol	0.709	0.721	7.51	6.98	10.26	21.72
Dibromochloromethane	9.2	71.6	745.63	693.43	1019.35	2156.58
1,2-Dibromoethane	0.014	0.335	3.49	3.24	4.77	10.09
1,3-Dichloropropene (1,3- Dichloropropylene)	22.8	161	1676.62	1559.26	2292.11	4849.29
Dieldrin	0.00171	0.002	0.02	0.02	0.03	0.06
p-Dichlorobenzene	75	N/A	N/A	N/A	N/A	N/A
1,2-Dichloroethane	5	73.9	769.58	715.71	1052.09	2225.85
1,1-Dichloroethylene	1.63	5.84	60.82	56.56	83.14	175.90
Dicofol	0.215	0.217	2.26	2.10	3.09	6.54
Dioxins/Furans (TCDD Equivalents)	1.34E-07	1.40E-07	1.46E-06	1.36E-06	1.99E-06	4.22E-06
Endrin	1.27	1.34	13.95	12.98	19.08	40.36
Fluoride	4000	N/A	N/A	N/A	N/A	N/A
Heptachlor	0.0026	0.00265	0.03	0.03	0.04	0.08
Heptachlor Epoxide	0.159	1.1	11.46	10.65	15.66	33.13
Hexachlorobenzene	0.0194	0.0198	0.21	0.19	0.28	0.60
Hexachlorobutadiene	2.99	3.6	37.49	34.87	51.25	108.43
Hexachlorocyclohexane (alpha)	0.163	0.413	4.30	4.00	5.88	12.44
Hexachlorocyclohexane (beta)	0.57	1.45	15.10	14.04	20.64	43.67
Hexachlorocyclohexane (gamma) (Lindane)	0.2	2	20.83	19.37	28.47	60.24
Hexachloroethane	84.2	278	2895.03	2692.38	3957.80	8373.31
Hexachlorophene	0.0531	0.053	0.55	0.51	0.75	1.60
Lead (d)	4.98	25.3	263.47	245.03	360.19	762.03
Mercury	0.0122	0.0122	0.13	0.12	0.17	0.37
Methoxyclor	2.21	2.22	23.12	21.50	31.61	66.87
Methyl Ethyl Ketone	5.29E+04	9.94E+06	1.04E+08	9.63E+07	1.42E+08	2.99E+08
Nitrate-Nitrogen (as Total Nitrogen)	10000	N/A	N/A	N/A	N/A	N/A
Nitrobenzene	37.3	233	2426.41	2256.56	3317.15	7017.92
N-Nitrosodiethylamine	0.0382	7.68	79.98	74.38	109.34	231.32
N-Nitroso-di-n-Butylamine	1.84	13.5	140.59	130.75	192.20	406.62
PCB's (Polychlorinated Biphenyls)	0.0013	0.0013	0.01	0.01	0.02	0.04

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Pentachlorobenzene	6.1	6.68	69.56	64.69	95.10	201.20
Pentachlorophenol	1	135	1405.86	1307.45	1921.95	4066.17
Pyridine	88.1	13333	138847.08	129127.8	189817.8	401587.4
Selenium	50	N/A	N/A	N/A	N/A	N/A
1,2,4,5-Tetrachlorobenzene	0.241	0.243	2.53	2.35	3.46	7.32
Tetrachloroethylene	5	323	3363.65	3128.20	4598.45	9728.70
Toxaphene	0.005	0.014	0.15	0.14	0.20	0.42
2,4,5-TP (Silvex)	47	50.3	523.81	487.15	716.11	1515.03
2,4,5-Trichlorophenol	953	1069	11132.34	10353.08	15219.03	32198.08
Trichloroethylene	5	612	6373.24	5927.11	8712.86	18433.32
1,1,1-Trichloroethane	200	12586	131067.98	121893.2	179183.0	379087.9
TTHM (Sum of Total Trihalomethanes)	100	N/A	N/A	N/A	N/A	N/A
Vinyl Chloride	2	415	4321.72	4019.20	5908.23	12499.72

CALCULATE 70% AND 85% OF DAILY AVERAGE EFFLUENT LIMITATIONS

Parameter	70%	85%
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Aquatic Life

Aldrin	3.509	4.260
Aluminum	1158.998	1407.354
Arsenic	785.746	954.120
Cadmium	120.303	146.082
Carbaryl	2.339	2.840
Chlordane	0.017	0.020
Chlorpyrifos	0.097	0.118
Chromium (+3)	29036.54	35258.66
Chromium (+6)	18.712	22.722
Copper	638.702	775.567
Cyanide (free)	41.792	50.747
4,4'-DDT	0.004	0.005
Dementon	0.391	0.475
Dicofol	69.353	84.214
Dieldrin	0.007	0.009
Diuron	245.600	298.228
Endosulfan (alpha)	0.219	0.266
Endosulfan (beta)	0.219	0.266
Endosulfan sulfate	0.219	0.266
Endrin	0.009	0.011
Guthion	0.039	0.047
Heptachlor	0.015	0.018
Hexachlorocyclohexane (Lindane)	0.313	0.380
Lead	1493.962	1814.096
Malathion	0.039	0.047
Mercury	2.807	3.408
Methoxychlor	0.117	0.142
Mirex	0.004	0.005
Nickel	10981.09	13334.18
Parathion (ethyl)	0.051	0.062
Pentachlorophenol	15.857	19.255
Phenanthrene	35.086	42.604
Polychlorinated Biphenyls (PCBs)	0.055	0.066
Selenium	19.547	23.736
Silver, (free ion)	38.887	47.220
Toxaphene	0.001	0.001
Tributlytin (TBT)	0.094	0.114
2,4,5 Trichlorophenol	159.055	193.138
Zinc	3729.877	4529.136

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Human Health

Acrylonitrile	108.626	131.903
Aldrin	0.042	0.052
Arsenic	N/A	N/A
Barium	N/A	N/A
Benzene	1056.363	1282.726
Benzidine	0.035	0.042
Benzo(a)anthracene	8.072	9.802
Benzo(a)pyrene	8.072	9.802
Bis(chloromethyl)ether	0.192	0.234
Cadmium	N/A	N/A
Carbon Tetrachloride	83.712	101.650
Chlordane	0.212	0.258
Chlorobenzene	13752.65	16699.64
Chloroform	12875.67	15634.74
Chromiumd	33086.08	40175.95
Chrysene	80.722	98.020
Cresols	130709.9	158719.2
Cyanide (free)	N/A	N/A
4,4'-DDD	0.100	0.121
4,4'-DDE	0.070	0.085
4,4'-DDT	0.070	0.085
2,4'-D	N/A	N/A
Danitol	7.185	8.725
Dibromochloromethane	713.543	866.445
1,2-Dibromoethane	3.339	4.054
1,3-Dichloropropene (1,3-Dichloropropylene)	1604.475	1948.292
Dieldrin	0.020	0.024
p-Dichlorobenzene	N/A	N/A
1,2-Dichloroethane	736.464	894.278
1,1-Dichloroethylene	58.200	70.671
Dicofol	2.163	2.626
Dioxins/Furans (TCDD Equivalents)	1.40E-06	1.69E-06
Endrin	13.354	16.216
Fluoride	N/A	N/A
Heptachlor	0.026	0.032
Heptachlor Epoxide	10.962	13.311
Hexachlorobenzene	0.197	0.240
Hexachlorobutadiene	35.876	43.564
Hexachlorocyclohexane (alpha)	4.116	4.998
Hexachlorocyclohexane (beta)	14.450	17.547
Hexachlorocyclohexane (gamma) (Lindane)	19.931	24.202
Hexachloroethane	2770.461	3364.131
Hexachlorophene	0.528	0.641
Lead	252.132	306.160
Mercury	0.122	0.148
Methoxycylor	22.124	26.865
Methyl Ethyl Ketone	9.91E+07	1.20E+08
Nitrate-Nitrogen (as Total Nitrogen)	N/A	N/A
Nitrobenzene	2322.005	2819.577
N-Nitrosodiethylamine	76.536	92.937
N-Nitroso-di-n-Butylamine	134.537	163.366
PCB's (Polychlorinated Biphenyls)	0.013	0.016

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Pentachlorobenzene	66.571	80.836
Pentachlorophenol	1345.368	1633.661
Pyridine	132872.5	161345.2
Selenium	N/A	N/A
1,2,4,5-Tetrachlorobenzene	2.422	2.941
Tetrachloroethylene	3218.917	3908.684
Toxaphene	0.140	0.169
2,4,5-TP (Silvex)	501.274	608.690
2,4,5-Trichlorophenol	10653.32	12936.17
Trichloroethylene	6099.000	7405.928
1,1,1-Trichloroethane	125428.1	152305.6
TTHM (Sum of Total Trihalomethanes)	N/A	N/A
Vinyl Chloride	4135.760	5021.994

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APPENDIX B
**TOTAL DISSOLVED SOLIDS, CHLORIDES, AND SULFATE SCREENING AND EFFLUENT
LIMITATION CALCULATIONS**

Intermittent Stream with Perennial Pools (Unclassified)

The following procedures are used to evaluate total dissolved solids, chloride, and sulfate loadings in discharges to intermittent streams with perennial pools. Screening procedures and effluent limitations are calculated using the methodology in the document "Procedures to Implement The Texas Surface Water Quality Standards" (January 2003) and criteria in the Texas Surface Water Quality Standards (30 TAC §307).

TCEQ Implementation Procedures specify, on page 91, the use of two screening procedures for intermittent streams with perennial pools: those for unclassified intermittent streams (total dissolved solids only) and those for unclassified perennial streams or rivers. These screening values are compared, and the more stringent of the two is used to calculate effluent limitations for the discharge.

Effluent Screening

Screening procedures are as follows:

Intermittent Stream (Unclassified)

The following default screening values (C_{SV}) are assumed:

Specific Type of Intermittent Stream	Default C_{SV}
Intermittent streams demonstrated to be dry, except for short term flow in immediate response to rainfall.	$\geq 4,000$ mg/L
Constructed ditches conveying storm water and wastewater, considered water in the state.	$\geq 4,000$ mg/L
Intermittent streams within 3 miles of tidal waters.	$= 6,000$ mg/L

When default screening values are not assumed, the screening value is determined as follows:

$$C_{TDS} = (C_c / 500 \text{ mg/L}) * 2,500 \text{ mg/L}$$

Where:	C_{SV} = TDS screening value
	C_{TDS} = TDS concentration used to determine C_{SV} screening value
	C_c = TDS criterion at the first downstream segment
	C_E = Effluent concentration

The value 500 mg/L is the median concentration of TDS in Texas streams. 2,500 mg/L is the minimum TDS screening value. The C_{SV} is determined by comparing C_{TDS} with the following:

If C_{TDS}	Then C_{SV}
$\leq 2,500$ mg/L	$= 2,500$ mg/L
$> 2,500$ mg/L	$= C_{TDS}$
$> 6,000$ mg/L	$= 6,000$ mg/L

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Total Dissolved Solids		
C _C	=	30000 mg/L
C _E	=	24000 mg/L
C _{TDS}	=	150000 mg/L
C _{SV}	=	6000 mg/L

C_C > C_{SV}, therefore, no effluent limits are necessary.

Unclassified Perennial Streams or Rivers (Unclassified)

The following default screening equation is used:

$$C_{SV} \geq (Q_S C_A + Q_E C_{E1}) / (Q_E + Q_S)$$

Where:	C _C = Segment Criterion
	Q _S = Harmon mean flow of the first perennial downstream waterbody
	C _A = Ambient concentration
	Q _E = Effluent flow
	C _{E1} = Effluent concentration
	C _{SV} = TDS screening value

Total Dissolved Solids		
C _C	=	30000 mg/L
Q _S	=	0.67 cfs
C _A	=	7530 mg/L
Q _E	=	0.071 cfs
C _{E1}	=	24000 mg/L
Screening Calculation		
C _{SV}	=	9108.097

C_C > C_{SV}; no effluent limitations are necessary.

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Chlorides		
C_C	=	12000 mg/L
Q_S	=	0.67 cfs
C_A	=	3580 mg/L
Q_E	=	0.071 cfs
C_{E1}	=	11000 mg/L
Screening Calculation		
C_{SV}	=	4290.958

$C_C > C_{SV}$; no effluent limits are necessary.

Sulfate		
C_C	=	3500 mg/L
Q_S	=	0.67 cfs
C_A	=	1690 mg/L
Q_E	=	0.071 cfs
C_{E1}	=	10000 mg/L
Screening Calculation		
C_{SV}	=	2486.235

$C_C > C_{SV}$; no effluent limits are necessary.

Attachment C



TPDES PERMIT NO. WQ0004868000
For TCEQ office use only -
EPA I.D. No. TX0131792]

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

P.O. Box 13087
Austin, Texas 78711-3087

PERMIT TO DISCHARGE WASTES

under provisions of
Section 402 of the Clean Water Act
and Chapter 26 of the Texas Water Code

City of Vernon

whose mailing address is

1725 Wilbarger Street
Vernon, Texas 76384

is authorized to treat and discharge wastes from Vernon Nitrate Treatment Plant, an ion exchange water treatment plant (SIC 4941)

located at 2801 Sullivan Street, approximately one mile east of the intersection of U.S. Highway 70 and U.S. Highway 287 in Wilbarger County, Texas

via pipeline directly to the Pease River in Segment No. 0230 of the Red River Basin

only according to effluent limitations, monitoring requirements and other conditions set forth in this permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ), the laws of the State of Texas, and other orders of the TCEQ. The issuance of this permit does not grant to the permittee the right to use private or public property for conveyance of wastewater along the discharge route described in this permit. This includes, but is not limited to, property belonging to any individual, partnership, corporation, or other entity. Neither does this permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to use the discharge route.

This permit shall expire at midnight on December 1, 2014.

ISSUED DATE:

For the Commission

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the date of issuance and lasting through the date of expiration, the permittee is authorized to discharge ion exchange water treatment system waste subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.046 million gallons per day (MGD). The daily maximum flow shall not exceed 0.069 MGD.

Effluent Characteristics	Discharge Limitations		Minimum Self-Monitoring Requirements	
	Daily Average mg/L	Daily Maximum mg/L	Single Grab mg/L	Report Daily Average and Daily Maximum Measurement Frequency Sample Type
Flow (MGD)	(Report)	(Report)	N/A	1/day Estimate
Chemical Oxygen Demand	Report	Report	N/A	1/month Grab
Nitrate Nitrogen	Report	Report	N/A	1/month Grab
Chloride	N/A	Report	N/A	1/month Grab
Total Dissolved Solids	N/A	Report	N/A	1/month Grab
Sulfate	N/A	Report	N/A	1/month Grab

2. The pH shall not be less than 6.0 standard units or greater than 9.0 standard units and shall be monitored 1/day, by grab sample.

3. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

4. Effluent monitoring samples shall be taken at the following location: At Outfall 001, at the discharge pipeline immediately downstream of the discharge flow meter at the Nitrate Treatment Plant, prior to entering Pease River.

DEFINITIONS AND STANDARD PERMIT CONDITIONS

As required by Title 30 Texas Administrative Code (TAC) Chapter 305, certain regulations appear as standard conditions in waste discharge permits. 30 TAC §§305.121 - 305.129 (relating to Permit Characteristics and Conditions) as promulgated under the Texas Water Code (TWC) §§5.103 and 5.105, and the Texas Health and Safety Code (THSC) §§361.017 and 361.024(a), establish the characteristics and standards for waste discharge permits, including sewage sludge, and those sections of 40 Code of Federal Regulations (CFR) Part 122 adopted by reference by the Commission. The following text includes these conditions and incorporates them into this permit. All definitions in Texas Water Code §26.001 and 30 TAC Chapter 305 shall apply to this permit and are incorporated by reference. Some specific definitions of words or phrases used in this permit are as follows:

1. Flow Measurements

- a. Annual average flow - the arithmetic average of all daily flow determinations taken within the preceding 12 consecutive calendar months. The annual average flow determination shall consist of daily flow volume determinations made by a totalizing meter, charted on a chart recorder, and limited to major domestic wastewater discharge facilities with a one million gallons per day or greater permitted flow.
- b. Daily average flow - the arithmetic average of all determinations of the daily flow within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily flow, the determination shall be the arithmetic average of all instantaneous measurements taken during that month. Daily average flow determination for intermittent discharges shall consist of a minimum of three flow determinations on days of discharge.
- c. Daily maximum flow - the highest total flow for any 24-hour period in a calendar month.
- d. Instantaneous flow - the measured flow during the minimum time required to interpret the flow measuring device.
- e. 2-hour peak flow (domestic wastewater treatment plants) - the maximum flow sustained for a two-hour period during the period of daily discharge. The average of multiple measurements of instantaneous maximum flow within a two-hour period may be used to calculate the 2-hour peak flow.
- f. Maximum 2-hour peak flow (domestic wastewater treatment plants) - the highest 2-hour peak flow for any 24-hour period in a calendar month.

2. Concentration Measurements

- a. Daily average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar month, consisting of at least four separate representative measurements.
 - i. For domestic wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values in the previous four consecutive month period consisting of at least four measurements shall be utilized as the daily average concentration.
 - ii. For all other wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values taken during the month shall be utilized as the daily average concentration.
- b. 7-day average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar week, Sunday through Saturday.
- c. Daily maximum concentration - the maximum concentration measured on a single day, by the sample type specified in the permit, within a period of one calendar month.
- d. Daily discharge - the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the sampling day.

The "daily discharge" determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the "daily discharge" determination of concentration shall be the arithmetic average (weighted by flow value) of all samples collected during that day.

- e. Bacteria concentration (Fecal coliform, E. coli, or Enterococci) – the number of colonies of bacteria per 100 milliliters effluent. The daily average bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month. The geometric mean shall be determined by calculating the n th root of the product of all measurements made in a calendar month, where n equals the number of measurements made; or computed as the antilogarithm of the arithmetic mean of the logarithms of all measurements of made in a calendar month. For any measurement of bacteria equaling zero, a substitute value of one shall made for input into either computation method. If specified, the 7-day average for bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.

Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as (Flow, MGD x Concentration, mg/l x 8.34).

Daily maximum loading (lbs/day) - the highest daily discharge, in terms of mass (lbs/day), within a period of one calendar month.

3. Sample Type

- a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC §319.9 (a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC §319.9 (b).
- b. Grab sample - an individual sample collected in less than 15 minutes.

- 4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.

- 5. The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids that have not been classified as hazardous waste separated from wastewater by unit processes .

- 6. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

MONITORING AND REPORTING REQUIREMENTS

1. Self-Reporting

Monitoring results shall be provided at the intervals specified in the permit. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall conduct effluent sampling and reporting in accordance with 30 TAC §§319.4 - 319.12. Unless otherwise specified, a monthly effluent report shall be submitted each month, to the Enforcement Division (MC 224), by the 20th day of the following month for each discharge that is described by this permit whether or not a discharge is made for that month. Monitoring results must be reported on an approved self-report form that is signed and certified as required by Monitoring and Reporting Requirements No. 10.

As provided by state law, the permittee is subject to administrative, civil and criminal penalties, as applicable, for negligently or knowingly violating the Clean Water Act; TCW Chapters 26, 27, and 28; and THSC Chapter 361, including but not limited to knowingly making any false statement, representation, or certification on any report, record, or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, or falsifying, tampering with or knowingly rendering inaccurate any monitoring device or method required by this permit or violating any other requirement imposed by state or federal regulations.

2. Test Procedures

- a. Unless otherwise specified in this permit, test procedures for the analysis of pollutants shall comply with procedures specified in 30 TAC §§319.11 - 319.12. Measurements, tests, and calculations shall be accurately accomplished in a representative manner.
- b. All laboratory tests submitted to demonstrate compliance with this permit must meet the requirements of 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification.

3. Records of Results

- a. Monitoring samples and measurements shall be taken at times and in a manner so as to be representative of the monitored activity.
- b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, records of all data used to complete the application for this permit, and the certification required by 40 CFR §264.73(b)(9) shall be retained at the facility site, or shall be readily available for review by a TCEQ representative for a period of three years from the date of the record or sample, measurement, report, application or certification. This period shall be extended at the request of the Executive Director.
- c. Records of monitoring activities shall include the following:
 - i. date, time, and place of sample or measurement;
 - ii. identity of individual who collected the sample or made the measurement.
 - iii. date and time of analysis;
 - iv. identity of the individual and laboratory who performed the analysis;
 - v. the technique or method of analysis; and
 - vi. the results of the analysis or measurement and quality assurance/quality control records.

The period during which records are required to be kept shall be automatically extended to the date of the final disposition of any administrative or judicial enforcement action that may be instituted against the permittee.

4. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit using approved analytical methods as specified above, all results of such monitoring shall be included in the calculation and reporting of the values submitted on the approved self-report form. Increased frequency of sampling shall be indicated on the self-report form.

5. Calibration of Instruments

All automatic flow measuring or recording devices and all totalizing meters for measuring flows shall be accurately calibrated by a trained person at plant start-up and as often thereafter as necessary to ensure accuracy, but not less often than annually unless authorized by the Executive Director for a longer period. Such person shall verify in writing that the device is operating properly and giving accurate results. Copies of the verification shall be retained at the facility site and/or shall be readily available for review by a TCEQ representative for a period of three years.

6. Compliance Schedule Reports

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date to the Regional Office and the Enforcement Division (MC 224).

7. Noncompliance Notification

- a. In accordance with 30 TAC §305.125(9) any noncompliance that may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ. Report of such information shall be provided orally or by facsimile transmission (FAX) to the Regional Office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the Regional Office and the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.
- b. The following violations shall be reported under Monitoring and Reporting Requirement 7.a.:
 - i. Unauthorized discharges as defined in Permit Condition 2(g).
 - ii. Any unanticipated bypass that exceeds any effluent limitation in the permit.
 - iii. Violation of a permitted maximum daily discharge limitation for pollutants listed specifically in the Other Requirements section of an Industrial TPDES permit.
- c. In addition to the above, any effluent violation that deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the Regional Office and the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.

- d. Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Enforcement Division (MC 224) as promptly as possible. For effluent limitation violations, noncompliances shall be reported on the approved self-report form.
- 8. In accordance with the procedures described in 30 TAC §§35.301 - 35.303 (relating to Water Quality Emergency and Temporary Orders) if the permittee knows in advance of the need for a bypass, it shall submit prior notice by applying for such authorization.
- 9. Changes in Discharges of Toxic Substances

All existing manufacturing, commercial, mining, and silvicultural permittees shall notify the Regional Office, orally or by facsimile transmission within 24 hours, and both the Regional Office and the Enforcement Division (MC 224) in writing within five (5) working days, after becoming aware of or having reason to believe:

- a. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant listed at 40 CFR Part 122, Appendix D, Tables II and III (excluding Total Phenols) that is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - i. One hundred micrograms per liter (100 µg/L);
 - ii. Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
 - iii. Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
 - iv. The level established by the TCEQ.
- b. That any activity has occurred or will occur that would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant that is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - i. Five hundred micrograms per liter (500 µg/L);
 - ii. One milligram per liter (1 mg/L) for antimony;
 - iii. Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
 - iv. The level established by the TCEQ.

10. Signatories to Reports

All reports and other information requested by the Executive Director shall be signed by the person and in the manner required by 30 TAC §305.128 (relating to Signatories to Reports).

- 11. All Publicly Owned Treatment Works (POTWs) must provide adequate notice to the Executive Director of the following:
 - a. Any new introduction of pollutants into the POTW from an indirect discharger that would be subject to CWA §301 or §306 if it were directly discharging those pollutants;
 - b. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit; and
 - c. For the purpose of this paragraph, adequate notice shall include information on:
 - i. The quality and quantity of effluent introduced into the POTW; and
 - ii. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

PERMIT CONDITIONS

1. General

- a. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in an application or in any report to the Executive Director, it shall promptly submit such facts or information.
- b. This permit is granted on the basis of the information supplied and representations made by the permittee during action on an application, and relying upon the accuracy and completeness of that information and those representations. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked, in whole or in part, in accordance with 30 TAC Chapter 305, Subchapter D, during its term for good cause including, but not limited to, the following:
 - i. Violation of any terms or conditions of this permit;

- ii. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
 - iii. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- c. The permittee shall furnish to the Executive Director, upon request and within a reasonable time, any information to determine whether cause exists for amending, revoking, suspending, or terminating the permit. The permittee shall also furnish to the Executive Director, upon request, copies of records required to be kept by the permit.

2. Compliance

- a. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment and agreement that such person will comply with all the terms and conditions embodied in the permit, and the rules and other orders of the Commission.
- b. The permittee has a duty to comply with all conditions of the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Health and Safety Code, and is grounds for enforcement action, for permit amendment, revocation, or suspension, or for denial of a permit renewal application or an application for a permit for another facility.
- c. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
- d. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment.
- e. Authorization from the Commission is required before beginning any change in the permitted facility or activity that may result in noncompliance with any permit requirements.
- f. A permit may be amended, suspended and reissued, or revoked for cause in accordance with 30 TAC §§305.62 and 305.66 and TWC §7.302. The filing of a request by the permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- g. There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be 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 Other Requirements section of this permit.
- h. In accordance with 30 TAC §305.535(a), the permittee may allow any bypass to occur from a TPDES permitted facility that does not cause permitted effluent limitations to be exceeded or an unauthorized discharge to occur, but only if the bypass is also for essential maintenance to assure efficient operation.
- i. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under Texas Water Code §§7.051 - 7.075 (relating to Administrative Penalties), 7.101 - 7.111 (relating to Civil Penalties), and 7.141 - 7.202 (relating to Criminal Offenses and Penalties) for violations including, but not limited to, negligently or knowingly violating the federal CWA §§301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under the CWA § 402, or any requirement imposed in a pretreatment program approved under the CWA §§402 (a)(3) or 402 (b)(8).

3. Inspections and Entry

- a. Inspection and entry shall be allowed as prescribed in the TWC Chapters 26, 27, and 28, and THSC Chapter 361.
- b. The members of the Commission and employees and agents of the Commission are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit, or other order of the Commission. Members, employees, or agents of the Commission and Commission contractors are entitled to enter public or private property at any reasonable time to investigate or monitor or, if the responsible party is not responsive or there is an immediate danger to public health or the environment, to remove or remediate a condition related to the quality of water in the state. Members, employees, Commission contractors, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials. If any member, employee, Commission contractor, or agent is refused the right to enter in or on public or private property under this authority, the Executive Director may invoke the remedies authorized in TWC §7.002. The statement above, that Commission entry shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection, is not grounds for denial or restriction of entry to any part of the facility, but merely describes the Commission's duty to observe appropriate rules and regulations during an inspection.

4. Permit Amendment and/or Renewal

- a. The permittee shall give notice to the Executive Director as soon as possible of any planned physical alterations or additions to the permitted facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements. Notice shall also be required under this paragraph when:
 - i. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in accordance with 30 TAC §305.534 (relating to New Sources and New Dischargers); or
 - ii. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations in the permit, nor to notification requirements in Monitoring and Reporting Requirements No. 9;
 - iii. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
- b. Prior to any facility modifications, additions, or expansions that will increase the plant capacity beyond the permitted flow, the permittee must apply for and obtain proper authorization from the Commission before commencing construction.
- c. The permittee must apply for an amendment or renewal at least 180 days prior to expiration of the existing permit in order to continue a permitted activity after the expiration date of the permit. If an application is submitted prior to the expiration date of the permit, the existing permit shall remain in effect until the application is approved, denied, or returned. If the application is returned or denied, authorization to continue such activity shall terminate upon the effective date of the action. If an application is not submitted prior to the expiration date of the permit, the permit shall expire and authorization to continue such activity shall terminate.
- d. Prior to accepting or generating wastes that are not described in the permit application or that 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.
- e. In accordance with the TWC §26.029(b), after a public hearing, notice of which shall be given to the permittee, the Commission may require the permittee, from time to time, for good cause, in accordance with applicable laws, to conform to new or additional conditions.
- f. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under CWA §307(a) for a toxic pollutant that is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition. The permittee shall comply with effluent standards or prohibitions established under CWA §307(a) for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

5. Permit Transfer

- a. Prior to any transfer of this permit, Commission approval must be obtained. The Commission shall be notified in writing of any change in control or ownership of facilities authorized by this permit. Such notification should be sent to the Applications Review and Processing Team (MC 148) of the Water Quality Division.
- b. A permit may be transferred only according to the provisions of 30 TAC §305.64 (relating to Transfer of Permits) and 30 TAC §50.133 (relating to Executive Director Action on Application or WQMP update).

6. Relationship to Hazardous Waste Activities

This permit does not authorize any activity of hazardous waste storage, processing, or disposal that requires a permit or other authorization pursuant to the Texas Health and Safety Code.

7. Relationship to Water Rights

Disposal of treated effluent by any means other than discharge directly to water in the state must be specifically authorized in this permit and may require a permit pursuant to Texas Water Code Chapter 11.

8. Property Rights

A permit does not convey any property rights of any sort, or any exclusive privilege.

9. Permit Enforceability

The conditions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

10. Relationship to Permit Application

The application pursuant to which the permit has been issued is incorporated herein; provided, however, that in the event of a conflict between the provisions of this permit and the application, the provisions of the permit shall control.

11. Notice of Bankruptcy.

- a. Each permittee shall notify the executive director, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code (11 USC) by or against:
 - i. the permittee;
 - ii. an entity (as that term is defined in 11 USC, §101(15)) controlling the permittee or listing the permit or permittee as property of the estate; or
 - iii. an affiliate (as that term is defined in 11 USC, §101(2)) of the permittee.
- b. This notification must indicate:
 - i. the name of the permittee;
 - ii. the permit number(s);
 - iii. the bankruptcy court in which the petition for bankruptcy was filed; and
 - iv. the date of filing of the petition.

OPERATIONAL REQUIREMENTS

1. The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control. Process control, maintenance, and operations records shall be retained at the facility site, or shall be readily available for review by a TCEQ representative, for a period of three years.
2. Upon request by the Executive Director, the permittee shall take appropriate samples and provide proper analysis in order to demonstrate compliance with Commission rules. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall comply with all applicable provisions of 30 TAC Chapter 312 concerning sewage sludge use and disposal and 30 TAC §§319.21 - 319.29 concerning the discharge of certain hazardous metals.
3. Domestic wastewater treatment facilities shall comply with the following provisions:
 - a. The permittee shall notify the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, in writing, of any facility expansion at least 90 days prior to conducting such activity.
 - b. The permittee shall submit a closure plan for review and approval to the Land Application Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, for any closure activity at least 90 days prior to conducting such activity. Closure is the act of permanently taking a waste management unit or treatment facility out of service and includes the permanent removal from service of any pit, tank, pond, lagoon, surface impoundment and/or other treatment unit regulated by this permit.
4. The permittee is responsible for installing prior to plant start-up, and subsequently maintaining, 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.
5. Unless otherwise specified, the permittee shall provide a readily accessible sampling point and, where applicable, an effluent flow measuring device or other acceptable means by which effluent flow may be determined.
6. The permittee shall remit an annual water quality fee to the Commission as required by 30 TAC Chapter 21. Failure to pay the fee may result in revocation of this permit under TWC §7.302(b)(6).

7. Documentation

For all written notifications to the Commission required of the permittee by this permit, the permittee shall keep and make available a copy of each such notification under the same conditions as self-monitoring data are required to be kept and made available. Except for information required for TPDES permit applications, effluent data, including effluent data in permits, draft permits and permit applications, and other information specified as not confidential in 30 TAC §1.5(d), any information submitted pursuant to this permit may be claimed as confidential by the submitter. Any such claim must be asserted in the manner prescribed in the application form or by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, information may be made available to the public without further notice. If the Commission or Executive Director agrees with the designation of confidentiality, the TCEQ will not provide the information for public inspection unless required by the Texas Attorney General or a court pursuant to an open records request. If the Executive Director does not agree with the designation of confidentiality, the person submitting the information will be notified.

8. Facilities that generate domestic wastewater shall comply with the following provisions; domestic wastewater treatment facilities at permitted industrial sites are excluded.

- a. Whenever flow measurements for any domestic sewage treatment facility reach 75% of the permitted daily average or annual average flow for three consecutive months, the permittee must initiate engineering and financial planning for expansion and/or upgrading of the domestic wastewater treatment and/or collection facilities. Whenever the flow reaches 90% of the permitted daily average or annual average flow for three consecutive months, the permittee shall obtain necessary authorization from the Commission to commence construction of the necessary additional treatment and/or collection facilities. In the case of a domestic wastewater treatment facility that reaches 75% of the permitted daily average or annual average flow for three consecutive months, and the planned population to be served or the quantity of waste produced is not expected to exceed the design limitations of the treatment facility, the permittee shall submit an engineering report supporting this claim to the Executive Director of the Commission.

If in the judgment of the Executive Director the population to be served will not cause permit noncompliance, then the requirement of this section may be waived. To be effective, any waiver must be in writing and signed by the Director of the Enforcement Division (MC 149) of the Commission, and such waiver of these requirements will be reviewed upon expiration of the existing permit; however, any such waiver shall not be interpreted as condoning or excusing any violation of any permit parameter.

- b. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the Commission, and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and each day is an additional violation until approval has been secured.
- c. Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment, and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.

9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.

10. For Publicly Owned Treatment Works (POTWs), the 30-day average (or monthly average) percent removal for BOD and TSS shall not be less than 85%, unless otherwise authorized by this permit.

11. Facilities that generate industrial solid waste as defined in 30 TAC §335.1 shall comply with these provisions:

- a. Any solid waste, as defined in 30 TAC §335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.
- b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.

- c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC §335.8(b)(1), to the Corrective Action Section (MC 127) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.
- d. Construction of any industrial solid waste management unit requires the prior written notification of the proposed activity to the Registration and Reporting Section (MC 129) of the Permitting and Remediation Support Division. No person shall dispose of industrial solid waste, including sludge or other solids from wastewater treatment processes, prior to fulfilling the deed recordation requirements of 30 TAC §335.5.
- e. The term "industrial solid waste management unit" means a landfill, surface impoundment, waste-pile, industrial furnace, incinerator, cement kiln, injection well, container, drum, salt dome waste containment cavern, or any other structure vessel, appurtenance, or other improvement on land used to manage industrial solid waste.
- f. The permittee shall keep management records for all sludge (or other waste) removed from any wastewater treatment process. These records shall fulfill all applicable requirements of 30 TAC Chapter 335 and must include the following, as it pertains to wastewater treatment and discharge:
 - i. Volume of waste and date(s) generated from treatment process;
 - ii. Volume of waste disposed of on-site or shipped off-site;
 - iii. Date(s) of disposal;
 - iv. Identity of hauler or transporter;
 - v. Location of disposal site; and
 - vi. Method of final disposal.

The above records shall be maintained on a monthly basis. The records shall be retained at the facility site, or shall be readily available for review by authorized representatives of the TCEQ for at least five years.

- 12. For industrial facilities to which the requirements of 30 TAC Chapter 335 do not apply, sludge and solid wastes, including tank cleaning and contaminated solids for disposal, shall be disposed of in accordance with THSC Code Chapter 361.

OTHER REQUIREMENTS

1. Violations of daily maximum limitations for the following pollutants shall be reported orally or by facsimile to TCEQ Region 3, within 24 hours from the time the permittee becomes aware of the violation followed by a written report within five working days to TCEQ Region 3 and the Enforcement Division (MC 224): None.
2. There shall be no discharge of domestic wastewater. Domestic wastewater shall be routed to the City of Vernon Wastewater Treatment Plant, TPDES Permit No. WQ0010377-001 for treatment and discharge and/or a septic tank/drainfield system.
3. This permit authorizes the discharge of wastewater from the regeneration of resins used for water treatment only. This permit prohibits the discharge of wastewater from the regeneration of resins from wastewater treatment facilities.
4. The mixing zone at Outfall 001 is defined as 300 feet downstream and 100 feet upstream from the point of discharge to Pease River. Chronic toxic criteria apply at the edge of the mixing zone.
5. Attachment 1 (Tables 1) shall be completed with the analytical results for Outfall 001 and sent to the TCEQ, Industrial Permitting Team (MC-148) and the Water Quality Standards Team (MC-150) Wastewater Permitting Section, within 90 days of the facility's initial discharge. Based on a technical review of the submitted analytical results, an amendment may be initiated by TCEQ staff to include additional effluent limitations and/or monitoring requirements.

Table 1: Analysis is required for all pollutants. Wastewater shall be sampled and analyzed for those parameters listed in Table 1 for a minimum of four (4) separate sampling events which are a minimum of one (1) week apart.

6. The permittee is hereby placed on notice that this permit may be reviewed by the TCEQ after the completion of any new intensive water quality survey on Segment No 0230 of the Red River Basin and any subsequent updating of the water quality model for Segment No. 0230, in order to determine if the limitations and conditions contained herein are consistent with any such revised model. The permit may be amended, pursuant to 30 TAC Sections 305.62, as a result of such review.

ATTACHMENT 1

Outfall No.:	<input type="checkbox"/> C <input type="checkbox"/> G	Effluent Concentration (mg/l)				
		Samp.	Samp.	Samp.	Samp.	Average
Pollutants						
BOD (5-day)						
CBOD (5-day)						
Chemical Oxygen Demand						
Total Organic Carbon						
Dissolved Oxygen						
Ammonia Nitrogen						
Total Suspended Solids						
Nitrate Nitrogen						
Total Organic Nitrogen						
Total Phosphorus						
Oil and Grease						
Total Residual Chlorine						
Total Dissolved Solids						
Sulfate						
Chloride						
Fluoride						
Fecal Coliform						
Temperature (°F)						
pH (Standard Units; min/max)						

	Effluent Concentration (µg/l)					MAL (µg/l)
Total Aluminum						30
Total Antimony						30
Total Arsenic						10
Total Barium						10
Total Beryllium						5
Total Cadmium						1
Total Chromium						10
Trivalent Chromium						N/A
Hexavalent Chromium						10
Total Copper						10
Cyanide						20
Total Lead						5
Total Mercury						0.2
Total Nickel						10
Total Selenium						10
Total Silver						2.0
Total Thallium						10
Total Zinc						5

Attachment D

PROPOSED NEW TCEQ PERMIT NO. WQ0004868000

APPLICATION BY
THE CITY OF VERNON

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CHIEF CLERK'S OFFICE

2009 OCT 30 PM 1:18

TEXAS
COMMISSION
ON 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 on the application by the City of Vernon (Applicant) for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0004868000 and the Executive Director's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code (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 TCEQ's Office of the Chief Clerk received timely comment letters from Jose and Gloria Cardenas, Andy Brumley, Lon Byars, Luis and Mary Rangel, T. Shane Castleberry, Toby Castleberry, Terry Weaver, Ken and Lisa Aderholt, Lee Castleberry, Mary Castleberry, Malcolm Borger and Buffy Borger, Jay H. Pierce, James and Carolyn Koontz, Dane Mount, Ismael and Mary Ann Cortez, Elton and Edna Zoch, Tommy and Tricia Alaniz, and Kurt Lemon. Additionally, Andy Brumley, Jose Cardenas, Elton Zoch, Rusty Riddle, Ismael Cortez, Tommy Weaver, Shane Castleberry, Rudy Cardona and Mike Herchman provided formal comments at the August 31, 2009 public meeting. This response addresses all such timely public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

BACKGROUND

Description of Facility.

The City of Vernon has applied to the TCEQ for a new TPDES permit that would authorize the discharge of ion exchange water treatment system wastes at a daily average flow not to exceed 46,000 gallons per day via Outfall 001. The City of Vernon operates the Ion Exchange Wastewater Treatment Plant to remove nitrates from a side stream and from on-site ground storage tanks to produce potable water. Wastewater from the regeneration nitrate removal resins and softening resins are combined in a wastewater holding tank and discharged via Outfall 001. Domestic wastewater is routed to the City of Vernon Wastewater Treatment Plant, TPDES Permit No. WQ0001377001, for treatment and discharge.

The facility is located at 2801 Sullivan Street, approximately one mile east of the intersection of U.S. Highway 70 and U.S. Highway 287 in Wilbarger County, Texas. The effluent is discharged via pipeline directly to the Pease River in Segment No. 0230 of the Red River Basin. The designated uses for Segment No. 0230 are intermediate aquatic life use and contact recreation. In accordance with 30 TAC Section 307.5 and the TCEQ Implementation Procedures (January 2003) for the Texas Surface Water Quality Standards (TSWQS), an antidegradation review of the receiving waters must be performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in the Pease River, which has been identified as having intermediate aquatic life uses. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

Procedural Background

The permit application was received on October 9, 2008, and declared administratively complete on October 27, 2008. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on November 13, 2008, in *The Vernon Daily Record*. The Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD) was published on May 21, 2009, in *The Vernon Daily Record*. Notice of a Public Meeting on an Application for a Water Quality TPDES Permit for Industrial Wastewater (Notice of a Public Meeting) was published on July 29, 2009 in *The Vernon Daily Record*. The public meeting was held on August 31, 2009 in Vernon, Texas. The public comment period closed on August 31, 2009. 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 (75th Legislature, 1999).

COMMENTS AND RESPONSES

COMMENT 1: Some commenters stated that they would prefer a different alternative for dealing with the wastewater from the facility. Andy Brumley said he would prefer it if the water was discharged into an underground injection well or if the water was completely cleaned up before it was discharged. Jose Cardenas said that he wants the City of Vernon to look at other options, such as building a lake, buying more water rights and blending the water to dilute the nitrate concentration, discharging the water to a nearby abandoned oil/gas well, or correcting the design of the original water processing plant. Rusty Riddle stated that he believed the plan to discharge wastewater into the river should be rethought.

RESPONSE 1: The permit application review for a TPDES permit is limited to the wastewater treatment and/or disposal operations proposed by the applicant in their permit application. Texas Water Code Section 26.121 authorizes discharges into water in the state, provided the discharger obtains a permit from the Commission. The TCEQ reviews permit applications to determine if the proposed discharge will violate the Texas Surface Water Quality Standards (TSWQS), codified in 30 TAC Chapter 307. TCEQ does not have the authority to mandate a different

discharge location, alternative technology, alternative disposal methods, or different type of wastewater treatment plant if the proposed discharge complies with the TSWQS. TCEQ evaluates applications for wastewater treatment plants based on the information provided in the application and the discharge location proposed by the applicant and then fashions a draft permit protective of human health, safety, the environment, and the receiving waterbody's existing uses. TCEQ also evaluates the treatment type and disposal method proposed in the application to determine whether the proposed facility can meet the criteria and limitations in the draft permit.

COMMENT 2: Elton Zoch and Jose Cardenas requested that an Environmental Impact Study be performed.

RESPONSE 2: The National Environmental Policy Act (NEPA) requires federal agencies to integrate environmental values into their decision making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. To meet this requirement, federal agencies must prepare detailed statements known as Environmental Impact Statements (EISs). The Executive Director's staff have thoroughly reviewed this application and prepared a draft permit that complies with federal and state regulations developed to protect the environment. Since the issuance of this permit is a state action, not a federal action, an EIS is not required.

COMMENT 3: Jose Cardenas asked about TCEQ's mission statement and purpose.

RESPONSE 3: TCEQ's mission statement is as follows:

The "Texas Commission on Environmental Quality strives to protect our state's human and natural resources consistent with sustainable economic development. Our goal is clean air, clean water, and the safe management of waste." To accomplish this mission, TCEQ will:

- base decisions on the law, common sense, good science, and fiscal responsibility;
- ensure that regulations are necessary, effective, and current;
- apply regulations clearly and consistently;
- ensure consistent, just, and timely enforcement when environmental laws are violated;
- ensure meaningful public participation in the decision-making process;
- promote and foster voluntary compliance with environmental laws and provide flexibility in achieving environmental goals; and
- hire, develop, and retain a high-quality, diverse workforce.

See www.tceq.state.tx.us/about. The mission statement is consistent with the TCEQ's general policy under the Texas Surface Water Quality Standards:

It is the policy of this state and the purpose of this chapter to maintain the quality of water in the state consistent with public health and enjoyment, propagation and protection of terrestrial and aquatic life, operation of existing industries, and economic development of the state; to encourage and promote development and

use of regional and areawide wastewater collection, treatment, and disposal systems to serve the wastewater disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy.

See 30 TAC § 307.1 and Tex. Water Code § 26.003.

COMMENT 4: Jose Cardenas commented on the adequacy of the permit application. Mr. Cardenas stated that the application provided to TCEQ is incomplete because it fails to list all the components that would be contained in the proposed wastewater discharge. Mr. Cardenas also said that the application states that “sodium chloride (salt) is not applicable when in fact, it is the primary material used in both regenerating cycles of the ion exchange process, and millions of pounds will be discharged on an annual basis.” According to Mr. Cardenas, the application contains inconsistent information. Mr. Cardenas also said that some of the information in the application is incomplete, such as the list of landowners within a five mile radius, which Mr. Cardenas said did not list all of the people meeting this description. Mr. Cardenas further stated that the application did not provide the information necessary for TCEQ to make an intelligent decision about whether to grant this permit and asked that the Executive Director’s preliminary decision be rescinded. Mr. Cardenas expressed the belief that there is not sufficient information present in the application to show that the proposed discharges will satisfy Texas Surface Water Quality Standards and policies. Mr. Cardenas feels that the City of Vernon failed to complete the Administrative Report, Technical Report 1.0, and Worksheets 2.0 and 4.0 and thereby failed to provide the technical basis on potential impacts on the receiving waters to enable the staff to come to any conclusion with respect to compliance with state surface water quality standards and policies.

RESPONSE 4: The applicant for a wastewater discharge permit is required to include the following information in the permit application:

a topographic map, ownership map, county highway map, or a map prepared by a Texas licensed professional engineer, Texas licensed professional geoscientist, or a registered surveyor which shows the facility and each of its intake and discharge structures and any other structure or location regarding the regulated facility and associated activities. Maps must be of material suitable for a permanent record, and shall be on sheets 8-1/2 inches by 14 inches or folded to that size, and shall be on a scale of not less than one inch equals one mile. *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 . . .*

30 TAC § 305.45(a)(6), emphasis added.

If the application is for the disposal of any waste into or adjacent to a watercourse, the application 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), emphasis added. Neither the rules nor the statutes require the applicant to provide a list of landowners within five mile radius from the point of discharge.

TCEQ staff reviewed the application and concluded that all the information required in the application was submitted. Please see responses to Comments 8 and 9 for further discussion of the application review process.

COMMENT 5: Jose Cardenas stated that the City of Vernon is a Significant Industrial User with a new discharge in excess of 25,000 GPD, and thus is subject to regulation under U.S. Environmental Protection Agency (EPA) rules, codified in Title 40 of the Code of Federal Regulations (CFR), Sections 400 - 471.

RESPONSE 5: The EPA rules referenced by Mr. Cardenas, 40 CFR Sections 400-471, are national standards that are developed by the EPA on an industry-by-industry basis. The proposed permit is for an ion exchange water treatment plant. EPA has not developed standards for this type of industrial activity, and thus this project is not subject to regulation under 40 CFR Sections 400-471.

COMMENT 6: Some commenters expressed concern about the potential impact of the discharge on groundwater and wells in the area. Andy Brumley stated that he believed that the discharge from the treatment plant had already harmed the ground water quality in the past and that the proposed discharge would continue to harm water quality. Mr. Brumley was specifically concerned with impacts to groundwater on his property. Mr. Brumley explained that in 1999, water on his property rated below a 5 on an electrical conductivity (EC) test and that water from the same wells now rates around 11 on the EC meter and that the water is corrosive. Jose and Gloria Cardenas stated that their drinking water comes from shallow wells on their property and expressed the belief that these wells would become contaminated by the proposed discharge. Elton Zoch expressed concern that the red bed in the channel contains porous sand and that the wastewater will seep through the ground into the groundwater.

RESPONSE 6: The proposed discharge is located over the Seymour aquifer, which is designated as a major aquifer by the Texas Water Development Board (TWDB). Local groundwater is produced from the Seymour aquifer and younger alluvial sediments deposited by the Pease River, the Red River, and associated creeks. According to published report 240 by the TWDB, the groundwater produced from the Seymour aquifer and the younger alluvium is connected.

Water well drillers' reports were reviewed by the Water Quality Assessment Team geologist for wells in the vicinity of the proposed discharge point. Local water wells are shallow (14 to 64 feet deep), with water levels ranging from 2.7 to 49.5 feet below ground level. Groundwater produced in the shallow alluvial sediments near Pease River would generally be expected to be in communication with the river. Mr. Cardenas' comment that the water levels in nearby wells correspond with the level of the Pease River supports the conclusion that there is likely

hydrologic communication between the river and the shallow alluvial groundwater system. However, the Water Quality Division has determined that the draft permit is in accordance with the Texas Surface Water Quality Standards, which ensure that the effluent discharge is protective of aquatic life, human health, and the environment. The review process for surface water quality is conducted by the Standards Implementation Team and Water Quality Assessment Team surface water modelers. The Water Quality Division has determined that if the surface water quality is protected, then the groundwater quality in the vicinity should likewise be protected.

Pursuant to the Texas Surface Water Quality Standards, 30 TAC Chapter 307, the Pease River is not designated as a public water supply. Thus, screening against the Calculated Water Quality-Based Effluent Limitations for the protection of drinking water supply is not applicable to the analysis of an application for a permit to discharge wastewater to the Pease River. However, as a result of this comment, water quality based effluent limitations were calculated for Nitrate-Nitrogen based on the consumption of public water supply in the Pease River and screened against the analytical data in the application for Nitrate-Nitrogen. According to the calculated values, a daily average of 142.366 mg/L Nitrate-Nitrogen is protective for public water supply in the Pease River. The analytical data submitted with the application reported a value of 20 mg/L Nitrate-Nitrogen. The analytical data for Nitrate-Nitrogen was compared to the calculated water quality-based effluent limitations for the protection of human health. Effluent data was compared against the 70% and 85% thresholds to determine if monitoring and/or effluent limits were necessary, and it was determined that the data provided did not indicate that the discharge would have the potential to cause the water in the Pease River to exceed the human health criteria. The draft permit does, however, contain monitoring and reporting requirements for Nitrate-Nitrogen to gather further information on effluent quality.

With respect to Mr. Brumley's concerns that there might be past or ongoing contamination of groundwater, TCEQ conducts periodic inspections of wastewater facilities and also conducts investigations based on complaints received from the public. To the extent there is a suspicion of violation of TCEQ rules, citizens are encouraged to report such violations to the agency. To report complaints about this or any other facility, please contact the Abilene Regional Office at (325) 698-9674, or call the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. Citizen complaints may also be filed on-line at www.tceq.state.tx.us/compliance/complaints/index.html. The TCEQ investigates all complaints received. If the facility is found to be out of compliance with the terms and conditions of its permit, it will be subject to investigation and possible enforcement action.

COMMENT 7: Jose Cardenas expressed concern about the concentration of nitrates that could be discharged pursuant to this permit. Mr. Cardenas noted that per EPA and TCEQ, nitrates in excess of 10 mg/L do not meet the standards for human consumption, and stated that "[t]he proposed discharge of 46,000 gallons per day into the Pease River will consist of highly concentrated Nitrates/Nitrites which by simple arithmetic can be shown to be far in excess of levels proven toxic to humans in the past." He asked what level of nitrates/nitrites would be present in the proposed discharge.

RESPONSE 7: The standard drinking water concentration limitations for nitrates are more stringent than the limitations for surface water. As was noted in the previous response, the Pease

River is not designated as a public water supply, and thus, screening against the Calculated Water Quality-Based Effluent Limitations for the protection of drinking water supply is not applicable for analysis of application for permits seeking to discharge wastewater to the Pease River. As was also noted in the previous response, the analytical data submitted with the application reported a value of 20 mg/L Nitrate-Nitrogen.

COMMENT 8: Some commenters expressed concern about the flow rate of the receiving water, the effect of the wastewater on the receiving waterbody, and the data, modeling and calculations used to determine that this permit would be protective of the environment, safety, and the waterbody's existing uses. Rudy Cardona provided the following written comment: "Please do not contaminate our water system." Elton Zoch noted that during the summer, there is often no flow. Mr. Zoch also stated that reduced water flow sometimes results in, "a stinking green mess in the river," and that he is afraid that discharge of nitrates would aggravate the problem. Rusty Riddle noted that when it gets dry, the concentration of the constituents in discharge will be increased. Shane Castleberry wanted information about what data was used, the computer modeling used, and how the decision was made that the draft permit was "okay." Andy Brumley noted that the formula for determining wastewater discharge into a public stream includes the average volume of water in that stream for the purpose of calculating dilution and stated that the Pease River has had less water passing through it to dilute discharged wastewater in the past ten years. Jose and Gloria Cardenas expressed concern about "the rate of absorption of this toxic waste into our sandy, river bottom soil...because [they] have been leaching out the excess brine out of [their] soil by installing underground drain lines that run throughout [their] pastures and into a collection sump." Jose and Gloria Cardenas also represented that the Pease River normally dries up in times of drought, and that it went dry for approximately ten days this spring and was dry for more than three weeks last year.

RESPONSE 8: The City of Vernon is applying for a permit to discharge wastewater resulting from operation of an ion exchange water treatment process which removes nitrates from a side stream and blends it with on-site ground storage tanks to produce drinking water to meet the state drinking water standards. The proposed facility is for a water treatment plant. Odor is not typically a concern from this type of discharge. The City of Vernon previously sent this wastewater to the City of Vernon Wastewater Treatment Plant (TPDES Permit No. WQ00010377001) for treatment and discharge. The proposed discharge consists of the wastewater that contains the impurities that were removed from the water source to produce the drinking water. In accordance with Chapter 26 of the Texas Water Code, a proposed discharger must obtain authorization from TCEQ to discharge wastewater into water in the state. On October 27, 2008, TCEQ received an industrial wastewater application from the City of Vernon.

When the TCEQ receives a permit application, staff reviews the application to determine whether the applicant has submitted all of the required parts of the application. This process is called administrative review. If all parts have been submitted, the application is determined to be administratively complete. After the application has been determined to be administratively complete, staff reviews it to determine whether it satisfies state and federal regulatory requirements. This process is called the technical review.

The technical review begins in the Water Quality Standards and Assessment (WQSA) section. The WQSA section makes recommendations that are used to help prepare the draft permit. They make determinations about: the designated uses for the segment of the water body that is receiving the proposed discharge, the critical conditions for the water body, meaning the conditions when a water body is most susceptible to adverse effects (such as when water flow rates are low), the effluent limitations needed to ensure the dissolved oxygen criteria for the water body are maintained, and the whole-effluent toxicity testing requirements. Once the WQSA section's review is completed, the permit application is assigned to a permit writer. The permit writer reviews the information about the facility and the proposed discharge and develops technology-based effluent limitations based on federal effluent guidelines. Using the permit application and recommendations from the WQSA section, the permit writer develops water quality-based effluent limitations. The permit writer then compares the technology-based limitations with the water quality-based effluent limitations and applies the more protective limits in the draft permit.

The draft permit was developed in accordance with 30 TAC Chapter 307 and "Procedures to Implement the Texas Surface Water Quality Standards," January 2003 (Implementation Procedures) and is designed to be protective of aquatic and terrestrial life and human health. The draft permit would authorize discharge directly to the Pease River in Segment No. 0230 of the Red River Basin. The Pease River is a classified segment. Classified segments, also referred to as designated segments, refer to water bodies that have designated site-specific uses. In this case, the designated uses for Segment No. 0230 are intermediate aquatic life use and contact recreation. Classified segments are also protected by related site-specific numerical and narrative criteria. Numerical criteria are limits on the amount of a particular pollutant that a water body may contain. Narrative criteria are prohibitions on certain conditions in the waterbody, such as color, odor or excessive turbidity.

In order to meet the numerical and narrative criteria for this site, the TCEQ staff calculates effluent concentration limits for specific parameters, as appropriate. For example, they may set limits for chlorides, sulfates, total dissolved solids, dissolved oxygen, pH, indicator bacteria, and temperature. In order to set limits that will be protective even during critical mixing conditions, such as periods of low flow, these limits are calculated by looking at "the lowest average stream flow for seven consecutive days without a recurrence interval of two years, as statistically determined from historic data." This flow rate is also referred to as the seven-day, two-year low flow, or 7Q2. This effluent fraction, when expressed as a percentage, is also referred to as the critical dilution.

The 7Q2 for the Pease River was derived from data from an upstream discharger. The 7Q2 for the Pease River is 0.28 cubic feet per second. The proposed discharge of 0.046 million gallons per day makes up only 20.27 percent of the 7Q2 of the Pease River. Given the relative size of the discharge compared to the 7Q2 of the Pease River, the TCEQ does not expect the proposed discharge to have a significant adverse impact on the Pease River. The 7Q2 was used to calculate the water quality based effluent limitations derived in Appendix A of the Statement of Basis/Technical Summary. The applicant submitted analytical data with the industrial wastewater application which was based on data submitted with the 2005 renewal application for TPDES Permit No. WQ00010377001. The analytical data was compared to the Calculated

Water Quality Based Effluent Limitations (Appendix A of the Statement of Basis/Technical Summary), and it was determined that the data did not support a conclusion that the discharge would have the potential to cause the receiving water to exceed the applicable water quality criteria.

In addition, the applicant stated that the analytical data for total dissolved solids, chlorides, and sulfates provided in the application were based on previous operating data from the potable water treatment plant. The total dissolved solids, chlorides and sulfate were screened in accordance with the Implementation Procedures and the TSWQS to determine if effluent limitations were necessary for the protection of water quality. Based on the analysis of the data provided, it was determined that the proposed discharge did not have the potential to cause the receiving waters to exceed the water quality criteria.

In accordance with 40 CFR Section 122.21(h)(4)(K)(iii) and TCEQ standard practices, if the applicant is a new discharger, the applicant must complete and submit analytical data after their initial discharge. Since the City of Vernon is a new discharger, the draft permit requires that the initial discharge be sampled and analyzed for a series of pollutants to be screened against the concentrations necessary to protect the water quality criteria. If the permit is issued, the effluent data will be compared against the permit limits derived in Appendix A of the Statement of Basis/Technical Summary. If the effluent data shows pollutants that have the potential to exceed the water quality criteria, the permit will be re-opened and additional monitoring, effluent limits, and/or other controls may be added to the permit.

COMMENT 9: Jose Cardenas is concerned with safety and recreational uses. Jose Cardenas and Gloria Cardenas stated that their cows will be affected by the proposed discharge since the cows drink out of the Pease River. They are also concerned with the possibility that the discharge may increase the incidence of Methemoglobinemia, aborted fetuses, still born, brain damaged calves, destroyed micro-organisms in cattle rumens, and may have deleterious effects on milk production. Elton Zoch expressed concern that the proposed discharge could kill cattle and wildlife. Jose and Gloria Cardenas, Andy Brumley, Lon Byars, Luis and Mary Rangel, T. Shane Castleberry, Toby Castleberry, Terry Weaver, Ken and Lisa Aderholt, Lee Castleberry, Mary Castleberry, Malcolm Borger and Buffy Borger, Jay H. Pierce, James and Carolyn Koontz, Dane Mount, Ismael and Mary Ann Cortez, Elton and Edna Zoch and Tommy and Tricia Alaniz feel that the proposed discharge permit action will create a negative safety and health situation. Ismael Cortez believes the proposed discharge is going to affect a lot of people negatively. Mr. Cortez is concerned with the recreational use of the Red River. Rusty Riddle was concerned about impacts of water flowing all the way down to the Texoma Lake. Mike Herchman asked, "What would Wichita County to the east say if we ran a pipeline to their county line and dumped this water on them?"

RESPONSE 9: The proposed draft permit was developed in accordance with the applicable Texas Surface Water Quality Standards (TSWQS). These standards are designed to maintain the quality of water in the state to be protective of human health, terrestrial wildlife, livestock, domestic animals, and aquatic life along the discharge route. As part of the permitting process, the Executive Director must determine the uses of the waters receiving the discharge, and based upon those determinations, set appropriate effluent limits. In this case, the discharge route is via

pipeline directly to the Pease River in Segment No. 0230 of the Red River Basin. The designated uses of Segment 0230, according to Appendix A of the TSWQS (30 TAC §§ 307.4(h)(2) & 307.10), are contact recreation and intermediate aquatic life use. These designated uses and the associated criteria contained in Appendix A of the TSWQS for Segment 0230 of the Red River Basin were used to evaluate this permit application.

The draft permit has been designed to protect human health resulting from contact recreation and consumption of aquatic organisms. It has also been designed to preclude adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals resulting from contact recreation, or consumption of aquatic organisms. The state drinking water standard for humans for nitrate is 10 mg/L. However, no nitrate standard exists for surface water or consumption by livestock. Review of current literature indicates that nitrate levels as high as 10 times the state drinking water standard may be considered safe for livestock. The criterion for Segment 0230 for contact recreation is 126 colony forming units (CFUs) *E. coli* bacteria per 100 ml. The criterion for intermediate aquatic life use is 4.0 mg/L dissolved oxygen.

Pursuant to 30 TAC § 307.5 and the TCEQ Implementation Procedures (January 2003) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving water was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that a lowering of water quality by more than a de minimis extent is not expected in the Pease River, which has been identified as having intermediate aquatic life use. The effluent limits and/or monitoring requirements in the draft permit are set to maintain and protect the existing instream uses. The draft permit requires that effluent monitoring samples be taken at the discharge pipeline immediately downstream of the discharge flow meter prior to entering the Pease River. The minimum self-monitoring requirements contained in the draft permit are listed below:

<u>Outfall Number</u>	<u>Pollutant</u>	<u>Report Daily Average and Daily Maximum</u>	
		<u>Measurement Frequency</u>	<u>Sample Type</u>
001	Flow (MGD)	1/day	Estimate
	Chemical Oxygen Demand	1/month	Grab
	Nitrate Nitrogen	1/month	Grab
	Total Dissolved Solids	1/month	Grab
	Chloride	1/month	Grab
	Sulfates	1/month	Grab
	pH	1/day	Grab

The TCEQ conducts routine inspections of facilities to ensure the facility complies with their authorizations and that all authorizations are obtained properly. Any observance or complaints about discharges from this facility can be reported for investigation to the TCEQ Region 3 Office in Abilene at 325-698-9674, or by using the statewide toll-free number at 1-888-777-3186. Citizen complaints may also be filed on-line at <http://www.tceq.state.tx.us/cgi-bin/enforcement/complaints>. If the facility is found to be out of compliance with the terms or conditions of its permit or with TCEQ regulations, it may be subject to enforcement.

COMMENT 10: Jose Cardenas stated that he was told that the City of Vernon was told that it cannot withdraw its permit application and asked that TCEQ give the community time to try to get the right thing done.

RESPONSE 10: The City of Vernon's application has been processed according to the standard TCEQ procedures for processing applications for wastewater discharge and according to all applicable rules and requirements. The applicant may withdraw its permit application at any time during the permit application process before the permit is issued.

COMMENT 11: Jose Cardenas is concerned with the pollutant analysis that was submitted with the application. He states that there are over 35 different undesirable parameters, including PCBs, which cause cancer.

RESPONSE 11: Worksheet 2.0 is part of the Industrial Wastewater Application. The Worksheet contains a series of analytical tables that may need to be completed in order for the application to be technically complete. The analytical data submitted with the application (analytical data from 2005 renewal application for TPDES WQ00010377001) was compared to the calculated water quality-based effluent limitations for the protection of aquatic life and human health in Appendix A of the Statement of Basis/Technical Summary. Effluent characteristic data were compared against the 70% and 85% thresholds to determine if monitoring and/or effluent limits were necessary and it was determined that the data did not indicate that the proposed discharge would have the potential to cause the receiving waters to exceed the water quality criteria.

In addition, based on 40 CFR § 122.21(h)(4)(K)(iii) and TCEQ standard practice, if the applicant is a new discharger, the applicant must complete and submit analytical data after their first discharge. The proposed permit requires that the initial discharge be sampled and analyzed for a series of pollutants to be screened against the concentrations necessary to protect the water quality criteria. If the permit is issued, the effluent data will be compared against the permit limits derived in Appendix A of the Statement of Basis/Technical Summary. If the effluent data shows pollutants that have the potential to exceed the water quality criteria, the permit will be re-opened and additional monitoring, effluent limits, and/or other controls may be added to the permit.

COMMENT 12: Jose Cardenas stated that TCEQ has made the preliminary decision to issue a permit to the City of Vernon to discharge pollutants to the Pease River and asked TCEQ to rescind its preliminary decision. Ismael Cortez said that he hopes the application is not approved.

RESPONSE 12: The Executive Director may amend or supplement the preliminary decision on a permit application in response to public comment. However, the comments provided during the public comment period for this application do not warrant the rescission of the preliminary decision in this case. Mr. Cardenas, Mr. Cortez, and anyone affected by this permit action will have an opportunity to file a motion to overturn the Executive Director's decision if he determines to issue this permit. Any person, group or entity affected by this permit action may

also request a contested case hearing by filing such request with the TCEQ's Office of the Chief Clerk within the time allowed. The Executive Director's final decision and a copy of this response to comment will be mailed to everyone who provided comment and those on the Chief Clerk's mailing list for this application. The cover letter accompanying the final decision will provide instructions for requesting a contested case hearing or reconsideration of the Executive Director's decision. A contested case hearing is a legal proceeding similar to a civil trial in a state district court. Following the close of all applicable comment and request periods, if a request for contested case hearing is received, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Contested case hearings are evaluated under Chapter 55 of the Commission rules, 30 TAC Chapter 55. The Commission will only grant a contested case hearing on disputed issues of fact that are relevant and material to the Commission's decision on the application. Further, the Commission will only grant a hearing on issues that were raised in timely filed comments that were not subsequently withdrawn. Only "affected person(s)" may request a contested case hearing under 30 TAC Chapter 55. The Executive Director may issue final approval of the application unless a timely contested case hearing request or request for reconsideration is filed. If a timely hearing request or request for reconsideration is filed, the Executive Director will not issue a final approval of the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

COMMENT 13: Jose Cardenas asked for the recharge rate of the alluvial aquifer.

RESPONSE 13: The recharge rate is defined as the quantity of water that enters an aquifer during a length of time. The Texas Water Development Board (TWDB) has estimated that during one year, 10.2% of the annual rainfall recharged the Seymour aquifer in Wilbarger County. This would represent (for an average annual rainfall year) that 2.55 inches/year (per a unit area) of water recharges the aquifer. It should be noted that this recharge rate is estimated for the Seymour aquifer. No published estimates are available for the alluvial aquifer immediately adjacent to the Pease River. However, the Seymour aquifer is an alluvial aquifer system, so a broad assumption could be made that the recharge rates could be similar.

COMMENT 14: Jose Cardenas expressed concern over potential financial losses of individuals downstream of the discharge point and asked what plans had been formulated to compensate such individuals for these losses.

RESPONSE 14: The permitting process controls the discharge of pollutants into or adjacent to water in the state and protects the water quality of the state's rivers, lakes, and coastal waters. TCEQ does not have statutory or regulatory authority to address property values or other financial losses in the wastewater permitting process. However, the permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effect on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

COMMENT 15: Jose Cardenas expressed the belief that the differences between Burkburnett's water system and the City of Vernon's should be taken into consideration.

RESPONSE 15: TPDES permit applications are considered on a case-by-case basis. Effluent discharged into water in the state from facilities regulated under the TPDES program is required to meet the Texas Surface Water Quality Standards (TSWQS). The TSWQS and other applicable rules are designed to be protective of aquatic life, human health, and the environment, including the designated uses of the receiving waters. The Executive Director has determined that the draft permit meets the requirements of the TSWQS.

COMMENT 16: Some commenters requested testing of area waters. Andy Brumley asked for further testing by TCEQ or EPA or both on the underground water streams, both up river and down, before the permit is granted. Jose Cardenas stated that TCEQ "[has] not tested the proposed discharge and yet... [is] issuing a permit" and saying that proposed discharge, "will have no effect on the current uses of the river, either on wildlife or aquatic life or on the current use of contact recreation on the river." Tommy Weaver stated that he felt that local residents should sample their water wells and test the water where it flows into to the river so that if water quality changes over time, they will have data to show what has changed.

RESPONSE 16: Effluent discharged into water in the state from facilities regulated under the TPDES program is required to meet the Texas Surface Water Quality Standards (TSWQS). The TSWQS and other applicable rules are designed to be protective of aquatic life, human health, and the environment, including the designated uses of the receiving waters. The Executive Director has determined that the draft permit meets the requirements of the TSWQS.

The TCEQ encourages private water well owners to regularly test their well water to look for groundwater contamination or groundwater quality changes that they may want to explore further. Environmental Protection Agency has developed a handbook called *Drinking Water from Household Wells* that may be a useful reference for how to care for your water well and what contaminants may be sampled in the groundwater. An online version of this document can be found at: http://www.epa.gov/safewater/privatewells/pdfs/household_wells.pdf.

COMMENT 17: Jose Cardenas stated that he was submitting additional comments on the permit application, "because of personal experience with Vernon's past disregard of state laws dealing with human safety and health issues."

RESPONSE 17: Section 5.753(e) of the Texas Water Code requires the TCEQ to use a facility's compliance history when making decisions relating to the renewal of a permit. The compliance history for the company and site is reviewed for the five-year period prior to the date the permit application was received by the Executive Director. The compliance history includes multimedia compliance-related components about the site under review, such as: enforcement orders, consent decrees, court judgments, criminal convictions, investigations, and notices of violations.

This permit application was received after September 1, 2002, and the company and site have been rated and classified pursuant to 30 TAC Chapter 60. A company and site may have one of the following classifications and ratings:

High: rating < 0.10 (above-average compliance record)

Average by Default: rating =3.01 (these are for sites which have never been investigated)

Average: 0.10 < rating < 45 (generally complies with environmental regulations)

Poor: 45 < rating (performs below average)

This site has a rating of 1.97 and a classification of Average. The compliance history for a facility is always available to the public. The compliance history may be viewed on the TCEQ website at <http://www11.tceq.state.tx.us/oce/ch/>.

Any observance or complaints about discharges from this facility can be reported for investigation to the TCEQ by calling the statewide, toll-free Environmental Complaints Hot Line at 1-888-777-3186. Citizen complaints may also be filed on-line at <http://www.tceq.state.tx.us/compliance/complaints/index.html>. If the facility is found to be out of compliance with the terms or conditions of its permit or with TCEQ regulations, it may be subject to enforcement.

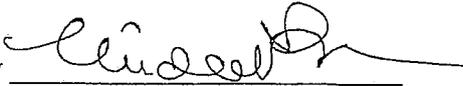
CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

None.

Respectfully submitted,
Texas Commission on Environmental Quality

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division

By 

Michelle Bacon, Staff Attorney

Environmental Law Division

State Bar No. 24045436

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Austin, Texas 78711-3087.

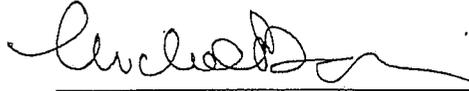
Telephone No. (512) 239-0645

Facsimile No. (512) 239-0606

REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS
COMMISSION ON ENVIRONMENTAL
QUALITY

CERTIFICATE OF SERVICE

I certify that on October 30, 2009, the "Executive Director's Response to Public Comment" for proposed new TPDES Permit No. WQ0004868000 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



Michelle Bacon, Staff Attorney
Environmental Law Division
State Bar No. 24045436

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

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CHIEF CLERKS OFFICE

Attachment E

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600248264 City of Vernon	Classification: AVERAGE	Rating: 2.13
Regulated Entity:	RN105640460 VERNON NITRATE TREATMENT PLANT	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	WASTEWATER PERMIT WASTEWATER EPA ID		WQ0004868000 TX0131792
Location:	2801 SULLIVAN ST, VERNON, TX, 76384		
TCEQ Region:	REGION 03 - ABILENE		
Date Compliance History Prepared:	December 16, 2009		
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.		
Compliance Period:	October 09, 2003 to December 16, 2009		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:			
Name:	Staff Name	Phone:	239 - 1000

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A