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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 3, 2009

TO: Persons on the attached mailing list.

RE: North Texas District Council Assemblies of God
TPDES Permit No. WQ0013847001

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** Unless a timely request for contested case hearing or reconsideration is received (see below), the TCEQ executive director will act on the application and issue the permit.

Enclosed with this letter is a copy of the Executive Director's Response to Comments. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at Maypearl City Hall, 104 East Second Street, Maypearl, Texas.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. A brief description of the procedures for these two requests follows.

How To Request a Contested Case Hearing.

It is important that your request include all the information that supports your right to a contested case hearing. You must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group; and
 - (B) one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.
- (3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (4) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."

Your request must demonstrate that you are an **"affected person."** An affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application. The request must be based on issues that were raised during the comment period. The request cannot be based solely on issues raised in comments that have been withdrawn. The enclosed Response to Comments will allow you to determine the issues that were raised during the comment period and whether all comments raising an issue have been withdrawn. The public comments filed for this application are available for review and copying at the Chief Clerk's office at the address below.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.

How To Request Reconsideration of the Executive Director's Decision.

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be **received** by the Chief Clerk's office no later than **30 calendar days** after the date of this letter. You may submit your request electronically at <http://www.tceq.state.tx.us/about/comments.html> or by mail to the following address:

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

Processing of Requests.

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

How to Obtain Additional Information.

If you have any questions or need additional information about the procedures described in this letter, please call the Office of Public Assistance, Toll Free, at 1-800-687-4040.

Sincerely,


LaDonna Castañuela
Chief Clerk

LDC/er

Enclosures

MAILING LIST
for
North Texas District Council Assemblies of God
TPDES Permit No. WQ0013847001

FOR THE APPLICANT:

Richard W. DuBose
North Texas District Council
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Hurst, Texas 76053

PROTESTANTS/INTERESTED PERSONS:

Frederick Sklar
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Waxahachie, Texas 75168-8897

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

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via electronic mail:

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Texas Commission on Environmental Quality
Office of Chief Clerk MC-105
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TPDES PERMIT NO. WQ0013847001

APPLICATION BY NORTH TEXAS §
DISTRICT COUNCIL ASSEMBLIES OF §
GOD FOR A MAJOR AMENDMENT TO §
TPDES PERMIT NO. WQ0013847001 §

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CHIEF CLERKS OFFICE

2009 NOV 30 PM 3:31

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (Commission or TCEQ) files this Response to Public Comment on the North Texas District Council Assemblies of God's (Applicant's) application for a major amendment to Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0013847001 and the ED's preliminary decision. As required by title 30, section 55.156 of the Texas Administrative Code, before a permit is issued, the ED prepares a response to all timely, relevant, and material, or significant comments. The Office of the Chief Clerk timely received a comment letter from Mr. Frederick Sklar. This response addresses all such timely public comments received, whether or not withdrawn. For 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 on the TCEQ web site at www.tceq.state.tx.us.

I. BACKGROUND

A. Description of Facility

North Texas District Council Assemblies of God has applied to the TCEQ for a major permit amendment that would authorize the Applicant to increase its discharge of treated domestic wastewater from a daily average flow not to exceed 21,000 gallons per day to a daily average flow not to exceed 80,000 gallons per day. The Applicant's facility, known as the Lakeview Camp Wastewater Treatment Facility, consists of activated sludge process plants operated in the extended aeration mode. The facility currently has two 15,000-gallon package

plants. Treatment units include bar screens, equalization basins, final clarifiers, sludge digesters, aeration basins, settling chambers, and chlorine contact chambers. Under the draft permit, the Applicant would construct an additional 50,000-gallon package plant, bringing its total treatment capacity to 80,000 gallons. Treatment units would include bar screens, aeration basins, final clarifiers, sludge digesters, settling chambers, and chlorine contact chambers. The facility is currently operating in the interim phase of the draft permit.

The facility is located approximately 400 feet southeast of the east end of Soil Conservation Service Dam No. 56 and approximately 2.5 miles east-northeast of the City of Maypearl in Ellis County, Texas. The treated effluent is discharged to an unnamed tributary; then to Oak Branch; then to North Fork Chambers Creek; and then to Chambers Creek Above Richland-Chambers Reservoir in Segment No. 0814 of the Trinity River Basin. The unclassified receiving water uses are no significant aquatic life use for the unnamed tributary and limited aquatic life use for Oak Branch. The designated uses for Segment No. 0814 are high aquatic life uses, public water supply, and contact recreation.

B. Procedural Background

The application for a permit amendment was received on May 13, 2009, and declared administratively complete on May 21, 2009. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on May 27, 2009, in the *Waxahachie Daily Light*. The ED completed the technical review of the application on July 28, 2009, and prepared a draft permit. The Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD) was published on September 1, 2009, in the *Waxahachie Daily Light*. The public comment period ended on October 1, 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, 76th Legislature, 1999.

C. Access to Rules, Laws, and Records

- Secretary of State web site for all Texas administrative rules: www.sos.state.tx.us
- TCEQ rules in title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac/ (select “View the current *Texas Administrative Code*” on the right, then “Title 30 Environmental Quality”)
- Texas statutes: <http://www.statutes.legis.state.tx.us/>
- TCEQ web site: www.tceq.state.tx.us (for downloadable rules in Adobe PDF format, select “Rules,” then “Download TCEQ Rules”)
- Federal rules in title 40 of the Code of Federal Regulations: <http://www.epa.gov/lawsregs/search/40cfr.html>
- Federal environmental laws: <http://www.epa.gov/lawsregs/laws/index.html>

Commission records for this facility are available for viewing and copying at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, First Floor (Office of the Chief Clerk). The application for this facility has been available for viewing and copying at Maypearl City Hall, 104 East Second Street, Maypearl, Texas, since publication of the NORI, and the draft permit, statement of basis/technical summary, and ED's preliminary decision have been available for viewing and copying at the same location since publication of the NAPD.

If you would like to file a complaint about the facility concerning its compliance with provisions of its permit or with TCEQ rules, you may contact the agency at 1-888-777-3186, or you may contact the TCEQ Region 4 Office at 1-817-588-5800. Citizen complaints may also be filed by sending an e-mail to cmplaint@tceq.state.tx.us or online at the TCEQ website (select “Reporting,” then “Make an Environmental Complaint”). If the facility is found to be out of compliance, it will be subject to an enforcement action.

II. COMMENTS AND RESPONSES

COMMENT 1:

Fredrick Sklar relies on a groundwater well for his water supply and was concerned that the Applicant's sanitary sewage collection and management systems could possibly contaminate

his drinking water by contaminants entering the groundwater supplying his well. He was also concerned about the project's adverse health effects on his family.

RESPONSE 1:

The proposed draft permit was developed in accordance with the Texas Surface Water Quality Standards (TSWQS) found in title 30, chapter 307 of the Texas Administrative Code. These standards are designed to maintain the quality of water in the state and to be protective of human health and the environment. Section 307.4(d) of the TSWQS states, "Surface waters will not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life." The methodology outlined in the TCEQ's "Procedures to Implement the Texas Surface Water Quality Standards," published in January 2003, ensures compliance with the requirements of chapter 307. Specifically, the methodology is designed to ensure that no source will be allowed to discharge any wastewater which (1) results in instream aquatic toxicity; (2) causes a violation of an applicable narrative or numerical state water quality standard; (3) results in the endangerment of a drinking water supply; or (4) results in aquatic bioaccumulation that threatens human health.

The TCEQ's Water Quality Division has determined that if surface water quality is protected under a discharge permit, the groundwater quality in the vicinity will not be impacted by the discharge. The review process for surface water quality is conducted by the Water Quality Division's Standards Implementation Team and Water Quality Assessment Team surface water modelers. As part of the permit application process, these modelers determine the uses of the receiving waters and establish effluent limits that are protective of those uses. For this application, the unclassified receiving water uses are no significant aquatic life use for the unnamed tributary and limited aquatic life use for Oak Branch. The designated uses for Segment

0814 (Chambers Creek Above Richland-Chambers Reservoir) are contact recreation, public water supply, and high aquatic life uses. The effluent limitations and monitoring requirements included in the draft permit are designed to protect and maintain these existing waterbody uses. Treated effluent discharged in accordance with the requirements of the draft permit is protective of surface water uses and, therefore, is protective of groundwater.

The proposed draft permit includes effluent limitations and monitoring requirements for five-day biochemical oxygen demand, total suspended solids, chlorine residual, and pH to ensure the proposed wastewater treatment plant expansion meets water quality standards for the protection of surface water and groundwater quality and human health according to TCEQ rules and policies. The proposed draft permit includes additional requirements for the wastewater treatment system to ensure the protection of water quality and human health, including requirements for the disposal of domestic sludge generated from the wastewater treatment facility based on TCEQ rules.

The Applicant is required to analyze the treated effluent prior to discharge and to provide monthly reports to the TCEQ that include the results of the analyses. The Applicant may either collect and analyze the effluent samples itself or contract with a third party for either or both the sampling and the analysis. However, all samples must be collected and analyzed according to title 30, chapter 319, subchapter A (Monitoring and Reporting System) of the Texas Administrative Code. The Applicant is required to further notify the agency if the effluent does not meet the permit limits according to the permit requirements. In addition, TCEQ regional staff may sample the effluent during routine inspections or in response to a complaint.

Although Mr. Sklar did not identify the particular well in question, a search of water well records in the area identified a well owned by Mr. Sklar (#115029) located at the same address as

on Mr. Sklar's comment and request for a contested case hearing. Per the water well record for this well, it was drilled in May 2007 and is 760 feet deep, and the depth to water is approximately 460 feet. The well record identifies thick layers of shale and chalk separating the ground surface from the screened intervals of this well. These thick confining layers act as barriers to the downward migration of water, protecting the water used in this well from downward contribution from the surface. From the well report for Mr. Sklar's well and for wells in the vicinity of the proposed facility and discharge route, static water levels in the wells are shallower than the screened intervals for the wells, confirming the confining layers are acting as effective barriers to the downward migration of water.

Standard construction practices should have been followed during construction of the water well owned by Mr. Sklar. These construction practices are intended to provide an adequate seal that limits vertical migration of water on the surface to underlying geologic units. Lastly, the water well owned by Mr. Sklar is located upgradient of, and topographically higher than, the point of effluent discharge, so the discharge will not impact the well.

COMMENT 2:

Mr. Sklar stated the proposed permit does not adequately ensure the Applicant's sanitary sewage management facilities are properly designed, constructed, and maintained to prevent impacts to the surface water and groundwater adjacent to his property.

RESPONSE 2:

Prior to construction of the final phase of its treatment facility, the Applicant must clearly show how the treatment system will meet the permitted effluent limitations of the draft permit, including disinfection. Under title 30, section 217.6(c) of the Texas Administrative Code, the Applicant must submit to the TCEQ Wastewater Permitting Section a summary submittal letter

for the design criteria of the final phase of the wastewater treatment facility prior to construction. The summary letter must be signed and sealed by a licensed professional engineer. The ED then determines whether to perform a review of the Applicant's plans and specifications by looking at certain factors, such as whether the Applicant is proposing to use a nonconforming or innovative technology, the stream segment in which the project is located, and the Applicant's compliance record. If requested by the TCEQ's Wastewater Permitting Section, the Applicant must submit plans, specifications, and a final engineering design report that comply with the chapter 217 design criteria for domestic wastewater treatment plants. The permittee shall clearly show how the treatment system will meet the final permitted effluent limitations required on page 2a of the draft permit. Once the facility is constructed, a licensed professional engineer must certify that the completed wastewater treatment facility was constructed according to the plans and specifications approved by the ED.

The requirements in the draft permit are established to be protective as long as the Applicant operates and maintains the facility according to TCEQ rules and the requirements in the draft permit. Acceptance of the permit by the entity to whom it is issued constitutes acknowledgment and agreement that the Applicant will comply with all the terms and conditions embodied in the permit and the rules and orders of the Commission. The Applicant has a duty to comply with all conditions in the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code and is grounds for an enforcement action.

To further ensure the quality and safety of the environment, TCEQ regional offices are mandated to conduct both periodic and regular inspections of wastewater facilities at a regularly scheduled time interval or based on received complaints. To report complaints about the facility, please see the instructions for filing a complaint described in section I.C above. Noncompliance

with TCEQ rules or the permit may result in an enforcement action.

COMMENT 3:

Mr. Sklar stated the draft permit does not ensure the treatment system is adequate to ensure full treatment of effluent at the higher flow levels.

RESPONSE 3:

Response No. 2 addressed the facility's design criteria. In addition, the draft permit requires that whenever flow measurements for the domestic sewage treatment facility reaches 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 TCEQ to commence construction of the necessary additional treatment and/or collection facilities. In the case of a domestic wastewater treatment facility which 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 ED.

COMMENT 4:

Mr. Sklar was concerned the recent and planned growth and commercialization of the facility indicates there is a potential for industrial, viral, and pathogenic pollutants that are not addressed in the monitoring and treatment requirements in the draft permit.

RESPONSE 4:

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set

forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider a facility's potential commercialization per se when determining whether to approve or deny a wastewater treatment plant permit application. In other words, the fact that the facility may receive wastewater from a commercial source is not a factor by itself upon which the agency can accept or reject a TPDES permit application. The scope of the agency's regulatory jurisdiction only extends to examining the potential effects of the increased effluent discharge on its receiving waters. The TCEQ must ensure that the Applicant's operations maintain the quality of the receiving waters consistent with public health and enjoyment. The discharge permit is designed to maintain this quality level based on the particular characteristics of the effluent discharge, whether the discharge comes from a commercial or other source.

In this particular case, the wastewater treatment facility is a private domestic facility. This means the facility will not be accepting non-domestic wastewater. To ensure the wastewater that is received by the facility is properly treated, the proposed draft permit requires the treated effluent to be disinfected prior to discharge. Chlorination of the treated effluent is required to provide adequate disinfection and reduce pathogenic organisms. The effluent must be chlorinated in a chlorine contact chamber to a chlorine residual of at least 1.0 mg/L with a minimum detention time of twenty minutes. The chlorine residual must be monitored five times per week by grab sample according to the draft permit requirements.

III. CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

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

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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

Robert Martinez, Director
Environmental Law Division

By Stefanie Skogen

Stefanie Skogen

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