TPDES PERMIT NO. WQ0004870000

APPLICATION BY	§	**BEFORE THE**
	§	
NAVARRO GENERATING LLC	§	**TEXAS COMMISSION ON**
	§	
TPDES PERMIT NO. WQ0004870000	§	**ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUEST

I. Introduction

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Hearing Requests (Response) on the Navarro Generating LLC's (Applicant) application for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0004870000. This response is filed pursuant to Title 30 of the Texas Administrative Code, Section 55.209(d). The Office of the Chief Clerk timely received hearing requests from the following persons: Tom Blake, Jeanette Blanton, Terry Burroughs, Janet Cornwall, Tina Roberts Denbow (2), Bryan Downs, Tim Eaves, Sharon Ellis, Sharon Findley, Edmond Graves, Delores Graves, Wendi Hammond (3), Aimee Hess, Pat Hoeldtke, Raymond Hoeldtke, JJ Horan, Janet Hummel, Helen J. Hyden, Constance Jones, Ella Mae Jones, Patricia Jones (2), Dan Lawrence, Barbara Lawrence, Jennifer Muir, Fran Nickell, Ken Nickell, Vicky Prater (2), Don Rapp, Daniel and Barbara Roberts (2), Tonya Roberts (2), Barbara Stanley, Lonnie Strebeck, Jack & Susan Suggs, James L. Thompson, Deanna Tomkins, Tommy Tomkins, Kathy Troop, Stan Troop, Carl Ward, Ron Watkins, Charles Wilson.

Attached for Commission consideration are the following:

Attachment A – Technical Summary & Draft Permit
Attachment B – Executive Director's Response to Public Comment (RTC)
Attachment C – ED's Closeup Map of the Facility Site
Attachment D – ED's Broadview Map of Requestor Locations
Attachment E – Affected Landowner Map Provided with Application
Attachment F – Compliance History

Copies were also provided to all parties. The RTC was previously mailed by the Office of the Chief Clerk to all persons on the mailing list.

II. Facility Description

The Applicant proposes to operate the Navarro Energy Center, a natural gas fired combined cycle facility with a total nominal generating capacity of 690 MW. Raw water is supplied to the facility by the City of Corsicana. The wastewater produced at the facility includes cooling tower blowdown, low volume waste sources (evaporation cooler blowdown, cation/anion mixed bed waste, media filter backwash, and eye wash and shower water), domestic wastewater, and storm water. Cation/anion mixed bed wastes are routed to a neutralization system for treatment prior to discharge via Outfall 001. Cooling tower blowdown and the remaining low volume waste sources are discharged via Outfall 001 without treatment. Storm water from the site is routed to a retention pond and discharged via Outfall 002. Domestic wastewater from sinks, showers, toilets, and other sanitary facilities are routed to an on-site septic tank not regulated by this permit. The draft permit would authorize the discharge of cooling tower blowdown and low volume waste sources at a daily average flow not to exceed 1,430,000 gallons per day via Outfall 001; and storm water on an intermittent and flow variable basis via Outfall 002. The proposed discharge route is to an unnamed tributary of Little Pin Oak Creek; then to Little Pin Oak Creek; then to Richland-Chambers Reservoir in Segment No. 0836 of the Trinity River Basin. The facility is proposed to be located at the intersection of Farm-to-Market Road 1394 and Southwest County Road 2100, approximately 3.3 miles southwest of Richland in Navarro County, Texas.

III. Procedural Background

The application was received on October 22, 2008, declared administratively complete on November 13, 2008, and declared technically complete on April 13, 2009. The Notice of Receipt of Application and Intent to Obtain Water Quality Permit (NORI) was published in the *Corsicana Daily Sun* on November 29, 2008 and *La Prensa Comunidad* December 10, 2008. The ED prepared a draft permit and the Notice of Application and Preliminary Decision (NAPD) was published in the *Corsicana Daily Sun* on July 2, 2009 and *La Prensa Comunidad* on June 29, 2009. A public meeting was held in Corsicana on December 7, 2009 and the public comment period ended at the close of the public meeting. The ED's Final Decision Letter was mailed on February 10, 2010 and the hearing request period ended on March 12, 2010. This application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

IV. The Evaluation Process for Hearing Requests

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).

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.

30 TAC § 55.209(e).

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. 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.

30 TAC § 55.201(c).

A hearing request must substantially comply with the following:
(1) give the time, 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.

30 TAC § 55.201(d).

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."

(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 issues an order specifying the issues to be referred to SOAH. 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).

E. Request by Group or Association

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).

V. Analysis of the Requests

Hearing requests from forty-three people were submitted to the Office of the Chief Clerk.

A. Analysis of the Hearing Requests

1. Whether the Requestors Complied With 30 TAC §§ 55.201(a)-(d)

Group 1 consists of the following requestors: Tom Blake, Jeanette Blanton, Terry Burroughs, Janet Cornwall, Tim Eaves, Sharon Ellis, Sharon Findley, Edmond Graves, Delores Graves, Aimee Hess, Pat Hoeldtke, Raymond Hoeldtke, JJ Horan, Janet Hummel, Dan Lawrence, Barbara Lawrence, Fran Nickell, Ken Nickell, Don Rapp, Barbara Stanley, Lonnie Strebeck, Jack & Susan Suggs, Deanna Tomkins, Tommy Tomkins, Kathy Troop, Stan Troop, Carl Ward, Ron Watkins, Charles Wilson all timely submitted a written contested case hearing requests, by form letter dated February 21, 2010, (hereinafter "**Group 1**") included relevant contact information, requested a contested case hearing, and raised disputed issues.

However, this group of requestors failed to identify each person's "personal justiciable interest affected by the application," as required by 30 TAC § 55.201(d)(2). The form letter does not include a "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." *Id.* Accordingly, the ED concludes that each member in Group 1 did not substantially comply with the requirements of requesting a contested case hearing.

Robert and Jennifer Muir. By e-comment submitted March 10, 2010, based on the Group 1 form-letter, Robert and Jennifer Muir timely submitted a written contested case hearing request, included relevant contact information, and raised disputed issues. However, the Muir's hearing request does not identify their personal justiciable interest affected by the application, as required by 30 TAC § 55.201(d)(2). The letter does not include a "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." *Id.* Accordingly, the ED concludes that the Muirs did not substantially comply with the requirements of requesting a contested case hearing.

The Executive Director concludes that the persons belonging to **Group 1**, as well as **Robert and Jennifer Muir** did not substantially comply with 30 TAC §§ 55.201(d) and their hearing requests should therefore be denied.

Group 2 consists of the following requestors: Tina Roberts Denbow, Bryan Downs, Constance Jones, Patricia Jones, Daniel & Barbara Roberts, Tonya Roberts, James L. Thompson, (hereinafter "**Group 2**"). All timely submitted a written contested case hearing request, by form letter filed December 29, 2008; included relevant contact information; requested a contested case hearing; and raised disputed issues. Tina Roberts Denbow, Daniel & Barbara Roberts, and Tonya Roberts also submitted untimely hearing requests dated March 16, 2010. The deadline to submit a hearing request was March 12, 2010. Only the timely file hearing requests will be considered.

However, because the individuals in Group 2 identified personal justiciable interests, raised disputed fact issues, and the ED concludes that the hearing requests of Group 2 substantially comply with 30 TAC § 55.201(d).

The Executive Director concludes that **Group 2** substantially complied with 30 TAC §§ 55.201(a)–(d).

Vicky Prater. By letters dated December 16, 2008 (Group 2 form letter), and February 26, 2010 (Group 1 form letter), Vicky Prater timely submitted a written contested case hearing requests, included relevant contact information, and raised disputed issues. However, neither of Vicky Prater's hearing requests identify her personal justiciable interest that would be affected by the application, as required by 30 TAC § 55.201(d)(2). The form letters do not include a "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." *Id.* Accordingly, the ED concludes that Vicky Prater did not substantially comply with the requirements of requesting a contested case hearing.

The Executive Director concludes that **Vicky Prater** did not substantially comply with 30 TAC §§ 55.201(d) and her hearing requests should therefore be denied.

Wendi Hammond. By letters dated December 7, 2010 and March 12, 2010 (2), Wendi Hammond submitted hearing requests on behalf of COPPs for Clean Air, Citizens Opposed to Power Plants, and KIDS for Clean Air. These letters were timely submitted written contested

case hearing requests, included relevant contact information, and raised disputed issues. The letters also identified personal justiciable interests of the organizations' members.

The Executive Director concludes that COPPs for Clean Air, Citizens Opposed to Power Plants, and KIDS for Clean Air substantially complied with 30 TAC §§ 55.201(a)–(d).

2. Whether the Requestor Meets the Requirements of an Affected Person

A. Individual Standing

Group 1. The following persons submitted identical or nearly identical hearing requests: Tom Blake, Jeanette Blanton, Terry Burroughs, Janet Cornwall, Tim Eaves, Sharon Ellis, Sharon Findley, Edmond Graves, Delores Graves, Aimee Hess, Pat Hoeldtke, Raymond Hoeldtke, JJ Horan, Janet Hummel, Dan Lawrence, Barbara Lawrence, Robert and Jennifer Muir, Ken Nickell, Fran Nickell, Vicky Prater, Don Rapp, Barbara Stanley, Lonnie Strebeck, Jack & Susan Suggs, Deanna Tomkins, Tommy Tomkins, Kathy Troop, Stan Troop, Carl Ward, Ron Watkins, Charles Wilson. Unless noted otherwise, the following analysis pertains to the above persons:

None of the individuals in Group 1 reside or own property within the vicinity of the proposed facility. They do not reside on own land within a reasonable distance (one mile) along the discharge route. They do not provide any information that would allow the ED to assess whether they are otherwise affected. The addresses provided place them, at most, on Lake Corsicana, or the Richland-Chambers Reservoir which is approximately 7.5 stream miles from the point of discharge. Many of them have Dallas and Forth Worth addresses. Not one appears on the adjacent landowner list. None own property that could reasonably be affected by the draft permit. Accordingly, they do not have a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest that would be affected by the application. They have, at most, an interest common to the general public and therefore are not affected persons. As noted below, **Vicky Prater** submitted another hearing request in a different form-letter, which similarly did not establish her as an affected person.

The ED concludes that none of the above listed persons are affected person within the meaning of 30 TAC § 55.203 and their hearing requests should therefore be denied.

Group 2. The following submitted identical or nearly identical hearing requests: Tina Roberts Denbow, Bryan Downs, Patricia Jones, Ella Mae Jones, Constance Jones, James L. Thompson, Tonya Roberts, Vicky Prater, Daniel and Barbara Roberts. The form letter submitted by this group lists a number of assertions next to a box. The different requestors checked different boxes and gave different addresses. Because the main difference in these requests is the location of the requestors, each will be analyzed for affectedness individually:

Tina Roberts Denbow claims the creek runs across her property, but does not state which creek, and does not appear on the "affected landowner" map (Attachment E) submitted

with the application. She does not state how close she is to the point of discharge, and the address provided makes it uncertain she is even on the discharge route. Accordingly, the ED concludes that Ms. Denbow is not an affected person.

Tonya Roberts does not appear on the "affected landowner" map (Attachment E) submitted with the application. She claims to live 10 miles from the proposed facility and to have contact with the creek by way of fishing, eating the fish, her children having access to the creek, and the creek crossing her property. At 10 miles from the facility she is not likely to be affected by this permitting action. Therefore, she does not appear to be an affected person.

Vicky Prater, in a letter received December 15, 2008, claims that she uses water on her property for gardening and that the quality of that water and will be affected by Navarro Generating's waste water discharge. Ms. Prater, however, does not claim to own land on the discharge route, nor does she appear on the "affected landowner" map (Attachment E) map submitted by the applicant. She provides a Corsicana P.O. box address, which does not allow the ED to identify her location based on her address. Accordingly, the ED concludes that Ms. Prater is not an affected person.

The ED concludes that Tina Roberts Denbow, Tonya Roberts, and Vicky Prater are not affected persons within the meaning of 30 TAC § 55.203 and their hearing requests should therefore be denied.

Ella Mae Jones and **Constance Jones** share the same address. They claim to be one mile from the proposed facility and that the creek runs across their property, and they raise water quality issues. The address provided places them just beyond 1 mile from the point of discharge and on the discharge route. Accordingly, the ED concludes that they are affected persons.

Bryan Down, Patricia Jones, and **James Thompson** share the same address. Bryan Down claims the creek runs across his property, his animals drink from the creek, and that children and workers have access to the creek. Patricia Jones claims that the creek runs across her property. Mr. Thompson appears on the "affected landowner" map (Attachment E) provided by the applicant. He owns land within one mile of the point of discharge, and the discharge route traverses his property. Because Bryan Down, Patricia Jones, and James Thompson share the same address, and James Thompson appears on the affected landower map, the ED concludes that these three people are affected persons.

Daniel and Barbara Roberts submitted a letter requesting a hearing filed with TCEQ on December 19, 2008. They claim the creek runs across their property, their animals drink from the creek, children and workers have access to the creek, and they use the water for gardening and claim that the discharge from Navarro Generating will affect the quality of their water. They also appear on the "affected landowner" map (Attachment E) submitted with the application. Accordingly, Daniel and Barbara Roberts, appear to be affected persons.

The ED concludes that Ella Mae Jones, Constance Jones, Bryan Down, Patricia Jones, James Thompson, and Daniel and Barbara Roberts are affected persons within the meaning of 30 TAC § 55.203 and their hearing requests should therefore be granted.

B. Organizational Standing

For a group or association to have standing, one or more members must otherwise have standing to request a hearing in his own right. 30 TAC § 55.205(a)(1). Wendi Hammond submitted hearing requests on behalf of COPPs for Clean Air (COPPSs), Citizens Opposed to Power Plants, and KIDS for Clean Air. On behalf of both Citizens Opposed to Power Plants and COPPs for Clean Air (COPPs), Ms. Hammond asserts that one of their members (Daniel Roberts) lives "approximately ½ to 1 mile downstream from the proposed Outfall on the unnamed tributary of Little Pin Oak." Mr. Daniel Roberts appears on the affected landowners' map (Attachment E) as being within 1 mile of the proposed point of discharge. See Attachment E. "He is concerned that the proposed wastewater treatment plant will affect his and his family's property, livelihood and or aesthetic enjoyment of the unnamed tributary of Little Pin Oak Creek and/or Richland-Chambers Reservoir and surrounding recreational areas." Ms. Hammond does not state how the discharge would affect Mr. Robert's livelihood or the aesthetic enjoyment of the unnamed tributary. Nor does she state that Mr. Robert's himself recreates in the unnamed tributary. She states that his concern includes the adverse affects to Mr. Robert's and "his family's general enjoyment of the outdoors such as hiking, fishing, nature watching and camping," but she does not state that Mr. Roberts in fact engages in such activities. However, because he is on the adjacent landowners' list, Mr. Roberts would have standing in his own right as an affected person. Accordingly, both Citizens Opposed to Power Plants and COPPS for Clean Air meet the first criteria of affected persons.

The Executive Director concludes that Citizens Opposed to Power Plants and COPPS for Clean Air would have associational standing to request a contested case hearing, as required by 30 TAC § 55.205(a)(1) based on Daniel Roberts' membership in both associations.

In support of KIDS for Clean Air's hearing request, Ms. Hammond refers to Mr. Jason Hammond as a member who would have standing in his own right. She states that he lives in Plano, Collin County, Texas 75025 and is concerned that the "wastewater from the proposed plant will adversely affect his and his family's aesthetic enjoyment of the Richland-Chambers Reservoir and surrounding recreational areas." She does not assert that Mr. Hammond recreates in the area or has even visited the area. The address provided places Mr. Hammond's residence approximately seventy miles away from the City of Corsicana. This information is not sufficient to support a finding that Mr. Hammond would have standing in his own right to request a hearing.

Wendi Hammond goes on to state that "[e]ach organization has members that live, work and/or recreate in the immediate area of the proposed power plant and/or members that live, work and/or recreate in areas downwind and/or downstream of the proposed plant which will be

impacted by the plant's air pollutants and wastewater discharges. This includes, but is not limited to, members that live off of, work in and/or recreate in the unnamed tributary of Little Pin Oak Creek, Little Pin Oak Creek and/or Richland-Chambers Reservoir. For example, our members use water from Little Pin Oak Creek or Richland-Chambers Reservoir as a drinking water supply for humans and livestock, fishing, boating, swimming, bird watching, hunting, etc." These general statements, however, are insufficient to determine whether any members of KIDS for Clean Air would have standing on their own right. Without specific names or addresses that can be verified, the Executive Director cannot evaluate the claims made on behalf of KIDS for Clean Air, and concludes that KIDS for Clean Air's standing as an affected party has not been demonstrated by its unnamed members.

The Executive Director concludes that no members of KIDS for Clean Air would have standing in their own right to request a contested case hearing, as required by 30 TAC § 55.205(a)(1).

The next criteria for association standing is that the interests the group or association seeks to protect are germane to the organization's purpose. 30 TAC § 55.205(a)(2). Ms. Hammond claims that these organizations are "dedicated to protecting families, property, agriculture and natural resources of its members, their descendants and the public from the consequences of pollution caused by power plants in Texas." She further states that "[e]ach of the organization's purpose includes, but is not limited to, protecting its membership from the adverse effects from power plants such as Applicant's proposed plant." As the application seeks a discharge permit for industrial wastewater for a power plant, and the organizations' purpose is to protect its membership and the public from the consequences of pollution caused by power plants in Texas, the interests these groups seek to protect appear to be germane to their purpose. Therefore, the purpose of all three organizations appears germane to the interests it seeks to protect.

The Executive Director concludes that the interests COPPS for Clean Air (COPPS), Citizens Opposed to Power Plants, and KIDS for Clean Air seeks to protect are germane to the organization's purpose, as required by 30 TAC § 55.205(a)(2).

The final requirement for association standing is that neither the claim asserted nor the relief requested requires the participation of the individual members in the case. 30 TAC § 55.202(a)(3). Ms. Hammond's hearing request raises issues relating to whether the application and draft permit comply with federal and state laws, would have health hazards, nuisance, contaminate ground and surface water, water quality standards, degradation of receiving waters, etc. Ms. Hammond claims that the members of her organizations use water from Little Pin Oak Creek or Richland-Chambers Reservoir as a drinking water supply for humans and livestock, fishing, boating, swimming, bird watching, etc. None of these issues would require the participation of the individual members. Accordingly, both Citizens Opposed to Power Plants and COPPs for Clean Air meet the third criteria of affected persons.

The Executive Director concludes that participation of COPPS for Clean Air (COPPS), Citizens Opposed to Power Plants, and KIDS for Clean Air individual members is not required in this case, satisfying the requirements of 30 TAC § 55.205(a)(3).

The Executive Director concludes that COPPS for Clean Air (COPPS) and Citizens Opposed to Power Plants meet the requisite requirements for organizational standing, and their hearing requests should therefore be **granted**.

KIDS for Clean Air, however, does not meet the first criterion (KIDS for Clean Air failed to identify a member that would have standing in his or her own right to request a contested case hearing, as required by 30 TAC § 55.205(a)(1)) therefore KIDS for Clean Air does not have standing to contest this application, and its request for a contested case hearing should be **denied**.

C. *Whether the Issues Raised are Referable to SOAH for a Contested Case Hearing*

The Executive Director concludes the following fact issues are within the TCEQ's jurisdiction, were raised during the comment period, were not withdrawn, and are relevant and material to the Commission's decision on this wastewater permit application (corresponding numbered comments and responses in the RTC in parentheses following each issue):

ISSUE 1: Will Navarro Generating discharge harmful contaminants into the public water of Navarro County and the state of Texas? (RTC#1)

ISSUE 2: Will this discharge have adverse effect on the animals and wildlife that drink from the creek? (RTC#1)

ISSUE 3: Did the application and draft permit fail to include all necessary information, analysis and requirements in the application to comply with all requisite water quality criteria? (RTC#1)

ISSUE 4: Does the draft permit impose adequate water quality-based effluent limits or adequately address the individual and cumulative effects of the discharged pollutants and the potential adverse impacts on the public and environment? (RTC#1, 4)

ISSUE 5: Will the discharge from this facility degrade the receiving streams and make the water unsafe for public drinking purposes and unsanitary for other uses? (RTC#2)

ISSUE 6: Will the discharge have adverse effects on workers and children who may come into contact with the water in the creek? (RTC#2)

ISSUE 7: Were the public notices regarding this permit application inadequate and/or incorrect and therefore result in depriving the public of its opportunity to review the complete application and provide meaningful and informed comments? (RTC#3)

ISSUE 8: Does the application fail to adequately identify and analyze the general characteristic of the receiving water body as natural storm and floodwater runoff? (RTC#13)

ISSUE 9: Does the application fail to adequately identify and analyze the uses of the receiving waters and water body other than livestock watering, including noncontact recreation, contact recreation, picnic activities, and fishing? (RTC#14)

ISSUE 10: Does the application and draft permit fail to comply with the requisite federal and state laws and regulations concerning Best Technology Available (BTA)? (RTC#27)

ISSUE 11: Are the impoundments, outfall canals, and outfall routes adequate to protect the surface and ground waters from contamination? (RTC#32)

ISSUE 12: Does the draft permit fail to adequately require monitoring, record-keeping, and reporting to comply with "free available chlorine" and "total residual chlorine" limitations? (RTC#33)

ISSUE 13: Does the application and draft permit improperly identify and limit outfall parameters including, but not limited to, Biochemical Oxygen Demand (BOD) monitoring, chlorine residual monitoring, maximum chlorine residual limits? (RTC#33)

ISSUE 14: Was the new source determination properly performed? (RTC#35)

ISSUE 15: Are the technology-based effluent limits in the draft permit incomplete, inadequate, and/or incorrect, and not properly based on 40 CFR Part 423? (RTC#16)

ISSUE 16: Does the draft permit fail to provide in clear and enforceable terms (1) limits specifically keyed to characteristics for treatment and disposal, (2) the character of the discharge and the flow limitations, (3) rates of application to the waters including, but not limited to, the quantity, flow, location of disposal and condition of disposal? (RTC#16, 21, 30)

ISSUE 17: Will Other Requirements 11 in the draft permit improperly allow for the development of a storm water pollution prevention plan by circumventing meaningful public participation concerning the monitoring, record keeping, and reporting requirements? (RTC#17)

ISSUE 18: Does the application fail to adequately identify and analyze the "wilderness" description of the receiving waters? (RTC#18)

ISSUE 19: Is the application and proposed permit consistent and compatible with the applicable water quality management plan? (RTC#19)

ISSUE 20: Does the draft permit fail to comply with federal and state enforceability requirements by failing to require necessary information, reporting, and/or record keeping, including, but not limited to, sufficient frequency and type of monitoring to detect violations? (RTC#22)

ISSUE 21: Does the draft permit fail to require sufficient frequency and type of monitoring to detect violations or evaluate water quality criteria, degradation and/or toxicity as the conditions of discharge and conditions in the receiving waters change from time to time? (RTC#23)

ISSUE 22: If the draft permit requires testing of Outfall 001 and 002 discharges within 90 days after the permit is issued, and the plant is not operational within 90 days, the

testing may not accurately reflect the analysis that would happen when the plant is operational? (RTC#25)

ISSUE 23: Does the application and draft permit improperly fail to provide effluent limitations for additional waste streams including low volume waste sources? (RTC#31)

The Executive Director concludes that Commission does not have jurisdiction over the following, they are not relevant or material to the Commission's decision on this wastewater permit application, or they do not involve issues of fact (corresponding numbered comments and responses in the RTC in parentheses following each issue):

ISSUE 24: Does the application fail to appropriately consider any unpleasant nuisance odor quality of the effluent and the possible adverse effect that it might have on the receiving body of water having an established recreational standard? (RTC#24)

This issue is not relevant and material because odor is a concern when dealing with domestic wastewater. TWC § 26.030. In such a case, taste and odor producing substances "shall not interfere with the production of potable water by reasonable water treatment methods, impart unpalatable flavor to food fish including shellfish, result in offensive odors arising from the waters, or otherwise interfere with the reasonable use of the water in the state." 30 TAC § 307(b)(1). Bacteria is the pollutant used to determine if there is a potential for odor issues. For this proposed discharge of primarily cooling tower blowdown with no domestic waste component, there are no bacteria issues.

ISSUE 25: Does the Applicant's compliance history at this or other facilities require denial of the application, or at the very least, closer scrutiny of the information in the application and additional conditions and terms in the proposed permit to minimize the likelihood of future violations? (RTC#26)

This issue is not relevant and material because this is a new facility and the applicant has no compliance history. Under 30 TAC § 60.2(b), "[i]f there is no compliance information about [a] site at the time the executive director develops the compliance history classification, then the classification shall be designated as 'average performer by default.' The executive director may conduct an investigation to develop a compliance history." A compliance history search indicates that the applicant in this case has no compliance history and is therefore assigned a classification of "AVERAGE BY DEFAULT" as required by Section 60.2(b) of the Commission rules. Therefore, as a matter of law, this issue is not relevant and material to the decision in this application.

ISSUE 26: Will Pin Oak Creek overflow as a result of the discharge and affect the ability of the requestors to travel and access parts of their property? (RTC#36).

Flooding concerns are not relevant and material to the commission's decision in wastewater permitting cases.

ISSUE 27: Did the FEMA maps inaccurately reflect all 100-year frequency flood levels, and was TCEQ reliance on the maps proper? (RTC#5).

The wastewater permitting process is not the appropriate venue to question the accuracy of FEMA maps. Any questions regarding the representations made in FEMA maps would be best addressed by FEMA.

ISSUE 28: Should the application identify all its raw water supply purposes, or does it suffice to give only the primary purpose? (RTC#6)

ISSUE 29: Should the application account for, review, and analyze the impacts, if any, from the possible future construction of additional potable water capability? (RTC#7)

ISSUE 30: Does the application fail to properly identify the raw water storage tank? (RTC#8)

ISSUE 31: Did the application fail to properly review what impact(s) may occur if the mixed bed is not generated every seven days, as assumed by the application? (RTC#9)

ISSUE 32: Does the application fail to identify and properly review the type, amount, frequency, and disposal of pollutants resulting from regular maintenance of the power plant, as well as provide adequate record-keeping, reporting, and monitoring of such pollutants? (RTC#10)

ISSUE 33: Is it appropriate to inject powder activated carbon "at various times" to control taste? (RTC#11)

ISSUE 34: Does the draft permit fail to require as limits the assumed concentrations of pollutants in the waste stream from the proposed plant? (RTC#12)

ISSUE 35: Is the application and draft permit improper because "[a]ll determinations are preliminary and subject to additional review and or revisions," and therefore denies the public the opportunities for and protections of public participation as provided by state and federal law. (RTC#15)

ISSUE 36: Are the facility designs and specifications contained in the application adequate? (RTC#20)

ISSUE 37: Does the application and draft permit undermine public participation by postponing analysis and determinations concerning Best Technology Available (BTA) for minimizing Adverse Environmental Impacts (AEI) until after the permit is issued by the agency? (RTC#28)

ISSUE 38: Did the TCEQ improperly develop the proposed draft permit on documents that are not compatible with or approved by federal law and or state law requirements? (RTC#29)

ISSUE 39: Does the application and draft permit improperly fail to provide effluent limitations for additional waste streams including, metal cleaning wastewater, etc.? (RTC#31)

ISSUE 40: Will the discharge from the facility contribute to flooding and erosion since downstream areas are already subject to flooding and erosion? (RTC#36)

ISSUE 41: Does the application fail to provide adequate information concerning the impact of access roads, utility lines, and construction easements involved in the project? (RTC#38)

VI. Duration of the Contested Case Hearing

The Executive Director recommends that the duration for a contested case hearing on this matter, should there be one, between preliminary hearing and the presentation of a proposal for decision before the commission, be **nine months**.

VII. Request for Reconsideration

Wendi Hammond, on behalf of Citizens Opposed to Power Plants, COPPS for Clean Air (COPPS), and KIDS for Clean Air, filed timely written Requests For Reconsideration (RFRs) of the Executive Director's decision under 30 TAC § 55.201(e). RFRs are processed under 30 TAC § 55.209. The ED also received RFRs from Tom Blake, Jeanette Blanton, Terry Burroughs, Janet Cornwall, Tim Eaves, Sharon Ellis, Sharon Findley, Edmond Graves, Delores Graves, Aimee Hess, Pat Hoeldtke, Raymond Hoeldtke, JJ Horan, Janet Hummel, Dan Lawrence, Barbara Lawrence, Robert and Jennifer Muir, Ken Nickell, Fran Nickell, Vicky Prater, Don Rapp, Barbara Stanley, Lonnie Strebeck, Jack & Susan Suggs, Deanna Tomkins, Tommy Tomkins, Kathy Troop, Stan Troop, Carl Ward, Ron Watkins, Charles Wilson, and Helen J. Hyden. The RFRs raised pooling issues, water quality issues, flooding issues, and notice issues. None of the requests raised new issues or provided any factual documentation that would change the ED's decision on this permit application. Additionally, the ED recommends that the Commission refer this case to SOAH; if the case is referred to SOAH, the referral would postpone Commission decision on this permit until after the evidentiary hearing at SOAH and the consideration of the proposal for decision at a subsequent commission meeting. Therefore, the ED recommends denial of the RFRs.

VIII. Executive Director's Recommendation

The Executive Director recommends the following actions by the Commission:

A. Find that Ella Mae Jones, Constance Jones, James Thompson, Bryan Down, Patricia Jones, Daniel and Barbara Roberts, and through Daniel Roberts, Citizens Opposed to Power Plants and COPPS for Clean Air, have standing and are affected persons. Find that all other hearing requestors do not have standing and are not affected persons.

B. Refer issues #1-23 above to SOAH for a proceeding of nine months' duration, and deny issues #24-41 above.

C. Deny all RFRs.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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

Stephanie Bergeron Perdue, Deputy Director
Office of Legal Services

Robert Martinez, Director
Environmental Law Division

Christiaan Siano, Staff Attorney
Environmental Law Division
State Bar No. 24051335

REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on April 26, 2010, the original and seven copies of the "Executive Director's Response to Hearing Requests" for Permit No. WQ0004870000, were filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk, and a complete copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, or by deposit in the U.S. mail.

Christiaan Siano, Staff Attorney
Environmental Law Division
State Bar No. 24051335

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TCEQ DOCKET NO. 2010-0403-IWD
PERMIT NO. WQ0004870000

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See attached list of Requesters/Interested Persons

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STREETMAN TX 75859-3202

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152 KNIGHTS CIR
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JANET CORNWALL
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Attachment A

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

DESCRIPTION OF APPLICATION

Applicant:	Navarro Generating LLC; Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0004870000, (TX00131814).
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 September 1, 2012 in accordance with 30 TAC §305.71, Basin Permitting.

REASON FOR PROJECT PROPOSED

The applicant has applied to the TCEQ for a new permit to authorize the discharge of cooling tower blowdown and low volume waste sources at a daily average flow not to exceed 1,430,000 gallons per day via Outfall 001, and storm water on an intermittent and flow variable basis via Outfall 002.

PROJECT DESCRIPTION AND LOCATION

The applicant proposes to operate the Navarro Energy Center, a natural gas fired combined cycle faciltiy with a total nominal generating capacity of 690 MW.

Raw water is supplied to the facility by the City of Corsicana. The wastewaters produced at the facility include cooling tower blowdown, low volume waste sources (evaporation cooler blowdown, cation/anion mixed bed waste, media filter backwash, and eye wash and shower water), domestic wastewater, and storm water. Cation/anion mixed bed wastes are routed to a neutralization system for treatment prior to discharge via Outfall 001. Cooling tower blowdown and the remaining low volume waste sources are discharged via Outfall 001 with out treatment. Storm water from the site is routed to a retention pond and discharged via Outfall 002. Domestic wastewater from sinks, showers, toilets, and other sanitary facilities are routed to an on-site septic tank not regulated by this permit.

The plant site is located at the intersection of Farm-to-Market Road 1394 and Southwest Count Road 2100, approximately 3.3 miles southwest of Richland, Navarro County, Texas.

The effluent is discharged to an unnamed tributary of Little Pin Oak Creek; thence to Little Pin Oak Creek; thence to; thence to Richland-Chambers Reservoir in Segment No. 0836 of the Trinity River Basin. The unclassified receiving waters have no significant aquatic life use for the unnamed tributary of Little Pin Oak Creek and Little Pin Oak Creek. The designated uses for Segment No. 0836 are high aquatic life use, contact recreation, and public water supply. 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 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. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

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 0836 is not currently listed on the State's inventory of impaired or threatened waters (the 2008 Clean Water Act Section 303(d) list).

SUMMARY OF EFFLUENT DATA

Self-reporting data is not available because the facility has not been constructed.

PROPOSED PERMIT CONDITIONS

The draft permit authorizes a discharge of cooling tower blowdown and low volume waste sources at a daily average flow not to exceed 1.43 million gallons per day via Outfall 001; and storm water on an intermittent and flow variable basis via Outfall 002.

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

Outfall Number	Pollutant	Daily Average	Daily Maximum
001	Flow (MGD)	(1.43)	(1.54)
	Total Suspended Solids	30 mg/L	100 mg/L
	Oil and Grease	15 mg/L	20 mg/L
	Free Available Chlorine	0.2 mg/L, 0.2 lbs/day	0.5 mg/L, 0.5 lbs/day
	pH (standard units)	(6.0 minimum)	(9.0 maximum)
002	Flow (MGD)	(Report)	(Report)
	Total Organic Carbon	N/A	55 mg/L
	Oil and Grease	N/A	20 mg/L
	pH (standard units)	(6.0 minimum)	(9.0 maximum)

Outfall 001:

Effluent limitations are based on 40 CFR Part 423, Steam Electric Generating Point Source Category. This facility will begin production after the promulgation date of these regulations, therefore this facility is considered a new source and is subject to New Source Performance Standards (NSPS) found at 40 CFR §423.15.

Technology-based effluent limits for total suspended solids and oil and grease are placed at Outfall 001 due to the discharge of low volume waste sources based on 40 CFR §423.15(c) (NSPS). The technology-based effluent limit for free available chlorine has been placed in the draft permit due to the discharge of cooling tower blowdown based on §423.15(j)(1) (NSPS). The technology-based effluent limits for pH are based on 40 CFR §423.15(a) (NSPS). See Appendix B of this document for the calculations used to derive these technology-based limits.

No water quality-based effluent limits have been imposed in the draft permit. Since the facility is not in operation and not currently producing wastewater, the facility could not provide effluent analyses for comparison with the water quality-based limits calculated in Appendix A of this document. Other Requirement No. 11 was placed in the draft permit which requires the facility provide appropriate effluent analyses to the TCEQ once the facility is in operation and producing wastewater. 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.

48-hour Acute Freshwater and 24-Hour Acute Freshwater biomonitoring requirements are included in the draft permit at Outfall 001.

Outfall 002:

Effluent limits for TOC, oil and grease, and pH have been established based on BPJ and are appropriate for storm water discharges.

SUMMARY OF CHANGES FROM APPLICATION

- *Added Other Requirement No. 11 to the draft permit.* Since the facility is not currently in operation the appropriate wastewater analysis could not be performed and submitted with the application. Other Requirement No. 11 requires the facility perform these analyses upon initial discharge via Outfall 001 and submit the results to the TCEQ for evaluation.

- *Added Other Requirement No. 13 to the draft permit.* Since the facility is not currently in operation the appropriate data could not be collected from storm water discharges via proposed Outfall 002 and submitted with the application. Other Requirement No. 13 requires the facility perform these analyses upon initial discharge of storm water via Outfall 002 and submit the results to the TCEQ for evaluation.

SUMMARY OF CHANGES FROM EXISTING PERMIT

N/A, this is an application for a new permit.

BASIS FOR PROPOSED DRAFT PERMIT

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

1. Application submitted October 22, 2008.
2. TCEQ Rules.
3. Texas Surface Water Quality Standards - 30 TAC §§307.1-307.10, effective April 30, 1997, and Appendix E, effective February 27, 2002.
4. "Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, January 2003.
5. Memos from the Water Quality Standards Team and the Water Quality Assessment Team of the Water Quality Assessment Section of the TCEQ.

6. "Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits," TCEQ Document No. 98-001.000-OWR-WQ, May 1998.
7. EPA Effluent Guidelines: 40 CFR 423 – Steam Electric Power Generating Point Source Category (NSPS). A new source determination was performed and the discharge of cooling tower blowdwon and low volume waste sources is a new source as defined at 40 CFR §122.2.
8. 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.

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 Tres Koenings at (512) 239-1189.

_____ _____

Tres Koenings Date

STATEMENT OF BASIS / TECHNICAL SUMMARY AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION
TPDES Permit No. WQ0004870000

Appendix A
Calculated Water Quality-Based Effluent Limits

TEXTOX MENU #1 - INTERMITTENT STREAM

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.

TPDES Permit No:	WQ0004870000
Permittee Name:	Navarro Generating LLC
Outfall No:	001
Prepared By:	Tres Koenings
Date:	April 7, 2009

DISCHARGE INFORMATION:

Immediate Receiving Waterbody:	Unnamed tributary of Little Pin Oak Creek
Segment No:	0836
TSS (mg/L):	2
pH (Standard Units):	7.25
Hardnes (mg/L as $CaCO_3$):	94
Chloride (mg/L):	12
Effluent Flow for Aquatic Life (MGD):	1.43
Critical Low Flow [7Q2] (cfs):	0
Acute Effluent % for Aquatic Life:	100

CALCULATE TOTAL/DISSOLVED RATIO:

Stream/River Metal	*Intercept (b)*	*Slope (m)*	*Partitioning Coefficient (Kpo)*	*Dissolved Fraction (Cd/Ct)*		*Water Effects Ratio (WER)*	
Aluminum	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Arsenic	5.68	-0.73	288567.96	0.63		1	Assumed
Cadmium	6.6	-1.13	1819014.27	0.22		1	Assumed
Chromium (Total)	6.52	-0.93	1737969.31	0.22		1	Assumed
Chromium (+3)	6.52	-0.93	1737969.31	0.22		1	Assumed
Chromium (+6)	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Copper	6.02	-0.74	626957.07	0.44		1	Assumed
Lead	6.45	-0.8	1618735.92	0.24		1	Assumed
Mercury	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Nickel	5.69	-0.57	329923.24	0.60		1	Assumed
Selenium	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Silver	6.38	-1.03	1174732.83	0.30		1	Assumed
Zinc	6.1	-0.7	774959.49	0.39		1	Assumed

AQUATIC LIFE
CALCULATE DAILY AVERAGE AND DAILY MAXIMUM EFFLUENT LIMITATIONS

Parameter	*Acute Standard (ug/L)*	*WLAa*	*LTAa*	*Daily Avg. (ug/L)*	*Daily Max. (ug/L)*
Aldrin	3	3.00	1.72	2.53	5.35
Aluminum(d)	991	991.00	567.84	834.73	1765.99
Arsenic(d)	360	567.77	325.33	478.24	1011.78
Cadmium(d)	31.420	145.73	83.50	122.75	259.69

Carbaryl	2	2.00	1.15	1.68	3.56
Chlordane	2.4	2.40	1.38	2.02	4.28
Chlorpyrifos	0.083	0.08	0.05	0.07	0.15
Chromium (+3)(d)	1650.71	7388.46	4233.59	6223.37	13166.46
Chromium (+6)(d)	16	16.00	9.17	13.48	28.51
Copper(d)	18.107	40.81	23.38	34.38	72.73
Cyanide (free)	45.78	45.78	26.23	38.56	81.58
4,4'-DDT	1.1	1.10	0.63	0.93	1.96
Dementon	N/A	N/A	N/A	N/A	N/A
Dicofol	59.3	59.30	33.98	49.95	105.67
Dieldrin	2.5	2.50	1.43	2.11	4.46
Diuron	210	210.00	120.33	176.89	374.23
Endosulfan I (alpha)	0.22	0.22	0.13	0.19	0.39
Endosulfan II (beta)	0.22	0.22	0.13	0.19	0.39
Endosulfan sulfate	0.22	0.22	0.13	0.19	0.39
Endrin	0.18	0.18	0.10	0.15	0.32
Guthion	N/A	N/A	N/A	N/A	N/A
Heptachlor	0.52	0.52	0.30	0.44	0.93
Hexachlorocyclohexane (Lindane)	2	2.00	1.15	1.68	3.56
Lead(d)	75.461	319.76	183.22	269.34	569.83
Malathion	N/A	N/A	N/A	N/A	N/A
Mercury	2.4	2.40	1.38	2.02	4.28
Methoxychlor	N/A	N/A	N/A	N/A	N/A
Mirex	N/A	N/A	N/A	N/A	N/A
Nickel(d)	1345.912	2234.01	1280.09	1881.73	3981.07
Parathion (ethyl)	0.065	0.07	0.04	0.05	0.12
Pentachlorophenol	11.661	11.66	6.68	9.82	20.78
Phenanthrene	30	30.00	17.19	25.27	53.46
Polychlorinated Biphenyls (PCBs)	2	2.00	1.15	1.68	3.56
Selenium	20	20.00	11.46	16.85	35.64
Silver, (free ion)	0.92	5.11	2.93	4.30	9.10
Toxaphene	0.78	0.78	0.45	0.66	1.39
Tributlytin (TBT)	0.13	0.13	0.07	0.11	0.23
2,4,5 Trichlorophenol	136	136.00	77.93	114.55	242.36
Zinc(d)	111.045	283.16	162.25	238.50	504.59

CALCULATE 70% AND 85% OF DAILY AVERAGE EFFLUENT LIMITATIONS

Parameter	*70%*	*85%*
Aldrin	1.769	2.148
Aluminum	584.310	709.520
Arsenic	334.766	406.502
Cadmium	85.922	104.334
Carbaryl	1.179	1.432
Chlordane	1.415	1.718
Chlorpyrifos	0.049	0.059
Chromium (+3)	4356.36	5289.87
Chromium (+6)	9.434	11.455
Copper	24.063	29.219
Cyanide (free)	26.993	32.777
4,4'-DDT	0.649	0.788
Dementon	N/A	N/A
Dicofol	34.964	42.457
Dieldrin	1.474	1.790
Diuron	123.820	150.352
Endosulfan I (alpha)	0.130	0.158
Endosulfan II (beta)	0.130	0.158

Endosulfan sulfate	0.130	0.158
Endrin	0.106	0.129
Guthion	N/A	N/A
Heptachlor	0.307	0.372
Hexachlorocyclohexane (Lindane)	1.179	1.432
Lead	188.538	228.939
Malathion	N/A	N/A
Mercury	1.415	1.718
Methoxychlor	N/A	N/A
Mirex	N/A	N/A
Nickel	1317.21	1599.47
Parathion (ethyl)	0.038	0.047
Pentachlrophenol	6.876	8.349
Phenanthrene	17.689	21.479
Polychlorinated Biphenyls (PCBs)	1.179	1.432
Selenium	11.792	14.319
Silver, (free ion)	3.011	3.656
Toxaphene	0.460	0.558
Tributlytin (TBT)	0.077	0.093
2,4,5 Trichlorophenol	80.188	97.371
Zinc	166.953	202.729

STATEMENT OF BASIS / TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION
TPDES Permit No. WQ0004870000

APPENDIX B

CALCULATIONS - TECHNOLOGY-BASED LIMITS

The Navarro Energy Center is subject to New Source Performance Standards (NSPS) found at 40 CFR §423.15.

OUTFALL 001

Cooling tower blowdown and low volume waste sources are discharged via Outfall 001. Effluent limitations for cooling tower blowdown are based on 40 CFR §423.15(j)(1). Effluent limitations for low volume waste sources are based on 40 CFR §423.15(c).

Cooling Tower Blowdown: 40 CFR §423.15(j)(1) New Source Performance Standards (NSPS) Effluent Limitations:

Daily Average Free Available Chlorine: 0.2 mg/L
Daily Maximum Free Available Chlorine: 0.5 mg/L

The permitted flow is used in the calculation of cooling tower blowdown loading (lbs/day) effluent limitation for free available chlorine (FAC). Lbs/day effluent limitations for FAC are calculated according to 40 CFR §423.15 (j)(1) and (j)(2) in the following way:

Loadings, lbs/day = [(limit, mg/L)(daily average design flow, MGD)(8.345))(2hrs/24 hrs)]

Daily Average loading = [(0.2 mg/L)(1.43 MGD)(8.345)/12] = **0.2 lbs/day**
Daily Maximum loading = [0.5 mg/L)(1.43 MGD)(8.345)/12] = **0.5 lbs/day**

Low Volume Waste Sources: 40 CFR§423.15(c) New Source Performance Standards (NSPS) Effluent limitations:

Daily Average TSS = **30 mg/L**
Daily Maximum TSS = **100 mg/L**

Daily Average Oil and Grease = **15 mg/L**
Daily Maximum Oil and Grease = **20 mg/L**

40 CFR 423.15 (m) states that at the permitting authority's discretion, the quantity of pollutants allowed to be discharged may be expressed as a concentration limitation instead of the mass based limitation. Effluent limits for TSS and oil and grease have been expressed as concentrations rather than mass-based due to the intermittent a flow variable nature of the discharge of low volume waste sources.

pH = In accordance with 40 CFR §423.15 (a) (NSPS): the pH of all discharges shall be between 6.0 and 9.0 Standard Units

The following technology-based effluent limits are proposed in the draft permit:

Parameter	Daily Average Limit	Daily Maximum Limit
Free Available Chlorine	0.2 lbs/day, 0.2 mg/L	0.5 lbs/day, 0.5 mg/L
Total Suspended Solids	30 mg/L	100 mg/L
Oil and Grease	15 mg/L	20 mg/L
pH (standard units)	(6.0 minimum)	(9.0 maximum)

TPDES PERMIT NO. WQ0004870000
[For TCEQ office use only -
EPA I.D. No. TX00131814]

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

Navarro Generating LLC

whose mailing address is

1600 Smith Street, Suite 4025
Houston, Texas 77002

is authorized to treat and discharge wastes from Navarro Energy Center, (SIC 4911)

located at the intersection of Farm-to-Market Road 1394 and Southwest County Road 2100, approximately 3.3 miles southwest of Richland, Navarro County, Texas

to an unnamed tributary of Little Pin Oak Creek; thence to Little Pin Oak Creek; thence to Richland-Chambers Reservoir in Segment No. 0836 of the Trinity 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 September 1, 2012.

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 cooling tower blowdown (*2) and low volume waste sources (*3) subject to the following effluent limitations:

   The daily average flow of effluent shall not exceed 1.43 million gallons per day (MGD). The daily maximum flow shall not exceed 1.54 MGD.

Effluent Characteristics	Discharge Limitations					Minimum Self-Monitoring Requirements	
	Daily Average		Daily Maximum		Single Grab	Report Daily Average and Daily Maximum	
	lbs/day	(mg/L)	lbs/day	(mg/L)	mg/L	Measurement Frequency	Sample Type
Flow (MGD)	(1.43)		(1.54)		N/A	1/day	Totalizer
Total Suspended Solids	N/A	30	N/A	100	100	2/week	Grab
Oil and Grease	N/A	15	N/A	20	20	1/week	Grab
Free Available Chlorine	0.2	0.2	0.5	0.5	0.5	1/week	Grab (*1)

(*1) Samples shall be representative of periods of chlorination.
(*2) See Other Requirement No. 8.
(*3) See Other Requirement No. 5.

2. The pH shall not be less than 6.0 standard units nor 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: Outfall 001, on the southeast corner of company property, after wastewaters have commingled and prior to entering the unnamed tributary of Little Pin Oak Creek.

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

   Volume: Intermittent and flow variable.

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 (*1)	Estimate
Total Organic Carbon	N/A	55	55	1/week (*1)	Grab
Oil and Grease	N/A	20	20	1/week (*1)	Grab

   (*1) When discharge occurs.

2. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored 1/day (*1) 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: Outfall 002, after discharge from the storm water retention pond and prior to entering the unnamed tributary of Little Pin Oak Creek.

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 nth 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.

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OTHER REQUIREMENTS

1. The Executive Director has reviewed this action for consistency with the goals and policies of the Texas Coastal Management Program (CMP) in accordance with the regulations of the Coastal Coordination council (CCC) and has determined that the action is consistent with the applicable CMP goals and policies.

2. Violations of daily maximum limitations for the following pollutants shall be reported orally or by facsimile to TCEQ Region 4, 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 4 and the Enforcement Division (MC 224): None.

3. There shall be no discharge of polychlorinated biphenyl transformer fluid.

4. The term "free available chlorine" shall mean the value obtained using the amperometric titration method for free available chlorine described in "Standard Methods for the Examination of Water and Wastewater".

   Neither free available chlorine nor total residual chlorine may be discharged from any unit for more than two hours in any one day and not more than one unit in any plant may discharge free available or total residual chlorine at any one time unless the permittee can demonstrate to the permitting Agency that the units in a particular location cannot operate at this level of chlorination.

5. The term "low volume waste sources" means wastewaters from, but not limited to: wet scrubber air pollution control systems, ion exchange water treatment system (cation/anion mixed bed waste), water treatment evaporator blowdown, boiler blowdown, laboratory and sampling streams (water from eye wash station and showers), media filter backwash, floor drainage, cooling tower basin cleaning wastes, and blowdown from recirculating house service water systems. Sanitary and air conditioning wastes are not included.

6. There shall be no discharge of domestic sewage. This waste shall be routed into an on-site septic tank for disposal.

7. The 126 priority pollutants (Appendix A of Part 423) contained in chemicals added for cooling tower maintenance shall be limited in the discharge to "no detectable amount". The use of other chemical additives is not authorized unless approval is obtained and limitations are established on a case-by-case basis in accordance with Part 122.62(a). This permit prohibits the use of chemical substances containing chromium or zinc for the maintenance of the cooling tower blowdown.

8. The term "blowdown" means the minimum discharge of recirculating water for the purpose of discharging materials contained in the water, the further buildup of which would cause concentration in amounts exceeding limits established by best engineering practices.

9. Wastewater discharged via Outfall 001 shall be sampled and analyzed for those parameters listed on Attachment 1, Table 1 and Table 2 of this permit for a minimum of four (4) separate sampling events which are a minimum of one (1) week apart. Attachment 1 shall be completed with the analytical results for Outfall 001 and sent to the TCEQ, Wastewater Permitting Section (MC-148), Industrial Team. Analytical testing for Outfall 001 shall be conducted within 90 days of commencement of commercial operations. 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.

10. Storm Water Best Management Practices, Outfall 002

The permittee must develop and implement a storm water pollution prevention plan (SWP3) that includes a set of best management practices (BMPs) to eliminate or lessen the exposure of storm water to industrial activities and pollutants. The SWP3 must be maintained on site and be made readily available for review by authorized TCEQ personnel. The SWP3 must contain elements, or sections, to require implementation of the following activities:

A. *Good Housekeeping Measures* – Activities must be defined and implemented to ensure areas of the facility that either contribute or potentially contribute pollutants to storm water discharges are maintained and operated in a clean and orderly manner. The frequency for conducting each of the good housekeeping measures must be defined in the SWP3.

B. *Spill Prevention and Response Measures* – Areas must be identified where spills would likely contribute pollutants to storm water discharges. Procedures must be identified and implemented to minimize or prevent contamination of storm water from spills. Spill cleanup techniques must be identified and the necessary materials and equipment for cleanup made available to facility personnel. Facility personnel that work in the identified areas must be trained in spill prevention and response measures at a minimum frequency of once per year. A record of employee training shall be maintained on a minimum frequency of once per year, maintained on site, and be made readily available for inspection by authorized TCEQ personnel upon request.

The SWP3 may be modified at any time in order to implement either additional or more effective pollution control measures. A summary of revisions, including the dates of the revisions, shall be maintained on a quarterly basis, maintained as a part of the SWP3 document, and made readily available for inspection by authorized TCEQ personnel upon request.

Qualified personnel, who are familiar with the industrial activities performed at the facility, must conduct monthly inspections to determine the effectiveness of the Good Housekeeping Measures, Spill Prevention and Response Measures, Best Management Practices, and the Employee Training Program. The results of the inspections must be documented in an inspection summary report; include an assessment for any necessary revisions or additional measures to increase effectiveness of the SWP3; and include a time-frame for implementation of any follow-up actions. The summary report must be maintained on site, and be made readily available for inspection by authorized TCEQ personnel upon request.

11. Storm water discharged via Outfall 002 shall be sampled and analyzed for those parameters listed on Attachment 1, Table SW-1 of this permit at least once by grab sample within the first 30 minutes of discharge or once by a flow weighted composite sample if equipment is available. Attachment 1, Table SW-1 shall be completed with the analytical results for Outfall 002 and sent to the TCEQ, Wastewater Permitting Section (MC-148), Industrial Team. Analytical testing for Outfall 002 shall be conducted within 90 days of commencement of commercial operations, or from the first four storm water events after commencement of commercial operations. 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.

12. There is no mixing zone established for this discharge to an intermittent stream. Acute toxic criteria apply at the point of discharge.

ATTACHMENT I
TABLE 1

Outfall No.: ☐C ☐G	Effluent Concentration (mg/l)				
Pollutants	**Samp.**	**Samp.**	**Samp.**	**Samp.**	**Average**
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 I
TABLE 2

Analysis is required for those pollutants used at the facility as a feedstock, intermediate, product, byproduct, coproduct, maintenance chemical, or that could in any way contribute to contamination in the Outfall 001 discharge.

Outfall No.: ☐C ☐G		**Effluent Concentration (µg/l) (*1)**				
Pollutants	**Samp. 1**	**Samp. 2**	**Samp 3.**	**Samp. 4**	**Average**	**MAL (µg/l)**
Benzene						10
Benzidine						50
Benzo(a)anthracene						10
Benzo(a)pyrene						10
Carbon Tetrachloride						10
Chlorobenzene						10
Chloroform						10
Chrysene						10
Cresols						(*2)
Dibromochloromethane						10
1,2-Dibromoethane						2
1,4-Dichlorobenzene						10
1,2-Dichloroethane						10
1,1-Dichloroethylene						10
Fluoride						500
Hexachlorobenzene						10
Hexachlorobutadiene						10
Hexachloroethane						20
Methyl Ethyl Ketone						50
Nitrobenzene						10
n-Nitrosodiethylamine						20
n-Nitroso-di-n-Butylamine						20
PCB's, Total (*3)						1
Pentachlorobenzene						20
Pentachlorophenol						50
Phenanthrene						10
Pyridine						20
1,2,4,5-Tetrachlorobenzene						20
Tetrachloroethylene						10
Trichloroethylene						10
1,1,1-Trichloroethane						10
2,4,5-Trichlorophenol						50
TTHM (Total Trihalmethanes)						10
Vinyl Chloride						10

(*1) Indicates units if different from µg/L.
(*2) MALs for Cresols: p-Chloro-m-Cresol 10 µg/L; 4,6-Dinitro-o-Cresol 50 µg/L; p-Cresol 10 µg/L
(*3) Total of PCB-1242, PCB-1254, PCB-1221, PCB-1232, PCB-1248, PCB-1260, PCB-1016.

ATTACHMENT I
TABLE SW-1

Pollutant	Grab Sample Taken During First 30 Minutes	Flow Weighted Composite Sample	Grab Sample Taken During First 30 Minutes	Flow Weighted Composite Sample	Number of Storm Events Sampled	MAL (mg/L)
pH (Standard Units)	(min)	(max)	(min)	(max)		---
Total Suspended Solids						---
Chemical Oxygen Demand						---
Total Organic Carbon						---
Oil and Grease						---
Total Arsenic						0.010
Total Barium						0.010
Total Cadmium						0.001
Total Chromium						0.010
Trivalent Chromium						---
Hexavalent Chromium						0.010
Total Copper						0.010
Total Lead						0.005
Total Mercury						0.0002
Total Nickel						0.010
Total Selenium						0.010
Total Silver						0.002
Total Zinc						0.005

48-HOUR ACUTE BIOMONITORING REQUIREMENTS: FRESHWATER

The provisions of this Section apply to Outfall 001 for whole effluent toxicity testing (biomonitoring).

1. Scope, Frequency and Methodology

a. The permittee shall test the effluent for toxicity in accordance with the provisions below. Such testing will determine if an appropriately dilute effluent sample adversely affects the survival of the test organisms.

b. The permittee shall conduct the following toxicity tests utilizing the test organisms, procedures, and quality assurance requirements specified in this section of the permit and in accordance with "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition" (EPA-821-R-02-012), or the most recent update thereof:

1) Acute static renewal 48-hour definitive toxicity test using the water flea (*Daphnia pulex* or *Ceriodaphnia dubia)*. A minimum of five replicates with eight organisms per replicate shall be used in the control and in each dilution. This test shall be conducted once per quarter.

2) Acute static renewal 48-hour definitive toxicity test using the fathead minnow (*Pimephales promelas*). A minimum of five replicates with eight organisms per replicate shall be used in the control and in each dilution. This test shall be conducted once per quarter.

The permittee must perform and submit a valid test for each test species during the required reporting period for that species. A minimum of five replicates with eight organisms per replicate shall be used in the control and each dilution. A repeat test shall include the control and all effluent dilutions and use the appropriate number of organisms and replicates, as specified above. An invalid test is herein defined as any test failing to satisfy the test acceptability criteria, procedures, and quality assurance requirements specified in the test methods and permit.

c. The permittee shall use five effluent dilution concentrations and a control in each toxicity test. These additional effluent concentrations are 32%, 42%, 56%, 75%, and 100% effluent. The critical dilution, defined as 100% effluent, is the effluent concentration representative of the proportion of effluent in the receiving water during critical low flow or critical mixing conditions.

d. This permit may be amended to require a Whole Effluent Toxicity (WET) limit, a Chemical-Specific (CS) limit, a Best Management Practice (BMP), additional toxicity testing, and/or other appropriate actions to address toxicity. The permittee may be required to conduct additional biomonitoring tests and/or a Toxicity Reduction Evaluation (TRE) if biomonitoring data indicate multiple numbers of unconfirmed toxicity events.

e. Testing Frequency Reduction

1) If none of the first four consecutive quarterly tests demonstrates significant lethal effects, the permittee may submit this information in writing and, upon approval, reduce the testing frequency to once per six months for the invertebrate test species and once per year for the vertebrate test species.

2) If one or more of the first four consecutive quarterly tests demonstrates significant lethal effects, the permittee shall continue quarterly testing for that species until the permit is reissued. If a testing frequency reduction had been previously granted and a subsequent test demonstrates significant lethal effects, the permittee will resume a quarterly testing frequency for that species

until the permit is reissued.

2. Required Toxicity Testing Conditions

a. Test Acceptance - The permittee shall repeat any toxicity test, including the control and all effluent dilutions, which fails to meet any of the following criteria:

1) a control mean survival of 90% or greater;

2) a Coefficient of Variation percent (CV%) of 40 or less for both the control and critical dilution. However, if significant lethality is demonstrated, a CV% greater than 40 shall not invalidate the test. The CV% requirement does not apply when significant lethality occurs.

b. Statistical Interpretation

1) For the water flea and fathead minnow tests, the statistical analyses used to determine if there is a significant difference between the control and an effluent dilution shall be in accordance with "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition" (EPA-821-R-02-012), or the most recent update thereof.

2) The permittee is responsible for reviewing test concentration-response relationships to ensure that calculated test-results are interpreted and reported correctly. The EPA manual, "Method Guidance and Recommendation for Whole Effluent Toxicity (WET) Testing (40 CFR Part 136)" (EPA 821-B-00-004) provides guidance on determining the validity of test results.

3) If significant lethality is demonstrated (that is, there is a statistically significant difference in survival at the critical dilution when compared to the control), the conditions of test acceptability are met, and the survival of the test organisms are equal to or greater than 90% in the critical dilution and all dilutions below that, then the permittee shall report a survival No Observed Effect Concentration (NOEC) of not less than the critical dilution for the reporting requirements.

4) The NOEC is defined as the greatest effluent dilution at which no significant lethality is demonstrated. The Lowest Observed Effect Concentration (LOEC) is defined as the lowest effluent dilution at which significant lethality is demonstrated. Significant lethality is herein defined as a statistically significant difference at the 95% confidence level between the survival of the test organism(s) in a specified effluent dilution compared to the survival of the test organism(s) in the control (0% effluent).

5) The use of NOECs and LOECs assumes either a monotonic (continuous) concentration-response relationship or a threshold model of the concentration-response relationship. For any test result that demonstrates a non-monotonic (non-continuous) response, the NOEC should be determined based on the guidance manual referenced in Item 2 above.

6) Pursuant to the responsibility assigned to the permittee in Part 2.b.2), test results that demonstrate a non-monotonic (non-continuous) concentration-response relationship may be submitted, prior to the due date, for technical review. The above-referenced guidance manual will be used when making a determination of test acceptability.

7) Staff will review test results for consistency with rules, procedures, and permit requirements.

c. Dilution Water

1) Dilution water used in the toxicity tests shall be the receiving water collected at a point upstream of the discharge as close as possible to the discharge point, but unaffected by the discharge. Where the toxicity tests are conducted on effluent discharges to receiving waters that are classified as intermittent streams, or where the toxicity tests are conducted on effluent discharges where no receiving water is available due to zero flow conditions, the permittee shall; (a) substitute a synthetic dilution water that has a pH, hardness, and alkalinity similar to that of the closest downstream perennial water unaffected by the discharge, or (b) utilize the closest downstream perennial water unaffected by the discharge.

2) Where the receiving water proves unsatisfactory as a result of preexisting instream toxicity (i.e. fails to fulfill the test acceptance criteria of item 2.a.), the permittee may substitute synthetic dilution water for the receiving water in all subsequent tests provided the unacceptable receiving water test met the following stipulations:

a) a synthetic lab water control was performed (in addition to the receiving water control) which fulfilled the test acceptance requirements of item 2.a;

b) the test indicating receiving water toxicity was carried out to completion;

c) the permittee submitted all test results indicating receiving water toxicity with the reports and information required in Part 3 of this Section.

The synthetic dilution water shall have a pH, hardness, and alkalinity similar to that of the receiving water or a natural water in the drainage basin that is unaffected by the discharge, provided the magnitude of these parameters will not cause toxicity in a synthetic dilution water control that has been formulated to match the pH, hardness, and alkalinity naturally found in the receiving water. Upon approval, the permittee may substitute other appropriate dilution water with chemical and physical characteristics similar to that of the receiving water.

d. Samples and Composites

1) The permittee shall collect a minimum of two flow-weighted 24-hour composite samples from Outfall 001. The second 24-hour composite sample will be used for the renewal of the dilution concentrations for each toxicity test. A 24-hour composite sample consists of a minimum of 12 effluent portions collected at equal time intervals representative of a 24-hour operating day and combined proportionally to flow, or a sample continuously collected proportionally to flow over a 24-hour operating day.

2) The permittee shall collect the 24-hour composite samples such that the samples are representative of any periodic episode of chlorination, biocide usage, or other potentially toxic substance discharged on an intermittent basis.

3) The permittee shall initiate the toxicity tests within 36 hours after collection of the last portion of the first 24-hour composite sample. The holding time for any subsequent 24-hour composite sample shall not exceed 36 hours. Samples shall be maintained at a temperature of 0-6 degrees Centigrade during collection, shipping, and storage.

4) If Outfall 001 ceases discharging during the collection of effluent samples, the requirements for the minimum number of effluent samples, the minimum number of effluent portions, and the sample holding time, are waived during that sampling period. However, the permittee must have

collected an effluent composite sample volume sufficient to complete the required toxicity tests with daily renewal of the effluent. When possible, the effluent samples used for the toxicity tests shall be collected on separate days if the discharge occurs over multiple days. The effluent composite sample collection duration and the static renewal protocol associated with the abbreviated sample collection must be documented in the full report.

3. Reporting

All reports, tables, plans, summaries, and related correspondence required in any Part of this Section shall be submitted to the attention of the Standards Implementation Team (MC 15) of the Water Quality Division. All DMRs, including DMRs with biomonitoring data, should be sent to the Enforcement Division (MC 224).

a. The permittee shall prepare a full report of the results of all tests conducted pursuant to this permit in accordance with the Report Preparation Section of "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition" (EPA-821-R-02-012), or the most recent update thereof, for every valid and invalid toxicity test initiated whether carried to completion or not. The full reports shall be retained for 3 years at the plant site and shall be available for inspection by TCEQ personnel.

b. A full report must be submitted with the first valid biomonitoring test results for each test species and with the first test results any time the permittee subsequently employs a different test laboratory. Full reports need not be submitted for subsequent testing unless specifically requested. The permittee shall routinely report the results of each biomonitoring test on the Table 1 forms provided with this permit. All Table 1 reports must include the information specified in the Table 1 form attached to this permit.

1) Annual biomonitoring test results are due on or before January 20th for biomonitoring conducted during the previous 12 month period.

2) Semiannual biomonitoring test results are due on or before July 20th and January 20th for biomonitoring conducted during the previous 6 month period.

3) Quarterly biomonitoring test results are due on or before April 20th, July 20th, October 20th, and January 20th, for biomonitoring conducted during the previous calendar quarter.

4) Monthly biomonitoring test results are due on or before the 20th day of the month following sampling.

c. Enter the following codes on the DMR for the appropriate parameters for valid tests only:

1) For the water flea, Parameter TEM3D, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0."

2) For the water flea, Parameter TOM3D, report the NOEC for survival.

3) For the water flea, Parameter TXM3D, report the LOEC for survival.

4) For the fathead minnow, Parameter TEM6C, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0."

5) For the fathead minnow, Parameter TOM6C, report the NOEC for survival.

6) For the fathead minnow, Parameter TXM6C, report the LOEC for survival.

d. Enter the following codes on the DMR for retests only:

1) For retest number 1, Parameter 22415, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0."

2) For retest number 2, Parameter 22416, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0."

4. Persistent Toxicity

The requirements of this Part apply only when a toxicity test demonstrates significant lethality. Significant lethality is defined as a statistically significant difference, at the 95% confidence level, between the survival of the test organisms at the critical dilution when compared to the survival of the test organisms in the control.

a. The permittee shall conduct a total of 2 additional tests (retests) for any species that demonstrates significant lethality. The two retests shall be conducted monthly during the next two consecutive months. The permittee shall not substitute either of the two retests in lieu of routine toxicity testing. All reports shall be submitted within 20 days of test completion. Test completion is defined as the last day of the test. The retests shall also be reported on the DMRs as specified in Part 3.d.

b. If one or both of the two retests specified in item 4.a. demonstrates significant lethality, the permittee shall initiate the TRE requirements as specified in Part 5.

c. The provisions of item 4.a. are suspended upon completion of the two retests and submittal of the TRE Action Plan and Schedule defined in Part 5 of this Section.

5. Toxicity Reduction Evaluation

a. Within 45 days of the retest that demonstrates significant lethality, the permittee shall submit a General Outline for initiating a Toxicity Reduction Evaluation (TRE). The outline shall include, but not be limited to, a description of project personnel, a schedule for obtaining consultants (if needed), a discussion of influent and/or effluent data available for review, a sampling and analytical schedule, and a proposed TRE initiation date.

b. Within 90 days of the retest that demonstrates significant lethality, the permittee shall submit a TRE Action Plan and Schedule for conducting a TRE. The plan shall specify the approach and methodology to be used in performing the TRE. A TRE is a step-wise investigation combining toxicity testing with physical and chemical analysis to determine actions necessary to eliminate or reduce effluent toxicity to a level not effecting significant lethality at the critical dilution. The TRE Action Plan shall lead to the successful elimination of significant lethality for both test species defined in item 1.b. As a minimum, the TRE Action Plan shall include the following:

1) Specific Activities - The TRE Action Plan shall specify the approach the permittee intends to utilize in conducting the TRE, including toxicity characterizations, identifications, confirmations, source evaluations, treatability studies, and/or alternative approaches. When conducting characterization analyses, the permittee shall perform multiple characterizations and follow the procedures specified in the document entitled, "Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures" (EPA/600/6-91/003), or alternate procedures. The permittee shall perform multiple identifications and follow the methods specified in the documents entitled, "Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/60-

0/R-92/080) and "Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/081). All characterization, identification, and confirmation tests shall be conducted in an orderly and logical progression;

2) Sampling Plan - The TRE Action Plan should describe sampling locations, methods, holding times, chain of custody, and preservation techniques. The effluent sample volume collected for all tests shall be adequate to perform the toxicity characterization/ identification/ confirmation procedures, and chemical-specific analyses when the toxicity tests show significant lethality. Where the permittee has identified or suspects specific pollutant(s) and/or source(s) of effluent toxicity, the permittee shall conduct, concurrent with toxicity testing, chemical-specific analyses for the identified and/or suspected pollutant(s) and/or source(s) of effluent toxicity;

3) Quality Assurance Plan - The TRE Action Plan should address record keeping and data evaluation, calibration and standardization, baseline tests, system blanks, controls, duplicates, spikes, toxicity persistence in the samples, randomization, reference toxicant control charts, as well as mechanisms to detect artifactual toxicity; and

4) Project Organization - The TRE Action Plan should describe the project staff, project manager, consulting engineering services (where applicable), consulting analytical and toxicological services, etc.

c. Within 30 days of submittal of the TRE Action Plan and Schedule, the permittee shall implement the TRE with due diligence.

d. The permittee shall submit quarterly TRE Activities Reports concerning the progress of the TRE. The quarterly reports are due on or before April 20th, July 20th, October 20th, and January 20th. The report shall detail information regarding the TRE activities including:

1) results and interpretation of any chemical specific analyses for the identified and/or suspected pollutant(s) performed during the quarter;

2) results and interpretation of any characterization, identification, and confirmation tests performed during the quarter;

3) any data and/or substantiating documentation which identifies the pollutant(s) and/or source(s) of effluent toxicity;

4) results of any studies/evaluations concerning the treatability of the facility's effluent toxicity;

5) any data which identifies effluent toxicity control mechanisms that will reduce effluent toxicity to the level necessary to meet no significant lethality at the critical dilution; and

6) any changes to the initial TRE Plan and Schedule that are believed necessary as a result of the TRE findings.

Copies of the TRE Activities Report shall also be submitted to the U.S. EPA Region 6 office.

e. During the TRE, the permittee shall perform, at a minimum, quarterly testing using the more sensitive species; testing for the less sensitive species shall continue at the frequency specified in Part 1.b.

f. If the effluent ceases to effect significant lethality (herein as defined below) the permittee may end the TRE. A "cessation of lethality" is defined as no significant lethality for a period of 12 consecutive months with at least monthly testing. At the end of the 12 months, the permittee shall submit a statement of intent to cease the TRE and may then resume the testing frequency specified in Part 1.b. The permittee may only apply the "cessation of lethality" provision once.

This provision accommodates situations where operational errors and upsets, spills, or sampling errors triggered the TRE, in contrast to a situation where a single toxicant or group of toxicants cause lethality. This provision does not apply as a result of corrective actions taken by the permittee. "Corrective actions" are herein defined as proactive efforts which eliminate or reduce effluent toxicity. These include, but are not limited to, source reduction or elimination, improved housekeeping, changes in chemical usage, and modifications of influent streams and/or effluent treatment.

The permittee may only apply this cessation of lethality provision once. If the effluent again demonstrates significant lethality to the same species, the permit will be amended to add a WET limit with a compliance period, if appropriate. However, prior to the effective date of the WET limit, the permittee may apply for a permit amendment removing and replacing the WET limit with an alternate toxicity control measure by identifying and confirming the toxicant and/or an appropriate control measure.

g. The permittee shall complete the TRE and submit a Final Report on the TRE Activities no later than 28 months from the last test day of the retest that confirmed significant lethal effects at the critical dilution. The permittee may petition the Executive Director (in writing) for an extension of the 28-month limit. However, to warrant an extension the permittee must have demonstrated due diligence in their pursuit of the TIE/TRE and must prove that circumstances beyond their control stalled the TIE/TRE. The report shall provide information pertaining to the specific control mechanism(s) selected that will, when implemented, result in reduction of effluent toxicity to no significant lethality at the critical dilution. The report will also provide a specific corrective action schedule for implementing the selected control mechanism(s). A copy of the TRE Final Report shall also be submitted to the U.S. EPA Region 6 office.

h. Based upon the results of the TRE and proposed corrective actions, this permit may be amended to modify the biomonitoring requirements, where necessary, to require a compliance schedule for implementation of corrective actions, to specify a WET limit, to specify a BMP, and/or to specify CS limits.

TABLE 1 (SHEET 1 OF 2)

WATER FLEA SURVIVAL

			Date	Time		Date	Time
Dates and Times Composites Collected	No. 1	FROM:	_____		TO:	_____	
	No. 2	FROM:	_____		TO:	_____	

Test initiated: _____ am/pm _____ date

Dilution water used: _____ Receiving water _____ Synthetic Dilution water

PERCENT SURVIVAL

Time	Rep	Percent effluent (%)					
		0%	32%	42%	56%	75%	100%
24h	A						
	B						
	C						
	D						
	E						
48h	A						
	B						
	C						
	D						
	E						
Mean at test end							
CV%*							

*Coefficient of Variation = Standard Deviation x 100/mean

Dunnett's Procedure or Steel's Many-One Rank Test as appropriate:

Is the mean survival at 48 hours significantly less (p = 0.05) than the control survival?

CRITICAL DILUTION (100%): _____ YES _____ NO

Enter percent effluent corresponding to the NOEC below:

1) NOEC survival = _____% effluent

2) LOEC survival = _____% effluent

TABLE 1 (SHEET 2 OF 2)

FATHEAD MINNOW SURVIVAL

Dates and Times Composites Collected

No. 1 FROM: _____ Date Time TO: _____ Date Time

No. 2 FROM: _____ TO: _____

Test initiated: _____ am/pm _____ date

Dilution water used: _____ Receiving water _____ Synthetic Dilution water

PERCENT SURVIVAL

Time	Rep	Percent effluent (%)					
		0%	32%	42%	56%	75%	100%
24h	A						
	B						
	C						
	D						
	E						
48h	A						
	B						
	C						
	D						
	E						
Mean at test end							
CV%*							

* Coefficient of Variation = standard deviation x 100/mean

Dunnett's Procedure or Steel's Many-One Rank Test as appropriate:

Is the mean survival at 48 hours significantly less (p = 0.05) than the control survival?

CRITICAL DILUTION (100%): _____ YES _____ NO

Enter percent effluent corresponding to the NOEC below:

1) NOEC survival = _____% effluent

2) LOEC survival = _____% effluent

24-HOUR ACUTE BIOMONITORING REQUIREMENTS: FRESHWATER

The provisions of this section apply to Outfall 001 for whole effluent toxicity testing (biomonitoring)

1. Scope, Frequency and Methodology

a. The permittee shall test the effluent for lethality in accordance with the provisions in this Section. Such testing will determine compliance with the Surface Water Quality Standard, 307.6(e)(2)(B), of greater than 50% survival of the appropriate test organisms in 100% effluent for a 24-hour period.

b. The toxicity tests specified shall be conducted once per six months. The permittee shall conduct the following toxicity tests utilizing the test organisms, procedures, and quality assurance requirements specified in this section of the permit and in accordance with "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition" (EPA-821-R-02-012), or the most recent update thereof:

1) Acute 24-hour static toxicity test using the water flea (*Daphnia pulex* or *Ceriodaphnia dubia*). A minimum of five replicates with eight organisms per replicate shall be used in the control and in each dilution.

2) Acute 24-hour static toxicity test using the fathead minnow (*Pimephales promelas*). A minimum of five replicates with eight organisms per replicate shall be used in the control and in each dilution.

A valid test result must be submitted for each reporting period. The permittee must report, and then repeat, an invalid test during the same reporting period. The repeat test shall include the control and the 100% effluent dilution and use the appropriate number of organisms and replicates, as specified above. An invalid test is herein defined as any test failing to satisfy the test acceptability criteria, procedures, and quality assurance requirements specified in the test methods and permit.

c. In addition to an appropriate control, a 100% effluent concentration shall be used in the toxicity tests. Except as discussed in item 2.b., the control and/or dilution water shall consist of standard, synthetic, moderately hard, reconstituted water.

d. This permit may be amended to require a Whole Effluent Toxicity (WET) limit, a Best Management Practice (BMP), Chemical-Specific (CS) limits, additional toxicity testing, and/or other appropriate actions to address toxicity. The permittee may be required to conduct additional biomonitoring tests and/or a Toxicity Reduction Evaluation (TRE) if biomonitoring data indicate multiple numbers of unconfirmed toxicity events.

e. As the dilution series specified in the 48-Hour Acute Biomonitoring Requirements includes a 100% effluent concentration, the results from those tests may fulfill the requirements of this Section; any tests performed in the proper time interval may be substituted. Compliance will be evaluated as specified in item a. The 50% survival in 100% effluent for a 24-hour period standard applies to all tests utilizing a 100% effluent dilution, regardless of whether the results are submitted to comply with the minimum testing frequency defined in item b.

2. Required Toxicity Testing Conditions

a. Test Acceptance - The permittee shall repeat any toxicity test, including the control, if the control fails to meet a mean survival equal to or greater than 90%.

b. Dilution Water - In accordance with item 1.c., the control and/or dilution water shall normally consist of standard, synthetic, moderately hard, reconstituted water. If the permittee utilizes the results of a 48-hour acute test to satisfy the requirements in item 1.e., the permittee may use the receiving water or dilution water that meets the requirements of item 2.a as the control and dilution water.

c. Samples and Composites

1) The permittee shall collect one flow-weighted 24-hour composite sample from Outfall 001. A 24-hour composite sample consists of a minimum of 12 effluent portions collected at equal time intervals representative of a 24-hour operating day and combined proportional to flow, or a sample continuously collected proportional to flow over a 24-hour operating day.

2) The permittee shall collect the 24-hour composite samples such that the samples are representative of any periodic episode of chlorination, biocide usage, or other potentially toxic substance discharged on an intermittent basis.

3) The permittee shall initiate the toxicity tests within 36 hours after collection of the last portion of the 24-hour composite sample. Samples shall be maintained at a temperature of 0-6 degrees Centigrade during collection, shipping, and storage.

4) If Outfall 001 ceases discharging during the collection of the effluent composite sample, the requirements for the minimum number of effluent portions are waived. However, the permittee must have collected a composite sample volume sufficient for completion of the required test. The abbreviated sample collection, duration, and methodology must be documented in the full report required in Part 3 of this Section.

3. Reporting

All reports, tables, plans, summaries, and related correspondence required in any Part of this Section shall be submitted to the attention of the Standards Implementation Team (MC 15) of the Water Quality Division. All DMRs, including DMRs with biomonitoring data, should be sent to the Enforcement Division (MC 224).

a. The permittee shall prepare a full report of the results of all tests conducted pursuant to this permit in accordance with the Report Preparation Section of "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition" (EPA-821-R-02-012), or the most recent update thereof, for every valid and invalid toxicity test initiated. All full reports shall be retained for 3 years at the plant site and shall be available for inspection by TCEQ personnel.

b. A full report must be submitted with the first valid biomonitoring test results for each test species and with the first test results any time the permittee subsequently employs a different test laboratory. Full reports need not be submitted for subsequent testing unless specifically requested. The permittee shall routinely report the results of each biomonitoring test on the Table 2 forms provided with this permit. All Table 2 reports must include the information specified in the Table 2 form attached to this permit.

1) Semiannual biomonitoring test results are due on or before January 20th and July 20th for biomonitoring conducted during the previous 6 month period.

2) Quarterly biomonitoring test results are due on or before January 20th, April 20th, July 20th, and October 20th, for biomonitoring conducted during the previous calendar quarter.

c. Enter the following codes on the DMR for the appropriate parameters for valid tests only:

1) For the water flea, Parameter TIE3D, enter a "0" if the mean survival at 24-hours is greater than 50% in the 100% effluent dilution; if the mean survival is less than or equal to 50%, enter "1."

2) For the fathead minnow, Parameter TIE6C, enter a "0" if the mean survival at 24-hours is greater than 50% in the 100% effluent dilution; if the mean survival is less than or equal to 50%, enter "1."

d. Enter the following codes on the DMR for retests only:

1) For retest number 1, Parameter 22415, enter a "0" if the mean survival at 24-hours is greater than 50% in the 100% effluent dilution; if the mean survival is less than or equal to 50%, enter "1."

2) For retest number 2, Parameter 22416, enter a "0" if the mean survival at 24-hours is greater than 50% in the 100% effluent dilution; if the mean survival is less than or equal to 50%, enter "1."

4. Persistent Mortality

The requirements of this Part apply when a toxicity test demonstrates significant lethality, here defined as a mean mortality of 50% or greater to organisms exposed to the 100% effluent concentration after 24-hours.

a. The permittee shall conduct 2 additional tests (retests) for each species that demonstrates significant lethality. The two retests shall be conducted once per week for 2 weeks. Five effluent dilution concentrations in addition to an appropriate control shall be used in the retests. These additional effluent concentrations are 6%, 13%, 25%, 50% and 100% effluent. The first retest shall be conducted within 15 days of the laboratory determination of significant lethality. All test results shall be submitted within 20 days of test completion of the second retest. Test completion is defined as the 24th hour. The retests shall also be reported on the DMRs as specified in Part 3.d.

b. If one or both of the two retests specified in item 4.a. demonstrates significant lethality, the permittee shall initiate the TRE requirements as specified in Part 5 of this Section.

5. Toxicity Reduction Evaluation

a. Within 45 days of the retest that demonstrates significant lethality, the permittee shall submit a General Outline for initiating a Toxicity Reduction Evaluation (TRE). The outline shall include, but not be limited to, a description of project personnel, a schedule for obtaining consultants (if needed), a discussion of influent and/or effluent data available for review, a sampling and analytical schedule, and a proposed TRE initiation date.

b. Within 90 days of the retest that demonstrates significant lethality, the permittee shall submit a TRE Action Plan and Schedule for conducting a TRE. The plan shall specify the approach and methodology to be used in performing the TRE. A TRE is a step-wise investigation combining toxicity testing with physical and chemical analysis to determine actions necessary to eliminate or reduce effluent toxicity to a level not effecting significant lethality at the critical dilution. The TRE Action Plan shall lead to the successful elimination of significant lethality for both test species defined in item 1.b. As a minimum, the TRE Action Plan shall include the following:

1) Specific Activities - The TRE Action Plan shall specify the approach the permittee intends to utilize in conducting the TRE, including toxicity characterizations, identifications, confirmations, source evaluations, treatability studies, and/or alternative approaches. When conducting

characterization analyses, the permittee shall perform multiple characterizations and follow the procedures specified in the document entitled, "Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures" (EPA/600/6-91/003), or alternate procedures. The permittee shall perform multiple identifications and follow the methods specified in the documents entitled, "Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/60-0/R-92/080) and "Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/081). All characterization, identification, and confirmation tests shall be conducted in an orderly and logical progression;

2) Sampling Plan - The TRE Action Plan should describe sampling locations, methods, holding times, chain of custody, and preservation techniques. The effluent sample volume collected for all tests shall be adequate to perform the toxicity characterization/ identification/ confirmation procedures, and chemical-specific analyses when the toxicity tests show significant lethality. Where the permittee has identified or suspects specific pollutant(s) and/or source(s) of effluent toxicity, the permittee shall conduct, concurrent with toxicity testing, chemical-specific analyses for the identified and/or suspected pollutant(s) and/or source(s) of effluent toxicity;

3) Quality Assurance Plan - The TRE Action Plan should address record keeping and data evaluation, calibration and standardization, baseline tests, system blanks, controls, duplicates, spikes, toxicity persistence in the samples, randomization, reference toxicant control charts, as well as mechanisms to detect artifactual toxicity; and

4) Project Organization - The TRE Action Plan should describe the project staff, project manager, consulting engineering services (where applicable), consulting analytical and toxicological services, etc.

c. Within 30 days of submittal of the TRE Action Plan and Schedule, the permittee shall implement the TRE with due diligence.

d. The permittee shall submit quarterly TRE Activities Reports concerning the progress of the TRE. The quarterly TRE Activities Reports are due on or before April 20th, July 20th, October 20th, and January 20th. The report shall detail information regarding the TRE activities including:

1) results and interpretation of any chemical-specific analyses for the identified and/or suspected pollutant(s) performed during the quarter;

2) results and interpretation of any characterization, identification, and confirmation tests performed during the quarter;

3) any data and/or substantiating documentation which identifies the pollutant(s) and/or source(s) of effluent toxicity;

4) results of any studies/evaluations concerning the treatability of the facility's effluent toxicity;

5) any data which identifies effluent toxicity control mechanisms that will reduce effluent toxicity to the level necessary to eliminate significant lethality; and

6) any changes to the initial TRE Plan and Schedule that are believed necessary as a result of the TRE findings.

Copies of the TRE Activities Report shall also be submitted to the U.S. EPA Region 6 office.

e. During the TRE, the permittee shall perform, at a minimum, quarterly testing using the more sensitive species; testing for the less sensitive species shall continue at the frequency specified in Part 1.b.

f. If the effluent ceases to effect significant lethality (herein as defined below) the permittee may end the TRE. A "cessation of lethality" is defined as no significant lethality for a period of 12 consecutive weeks with at least weekly testing. At the end of the 12 weeks, the permittee shall submit a statement of intent to cease the TRE and may then resume the testing frequency specified in Part 1.b. The permittee may only apply the "cessation of lethality" provision once.

This provision accommodates situations where operational errors and upsets, spills, or sampling errors triggered the TRE, in contrast to a situation where a single toxicant or group of toxicants cause lethality. This provision does not apply as a result of corrective actions taken by the permittee. "Corrective actions" are herein defined as proactive efforts which eliminate or reduce effluent toxicity. These include, but are not limited to, source reduction or elimination, improved housekeeping, changes in chemical usage, and modifications of influent streams and/or effluent treatment.

The permittee may only apply this cessation of lethality provision once. If the effluent again demonstrates significant lethality to the same species, the permit will be amended to add a WET limit with a compliance period, if appropriate. However, prior to the effective date of the WET limit, the permittee may apply for a permit amendment removing and replacing the WET limit with an alternate toxicity control measure by identifying and confirming the toxicant and/or an appropriate control measure.

g. The permittee shall complete the TRE and submit a Final Report on the TRE Activities no later than 18 months from the last test day of the retest that demonstrates significant lethality. The permittee may petition the Executive Director (in writing) for an extension of the 18-month limit. However, to warrant an extension the permittee must have demonstrated due diligence in their pursuit of the TIE/TRE and must prove that circumstances beyond their control stalled the TIE/TRE. The report shall specify the control mechanism(s) that will, when implemented, reduce effluent toxicity as specified in item 5.g. The report will also specify a corrective action schedule for implementing the selected control mechanism(s). A copy of the TRE Final Report shall also be submitted to the U.S. EPA Region 6 office.

h. Within 3 years of the last day of the test confirming toxicity, the permittee shall comply with 307.6.(e)(2)(B), which requires greater than 50% survival of the test organism in 100% effluent at the end of 24-hours. The permittee may petition the Executive Director (in writing) for an extension of the 3-year limit. However, to warrant an extension the permittee must have demonstrated due diligence in their pursuit of the TIE/TRE and must prove that circumstances beyond their control stalled the TIE/TRE.

The requirement to comply with 307.6.(e)(2)(B) may be exempted upon proof that toxicity is caused by an excess, imbalance, or deficiency of dissolved salts. This exemption excludes instances where individually toxic components (e.g. metals) form a salt compound. Following the exemption, the permit may be amended to include an ion-adjustment protocol, alternate species testing, or single species testing.

i. Based upon the results of the TRE and proposed corrective actions, this permit may be amended to modify the biomonitoring requirements where necessary, to require a compliance schedule for implementation of corrective actions, to specify a WET limit, to specify a BMP, and/or to specify a CS limit.

TABLE 2 (SHEET 1 OF 2)

WATER FLEA SURVIVAL

GENERAL INFORMATION

	Time (am/pm)	Date
Composite Sample Collected		
Test Initiated		

PERCENT SURVIVAL

Time	Rep	Percent effluent (%)					
		0%	6%	13%	25%	50%	100%
24h	A						
	B						
	C						
	D						
	E						
	MEAN						

Enter percent effluent corresponding to the LC50 below:

24 hour LC50 = _____% effluent

TABLE 2 (SHEET 2 OF 2)

FATHEAD MINNOW SURVIVAL

GENERAL INFORMATION

	Time (am/pm)	Date
Composite Sample Collected		
Test Initiated		

PERCENT SURVIVAL

Time	Rep	Percent effluent (%)					
		0%	6%	13%	25%	50%	100%
24h	A						
	B						
	C						
	D						
	E						
	MEAN						

Enter percent effluent corresponding to the LC50 below:

24 hour LC50 = _____% effluent

Attachment B

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

2010 FEB -8 PM 4:00

CHIEF CLERKS OFFICE

TPDES PERMIT NO. WQ0004870000

APPLICATION BY	§	**BEFORE THE**
	§	
NAVARRO GENERATING LLC	§	**TEXAS COMMISSION ON**
	§	
TPDES PERMIT NO. WQ0004870000	§	**ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the Navarro Generating LLC's (Applicant) application for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0004870000 and on the ED's preliminary decision. As required by 30 Texas Administrative Code (30 TAC) Section (§) 55.156, before an application is approved, the ED prepares a response to all timely, relevant and material, or significant comments.

The Office of the Chief Clerk received timely comments from the following persons: Mayor Cliff Brown, Mr. James L. Thompson, Ms. Ella Mae Jones, Ms. Constance L. Jones, Ms. Patricia J. Jones, Mr. Bryan Downs, Mr. Daniel Roberts, Ms. Barbara Roberts, Ms. Tina Roberts Denbow, Ms. Tonya Roberts, Mr. Rick Anderson, Mr. Jason K. Dodd, Ms. Diane Rawlins, Ms. Wendi Hammond, Mr. George Smith, Lee Mcleary, Mrs. Carla Steele, Ms. Lindsay King, Ms. Liz Smith, Mr. Terry Loftis, Mr. Charles E. Morgan, and Ms. Vicky Prater. 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's 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 Applicant proposes to operate the Navarro Energy Center, a natural gas fired combined cycle faciltiy with a total nominal generating capacity of 690 MW. Raw water is supplied to the facility by the City of Corsicana. The wastewaters produced at the facility include cooling tower blowdown, low volume waste sources (evaporation cooler blowdown, cation/anion mixed bed waste, media filter backwash, and eye wash and shower water), domestic wastewater, and storm water. Cation/anion mixed bed wastes are routed to a neutralization system for treatment prior to discharge via Outfall 001. Cooling tower blowdown and the remaining low volume waste sources are

discharged via Outfall 001 without treatment. Storm water from the site is routed to a retention pond and discharged via Outfall 002. Domestic wastewater from sinks, showers, toilets, and other sanitary facilities are routed to an on-site septic tank not regulated by this permit. The draft permit would authorize the discharge of cooling tower blowdown and low volume waste sources at a daily average flow not to exceed 1,430,000 gallons per day via Outfall 001; and storm water on an intermittent and flow variable basis via Outfall 002. The proposed discharge route is to an unnamed tributary of Little Pin Oak Creek; then to Little Pin Oak Creek; then to Richland-Chambers Reservoir in Segment No. 0836 of the Trinity River Basin. The facility is proposed to be located at the intersection of Farm-to-Market Road 1394 and Southwest County Road 2100, approximately 3.3 miles southwest of Richland in Navarro County, Texas.

Procedural Background

The application was received on October 22, 2008, declared administratively complete on November 13, 2008, and declared technically complete on April 13, 2009. The Notice of Receipt of Application and Intent to Obtain Water Quality Permit (NORI) was published in the *Corsicana Daily Sun* on November 29, 2008 and *La Prensa Comunidad* December 10, 2008. The ED prepared a draft permit and the Notice of Application and Preliminary Decision (NAPD) was published in the *Corsicana Daily Sun* on July 2, 2009 and *La Prensa Comunidad* on June 29, 2009. A public meeting was held in Corsicana on December 7, 2009 and the public comment period ended at the close of the public meeting. This application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

COMMENTS AND RESPONSES

COMMENT 1:

Bryan Downs, James L. Thompson, Ella Mae Jones, Constance L. Jones, Patricia J. Jones, Daniel Roberts, Barbara Roberts, Tina Roberts Denbow, Tonya Roberts, and Vicky Prater are concerned that Navarro Generating is seeking to discharge large volumes of wastewater containing numerous harmful contaminants from its electric utility generating plant into the public waters of Navarro County and the state of Texas. **Diane Rawlins** does not want any water tainted with anything discharged from this facility to the reservoir. **Wendi Hammond** comments that the application and draft permit fail to include all necessary information, analysis and requirements to comply with all requisite water quality criteria. Water quality-based effluent limits should have been imposed in the draft permit. She also comments that the application and draft permit fail to adequately address the individual and cumulative effects of the discharged pollutants (including but not limited to, selenium, mercury, radioactive pollutants, etc.) and the potential adverse impacts on the public and environment. The inadequacies include, but are not limited to, effluent limitations, monitoring, analysis, record keeping, and reporting. **Bryan Downs, James L. Thompson, Daniel Roberts, Barbara Roberts, Tina Roberts Denbow, Tonya Roberts, Jackie King, and Vicky Prater** are concerned about the effect this discharge will have on their animals and wildlife that drink from the creek. **Jackie King** is concerned that pesticides and herbicides in the Richland Chambers Reservoir will be concentrated in the facility's effluent being discharged.

RESPONSE 1:

The ED's technical review of the permit application begins with a review by the Water Quality Assessment (WQA) Section. WQA determines the designated uses of the water body segment that would receive the proposed discharge, the critical conditions for the water body (i.e., low flow) when the water body is most susceptible to adverse effects, the limitations to ensure the dissolved oxygen criteria are met, and the whole-effluent toxicity testing requirements. Upon completion of the review WQA provides effluent limitation recommendations used in the draft permit.

The proposed permit is drafted using information about the facility provided in the permit application. The effluent limitations are set by comparing technology-based effluent limitations with the water quality-based effluent limitations, using the following method: First, the permit writer reviews the information about the facility and the proposed discharge, and develops technology-based effluent limitations based on federal effluent guidelines. Then, using the application and recommendations from the WQA 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 whichever one is the more stringent to the draft permit.

The wastewater from the facility will be screened for compliance with Texas Surface Water Quality Standards once the facility is in operation to ensure protection of aquatic life in the receiving stream and to protect the designated uses of Little Pin Oak Creek and the unnamed tributary of Little Pin Oak Creek. The Texas Surface Water Quality Standards (TSWQS) found at 30 TAC Chapter 307 states that "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 Procedures to Implement the Texas Surface Water Quality Standards (IPs) is designed to ensure compliance with 30 TAC 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 which threatens human health. As stated in the IPs, no human health mixing zone is applied to discharges to intermittent streams with no significant aquatic life uses. Human health toxic criteria are not applicable if the effluent does not reach a perennial waterbody within three miles of the discharge point.

Because the Navarro facility has not been constructed, there are no effluent data from the facility that could be submitted with the application. Therefore, the proposed permit requires the Applicant to sample the initial discharges from the facility and analyze them for a series of pollutants to be screened against the concentrations necessary to protect the receiving water. 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 from the Texas Surface Water Quality Standards found at 30 TAC § 307, to ensure protection of aquatic life in the receiving stream and to protect the designated uses of Little Pin Oak Creek and the Unnamed tributary of Little Pin Oak Creek. If the effluent data show pollutants that have the potential to exceed the calculated water quality-based limitations necessary to protect aquatic life, TCEQ staff will initiate a permit amendment and additional monitoring,

effluent limits, and/or other controls may be added to the permit.

The effluent limitations for Outfall 001 and 002 are shown below. Outfall 001 has technology-based effluent limitations that were developed using Title 40 Code of Federal Regulations (40 CFR) Part 423 (relating to Steam Electric Power Generating Point Sources). Outfall 002 has effluent limitations based on Best Professional Judgment (BPJ) for discharges of storm water from this type of facility. The limitations and monitoring requirements established in the draft permit are listed below.

Outfall	Parameter	Daily Avg	Daily Max	Monitoring Frequency
001	Flow (MGD)	(1.43)	(1.92)	1/day
	Free Available Chlorine	0.2 mg/l, 0.2 lbs/day	0.5 mg/l, 0.5 lbs/day	1/week
	Total Suspended Solids	30 mg/l	100 mg/l	2/week
	Oil and Grease	15 mg/l	20 mg/l	1/week
	pH (standard units)	(6.0 min)	(9.0 max)	1/day
002	Flow (MGD)	(Report)	(Report)	1/day
	Total Organic Carbon	N/A	55 mg/l	1/week
	Oil and Grease	N/A	15 mg/l	1/week
	pH (standard units)	(6.0 min)	(9.0 max)	1/day

The draft permit also contains Whole Effluent Toxicity (WET) testing. WET testing is designed to protect the receiving water quality from the combined toxic effect of pollutants which may be present in the effluent. Acute WET testing measures the survival of an invertebrate and vertebrate test species within a mixture of wastewater and the receiving water at various concentrations. If a WET test shows that the effluent has the potential to cause lethal effects in the receiving stream, the Applicant is required to identify the toxicant or toxicants and reduce or eliminate the toxicity of the effluent. The draft permit requires 48-hour Acute and 24-hour Acute freshwater toxicity testing.

A guidance document provided by the Texas Agricultural Extension Service entitled "Water Quality: Its Relationship to Livestock" (Doc. No. L2374)[1] states that the most common water quality problems affecting livestock production are high mineral concentrations (excess salinity), high nitrogen, bacteria contamination, heavy growths of blue-green algae, petroleum, pesticide, and fertilizer spills. With the exception of total dissolved solids (TDS), which could potentially be elevated in cooling tower blowdown, the constituents of concern mentioned in the document are generally not associated with the waste streams generated from this facility and should not affect livestock. The document provides that TDS in the range between 1,000 and 3,000 milligrams per liter (mg/L) should be satisfactory for livestock. In the application, the estimated levels of TDS are between 467.6 mg/L and 515.2 mg/L.

In addition, the estimated effluent concentrations for TDS were screened against the Texas Surface Water Quality Standards. Based on this screening, the ED determined that no effluent limitations for TDS is needed in the draft permit at this time. If the permit is approved, the Applicant will be

[1] Available at: http://lubbock.tamu.edu/irrigate/documents/2074410-L2374.pdf

required to provide effluent data for TDS, which represents the actual discharge quality from the facility. This data will be screened against the Texas Surface Water Quality Standards. If the effluent data shows TDS concentrations that have the potential to exceed the calculated water quality-based limitations necessary to protect aquatic life, the ED will re-consider the permit and additional monitoring, effluent limits, and/or other controls may be added to the permit.

COMMENT 2:

Bryan Downs, James L. Thompson, Ella Mae Jones, Constance L. Jones, Patricia J. Jones, Daniel Roberts, Barbara Roberts, Tina Roberts Denbow, and Tonya Roberts are concerned that degradation caused by the discharge from this facility will lead to poor water quality, making the water unsafe for public drinking purposes and unsanitary for other uses. **Bryan Downs, James L. Thompson, Daniel Roberts, Barbara Roberts, Tina Roberts Denbow, Tonya Roberts, and Vicky Prater** are concerned about the effects the discharge will have on workers and children who may come into contact with the water in the creek. **Wendi Hammond** comments that the permit application fails to adequately analyze the wastewater's potential impact on the downstream domestic drinking water supply intake and that the antidegradation review was inadequate and incomplete. The application and draft permit fail to include all necessary information, analysis, and requirements to comply with the elements of the antidegradation policy and requisite analysis with regards to any pollutant. **Charles Morgan** comments that he wants TCEQ to use the most stringent aquatic and recreational criteria to develop the permit limits.

RESPONSE 2:

The proposed discharge route is to an unnamed tributary of Little Pin Oak Creek; thence to Little Pin Oak Creek; thence to Richland-Chambers Reservoir in Segment No. 0836 of the Trinity River Basin. The unclassified receiving waters, the unnamed tributary of Little Pin Oak Creek and Little Pin Oak Creek were determined to be intermittent (dry for at least one week during most years) until its confluence with Richland Chambers Reservoir. Intermittent waterbodies are assigned "no significant aquatic life uses" in accordance with the Texas Surface Water Quality Standards (TSWQS) at 30 TAC 307.4(h)(4). The classified perennial water body, Richland Chambers Reservoir is assigned contact recreation, public water supply, and high aquatic life uses as designated within Appendix A of the TSWQS. The dissolved oxygen criterion for the unnamed tributary of Little Pin Oak Creek and Little Pin Oak Creek is 2.0 mg/l. The dissolved oxygen criterion for Richland-Chambers Reservoir is 5.0 mg/l.

The TSWQS located in 30 TAC Chapter 307, designate criteria for the protection of aquatic life and human health in water in the State. Section 307.4(d) of the TSWQS states that "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 Procedures to Implement the Texas Surface Water Quality Standards are designed to ensure compliance with 30 TAC Chapter 307. As stated in the IPs, no human health mixing zone is applied to discharges to intermittent streams with no significant aquatic life uses. Human health toxic criteria are not applicable if the effluent does not reach a perennial waterbody within three miles of the discharge point.

In accordance with 30 TAC § 307.5 and the IPs, an antidegradation review of the receiving waters was performed. TCEQ's antidegradation policy applies to any increase in pollution authorized by a TPDES wastewater discharge permit. Increases in pollution are determined by information on effluent characteristics that are provided in the permit application, the draft permit, and other available sources. The Standards Implementation Team conducts Tier 1 and/or Tier 2 review in accordance with § 307.5. Antidegradation reviews under Tier 1 ensure that existing water quality uses are not impaired by increases in pollution loading. TPDES permit amendments or new permits that allow increased pollution loading are subject to review under Tier 1 of the antidegradation policy, and all pollutants that could cause an impairment of existing uses are included in the evaluation.

A Tier I antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life use downstream, and existing uses will be maintained and protected. The review also preliminary determined that no water bodies with exceptional, high, or intermediate uses are present within the stream reach assessed. Therefore, no Tier 2 degradation determination is required. The preliminary determination can be reexamined and may be modified if new information is received.

Furthermore, the Applicant proposes to discharge utility wastewaters associated primarily with the cooling of electric generation units and auxiliary processes. The permitted waste streams are not expected to contain elevated levels of bacteria typically associated with domestic wastewaters and should not be detrimental to contact recreation uses. The draft permit explicitly prohibits the discharge of domestic wastewater. Domestic wastewater generated at the facility will be routed to an on-site septic tank system for disposal. Additionally, the proposed permit requires that the initial discharges be sampled and analyzed for a series of pollutants including bacteria to be screened against the concentrations necessary to protect water quality. If the effluent data shows pollutants that have the potential to exceed the calculated water quality-based limitations necessary to protect aquatic life, TCEQ staff will initiate a permit amendment and additional monitoring, effluent limits, and/or other controls may be added to the permit.

COMMENT 3:

Vicky Prater is concerned about the requirement for the facility to notify affected landowners three miles downstream along the proposed discharge route. Ms. Prater believes that all landowners along the entire discharge route, all the way to Richland Chambers Lake, should be notified and not just the landowners within 3 miles. Ms. Prater also believes the affected landowners should receive notice of wastewater discharges via certified mail. **Wendi Hammond** comments that the public notices regarding this permit application have been inadequate and/or incorrect and therefore, TCEQ must republish notice to allow the public its opportunity to review the complete application and provide meaningful and informed comments.

RESPONSE 3:

Applicants for a new permit must provide a list of affected landowners and a map showing their

location. To meet current permit application requirements, the Applicant is required to comply with all applicable sections of 30 TAC Chapter 305. The Applicant is also required to certify that the submitted application is accurate. An Applicant for a wastewater discharge permit is required to produce:

> [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. . . . The map shall depict the approximate boundaries of the tract of land owned or to be used by the applicant and shall extend *at least one mile beyond the tract boundaries* sufficient to show the following:
>
> (A) each well, spring, and surface water body or other water in the state within the map area;
>
> (B) the general character of the areas adjacent to the facility, including public roads, towns and the nature of development of adjacent lands such as residential, commercial, agricultural, recreational, undeveloped, and so forth;
>
> (C) the location of any waste disposal activities conducted on the tract not included in the application;
>
> (D) *the ownership of tracts of land adjacent to the facility and within a reasonable distance from the proposed point or points of discharge, deposit, injection, or other place of disposal or activity*; and
>
> (E) such other information that reasonably may be requested by the executive director.

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.

30 TAC § 305.48(a)(2), *emphasis added.*

The Commission rules relating to notice are embodied in 30 TAC Chapter 39. Section 39.413(1) requires the chief clerk of the TCEQ to mail notice of the NORI and NAPD to the (1) landowners named on the application map, supplemental map, the sheet attached to the application map or supplemental map, (2) persons on the mailing list for the application, and (3) persons who filed

timely public comment or request for hearing. Sections 39.405(f)(1), 39.418 and 39.419 require the Applicant to publish notice of the NORI and NAPD in the newspaper of largest circulation in the county where the facility is proposed to be located. In addition, the Applicant is required to "make a copy of the application available for review and copying at a public place in the county" where the facility is proposed to be located. Section 39.411 delineates the content of the text of a public notice. The published notice is intended to give the general public (particularly those who did not receive mailed-notice) notice of the pending application.

Neither the Applicant nor the chief clerk is required to give mailed notice to all downstream landowners under the rules. TCEQ rules do not require certified mail notice to landowners. The permit application, Executive Director's preliminary decision, and draft permit were made available for review and copying at the Corsicana Public Library, 100 North 12th Street, Corsicana, Texas. Notice of the location was contained in the NORI and NAPD. As stated above, the NORI was published in the *Corsicana Daily Sun* on November 29, 2008 and *La Prensa Comunidad* December 10, 2008. The NAPD was published in the *Corsicana Daily Sun* on July 2, 2009 and *La Prensa Comunidad* on June 29, 2009. The ED's staff has reviewed the NORI and NAPD published by the Applicant and determined that the text of both notices complied with the requirements of 39.411.

See also **Response 15** below.

COMMENT 4:

Wendi Hammond comments that the application is incomplete, contains inaccuracies and/or fails to include all necessary and required information. For example, the application inadequately describes the soils, ground water, surface waters, or the location of wells, faults, fractures, sink holes, wetlands, etc.

RESPONSE 4:

This application was received and reviewed under TCEQ's consolidated permit rules at 30 TAC Chapter 305. The Applicant is required to submit all applicable forms, material, and information contained in Sections 305.45 and 305.48. TCEQ staff reviewed the application and concluded that the required information was submitted. Worksheet 4.0, Receiving Waters, which requires information regarding the surface waters receiving the discharge was completed and submitted with the application. Information regarding sinkholes, fractures, wetlands, and faults is not something that is specifically required in the application for a TPDES permit. Information regarding wells, soils and ground water is only required to be submitted when the applicant is proposing to store industrial wastewater in an impoundment. Since the facility is not proposing to store industrial wastewater in an impoundment, this information was not submitted with the application.

COMMENT 5:

Wendi Hammond comments that the FEMA maps may not accurately reflect all 100-year frequency flood levels, and sole reliance upon those maps may not be proper.

RESPONSE 5:

FEMA is the government organization charged with determining the 100-year frequency flood levels and producing maps that reflect this information. TCEQ depends on the information provided by FEMA to be the most accurate information available regarding 100-year frequency flood levels. If commenters have additional information regarding 100-year frequency flood levels that they feel is more representative than the map for this area produced by FEMA, they are encouraged to provide this information to the TCEQ for their consideration during the permitting process.

COMMENT 6:

Wendi Hammond comments that the application gives only the primary purpose of the raw water supply, rather than identifying all its purposes.

RESPONSE 6:

TCEQ staff reviewed the application and concluded that the required information was submitted. The application for a TPDES permit does not require the Applicant to identify all the potential uses of raw water. A TPDES discharge permit addresses the wastewaters being produced by the facility.

COMMENT 7:

Wendi Hammond comments that the application states that additional construction for potable water treatment capability is possible, yet the application fails to account for, review, and analyze impacts, if any, from this additional construction. Likewise, the application fails to indentify where this construction, or the construction of the potable water well will exist.

RESPONSE 7:

The applicant is not required to provide information on possible construction activities that could occur in the future at the site at the time of application for a TPDE permit. Any construction not authorized by this permit at the facility would require either a new permit or an amendment to the instant permit if issue. If additional permits, or an amendment to the proposed TPDES permit is required because of any future construction activities, the Applicant would be responsible for securing these new permits or amendments prior to commencing construction activities.

The draft permit authorizes the discharge of low volume waste sources via Outfall 001. According to federal regulations, the term *low volume waste sources* means, taken collectively as if from one source, wastewater from all sources except those for which specific limitations are otherwise established in this part.[2] For this draft permit, those waste sources include, but are not limited to water treatment technologies, such as ion exchange water treatment system (cation/anion mixed bed waste), water treatment evaporator blowdown, media filter backwash, and blowdown from recirculating house service water systems. Effluent limits established in the draft permit for total

[2] 40 CFR § 423.11(b).

suspended solids and oil and grease at Outfall 001 have been established based on the discharge of these types of wastewaters. Any potential for these wastewaters to have an adverse impact on the receiving stream quality should be identified through the required effluent sampling and the WET testing requirements. Also, see **Response 1**.

COMMENT 8:

Wendi Hammond comments that the application fails to properly identify the raw water storage tank.

RESPONSE 8:

The TCEQ staff reviewed the application and concluded that the required information was submitted. The raw water storage tank was identified in the application as Attachment T-2, list of Significant Components in Water Systems, and again in Attachment T-4, Preliminary Water Balance and Flow Diagram.

COMMENT 9:

Wendi Hammond comments that the application fails to properly review what impact(s) may occur if the mixed bed is not generated every seven days, as assumed by the application.

RESPONSE 9:

The focus of a TPDES permit is the appropriate disposal of wastewater. The mixing bed is not considered to be part of the wastewater treatment process at the facility; rather, it is used to treat the raw water source to ensure the source water is of appropriate quality to be used throughout the facility. It is in the Applicant's best interest to generate the mixed beds as necessary to maintain appropriate water quality to be used during in the facility's processes.

The proposed draft permit contains technology-based effluent limits from the federal regulations[3] appropriate for the discharge of low volume waste sources. One component of low volume waste sources is wastewater from ion exchange water treatment systems.[4] The mixed bed is considered an ion exchange water treatment system. Therefore, the draft permit contains effluent limits designed to be protective of potential wastes from this type of process at the facility.

COMMENT 10:

Wendi Hammond comments that the application fails to identify and properly review the type, amount, frequency, and disposal of pollutants resulting from regular maintenance of the power plant. Likewise the draft permit fails to place appropriate limits on such pollutants as well as provide adequate record-keeping, reporting, and monitoring of such pollutants.

[3] 40 CFR Part 423
[4] 40 CFR § 423.11

RESPONSE 10:

The draft permit authorizes the discharge of low volume waste sources via Outfall 001. According to federal regulations, the term *low volume waste sources* means, taken collectively as if from one source, wastewater from all sources except those for which specific limitations are otherwise established in this part.[5] For this draft permit, those waste sources include, but are not limited to wet scrubber air pollution control systems, ion exchange water treatment system (cation/anion mixed bed waste), water treatment evaporator blowdown, boiler blowdown, laboratory and sampling streams (water from eye wash station and showers), media filter backwash, floor drainage, cooling tower basin cleaning wastes, and blowdown from recirculating house service water systems.

Technology-based effluent limits for total suspended solids, which are monitored and reported twice per week, and oil and grease, which are monitored and reported once per week, are prescribed by the federal regulations and have been placed in the draft permit at Outfall 001 for low volume waste sources. Also, see **Response 1.**

COMMENT 11:

Wendi Hammond is concerned about why powder activated carbon is being injected "at various times" to control taste. Ms. Hammond states that it is unclear whether the representations on page 1 of Attachment T-2 are requirements or not. She is also concerned about whether the pump station at the facility is under the control of the Applicant.

RESPONSE 11:

The facility will receive its raw water from the City of Corsicana, which controls the pump station mentioned in the application. Corsicana adds the powder activated carbon to the raw water it provides to control taste prior to it being routed to the proposed facility. The Applicant provided the information regarding the pump station and the powder activated carbon to inform the TCEQ of the addition of the carbon to the raw water so that it could be taken into account when reviewing the application.

COMMENT 12:

Wendi Hammond comments that the draft permit fails to require as limits the assumptions used in the analyses in Attachment T-6. Without requiring these limits, the application fails to adequately analyze the potential adverse effects of the proposed wastewater discharge. She also comments that the draft permit fails to adequately address and include limitations for the pollutants provided with the application in the material safety data sheets.

RESPONSE 12:

The effluent data provided in Attachment T-6 of the application provided assumed concentrations of

[5] 40 CFR § 423.11(b).

pollutants in the wastestream from the proposed plant. These assumed concentrations were calculated based on four samples taken from Richland Chambers Reservoir, the source of raw water for the plant. The Applicant performed a mass-balance equation to determine the possible concentrations of pollutants that may result from the processes carried out at the plant and that may result on the wastewater discharged from the facility. The results of these calculations were compared to the water quality-based effluent limits calculated for the facility as described in Response 1. Based on this screening, only aluminum was found to be at concentrations that exceed the calculated water quality-based effluent limit for the protection of aquatic life in the receiving stream. No effluent limit has been included in the draft permit based on this screening of the assumed data. The proposed permit requires that the initial discharges from the facility be sampled and analyzed for a series of pollutants once the facility is in operation, including aluminum, to be screened against the calculated water quality-based limitations necessary to protect aquatic life. The analysis will detect any residual pollutants identified within the material safety data sheets for water treatment and process chemicals.

The draft permit also contains Whole Effluent Toxicity (WET) testing. WET testing is designed to protect the receiving water quality from the combined toxic effect of pollutants which may be present in the effluent. Acute WET testing measures the survival of an invertebrate and vertebrate test species within a mixture of wastewater and the receiving water at various concentrations. If a WET test shows that the effluent has the potential to cause lethal effects in the receiving stream, the Applicant is required to identify the toxicant or toxicants and reduce or eliminate the toxicity of the effluent. The draft permit requires 48-hour Acute and 24-hour Acute freshwater toxicity testing.

COMMENT 13:

Wendi Hammond comments that the application fails to adequately identify and analyze the general characteristic of the water body as natural storm and floodwater runoff.

RESPONSE 13:

TCEQ staff reviewed the application and concluded that the required information was submitted. In the application in Worksheet 4.0, Receiving Waters, Section 5, General Characteristics of Receiving Water Body, Item 5.a., the applicant indicated that the receiving waters upstream of the proposed discharge route is influenced by agricultural runoff. The Applicant indicated in Item 5. b. the uses of the water body to be livestock watering. In Item 5. c. the Applicant identified the aesthetics of the receiving waters and the surrounding area as "natural area." Natural storm and floodwater runoff are not offered as options to select when providing the general characteristics of the water body.

COMMENT 14:

Wendi Hammond comments that the application fails to adequately identify and analyze the uses of the receiving waters and water body other than livestock watering. This includes, but is not limited to, noncontact recreation, contact recreation, picnic activities, and fishing.

RESPONSE 14:

The Applicant provides information in the application on the use of the receiving water. This information is used to supplement the ED's final determination of the uses of the receiving waters, in accordance with the TSWQS and the IPs. The TSWQS designates criteria for the protection of aquatic life and human health in water in the state.

The proposed discharge route is to an unnamed tributary of Little Pin Oak Creek; then to Little Pin Oak Creek; then to Richland-Chambers Reservoir in Segment No. 0836 of the Trinity River Basin. The unclassified receiving waters, the unnamed tributary of Little Pin Oak Creek and Little Pin Oak Creek were determined to be intermittent (dry for at least one week during most years) until its confluence with Richland Chambers Reservoir. Intermittent waterbodies are assigned "no significant aquatic life uses" under 30 TAC § 307.4(h)(4). The classified perennial water body, Richland Chambers Reservoir, is assigned contact recreation, public water supply, and high aquatic life uses as designated within Appendix A of the TSWQS.

Waterbodies are designated for contact recreation use unless elevated concentrations of indicator bacteria (*E. coli*) frequently occur due to sources of pollution that cannot be reasonably controlled by existing regulations or if recreational activities are considered unsafe for other reasons, such as ship or barge traffic.

The TSWQS require that the draft permit provisions preclude toxic effects on human health resulting from recreational activities involving a significant risk of ingestion of water, including wading by children, swimming, water skiing, etc., in order to maintain the designated contact recreation use. The draft permit prohibits the discharge of domestic sewage. Domestic wastewater at the facility is routed to a septic tank/drainfield system. Therefore, there is no domestic sewage component to the wastewater discharge authorized by the draft permit.

COMMENT 15:

Wendi Hammond comments that the application and draft permit are improper because "[a]ll determinations are preliminary and subject to additional review and or revisions." As such, the application is incomplete and the public has not been afforded the opportunities for and protections of public participation as provided by state and federal law. The Applicant's and TCEQ's actions have caused the public to review and comment on an incomplete application and draft permit in violation of federal and state laws and regulations, illustrated by the issues identified in the other comments discussing missing application information and technical analysis.

RESPONSE 15:

This application was declared administratively complete on November 13, 2008. Application processing is governed by 30 TAC Chapter 281. Applications are initially reviewed for administrative completeness. *See* 30 TAC § 281.3. The contents of an application for wastewater discharge permit are set out in 30 TAC §§ 281.5, 305.45 and 305.48. Should TCEQ staff find any deficiencies in the application, it may issue a notice of deficiency, which if not corrected within the

appropriate time, would result in a return of the application. *See* 30 TAC § 281.18. Upon finding that the application is administratively complete, the ED issues a declaration of administrative completeness. *See* 30 TAC § 281.17(a). This declaration is available in the NORI that was mailed to the landowners in this case and published in the newspaper of largest circulation in the county where the facility is proposed to be located. The NORI is also available at the TCEQ Office of the Chief Clerk's database.[6]

Subsequent to this declaration of administrative completeness, the application undergoes a technical review subject to 30 TAC § 281.19. This review also includes an opportunity for the Applicant to cure any deficiencies discovered by the ED. Based on this technical review, the ED formulates its preliminary decision on the application. The preliminary decision in this case was mailed to the landowners and published in the newspaper of largest circulation in the county where the facility is proposed to be located. This notice is available at the TCEQ Office of the Chief Clerk's Database.[7] The publication of the NAPD begins the comment period. *See* Tex. Water Code, § 5.553. Accordingly, the Texas statutes contemplate preliminary decisions and public comment. Public comments are valuable to the ED in making a decision on a permit. The ED reviews and responds to all relevant, material and significant public comments. The determination in this case may be influenced by a relevant comment that would cause the ED to make changes to the draft permit. The ED reviewed the significant comments in this case and made changes to the draft permit based on the comments. Other Requirement Nos. 9 and 11 in the draft permit were revised in response to public comments.

COMMENT 16:

Wendi Hammond comments that the technology-based effluent limits within the application are incomplete, inadequate, and/or incorrect. The effluent limitations are not properly based on 40 CFR Part 423. Also, the effluent limits for Outfall 002 including, but not limited to, TOC, oil and grease, pH are not appropriate or were not properly established. Additionally, the draft permit fails to provide in clear and enforceable terms limits specifically keyed to characteristics for treatment and disposal.

RESPONSE 16:

Technology-based effluent limitations in the draft permit for Outfall 001 were developed in accordance with 40 CFR Part 423 for a new source which proposes to discharge cooling tower blowdown and low volume waste sources.[8] The limits for total organic carbon, oil and grease, and pH for Outfall 002 were established based on Best Professional Judgment (BPJ) and are considered to be appropriate for discharges of storm water from steam electric generating facilities. These

[6] Available at http://www10.tceq.state.tx.us/epic/enotice/index.cfm?fuseaction=main.PublicNoticeDescResults&CHK_ITEM_ID=657315172008326

[7] Available at http://www10.tceq.state.tx.us/epic/enotice/index.cfm?fuseaction=main.PublicNoticeDescResults&CHK_ITEM_ID=477343262009148

[8] 40 CFR Part 423 (Steam Electric Power Generating)

effluent limits are consistent with effluent limits found in other TPDES permits authorizing the discharge of storm water from electric generating facilities. The limitations and monitoring requirements established in the draft permit can be found in **Response 1**.

Additionally, EPA approved the draft permit in July, 2009. Therefore, the TCEQ believes the draft permit contains the applicable federal technology-based effluent limits for discharges from steam-electric generating facilities.

COMMENT 17:

Wendi Hammond comments that Requirement Nos. 11 and 13 of the draft permit are inadequate and improper. The draft permit improperly allows the development of a storm water pollution prevention plan. Both of these issues circumvent meaningful public participation concerning the monitoring, record keeping, and reporting requirements.

RESPONSE 17:

The effluent testing requirements found in the Other Requirements section of the draft permit for Outfall 001 and 002 are intended to obtain actual data that is not currently available. The facility is unable to provide the required data at this time because the facility is not yet built or in operation.

Thus, the data must be obtained after the facility is in operation and, therefore, after the permit is issued. Based on a review of the actual data obtained after the facility is operating, the TCEQ may determine it is necessary to initiate a permit amendment to add additional limits, as necessary, to protect the receiving stream. However, the permit will not be made any less stringent or protective than the draft permit that was available for public review and comment.

The draft permit's requirement for the Applicant to produce a storm water pollution prevention plan (SWP3) is a common requirement found in TPDES permits with storm water-only outfalls. The Applicant is required to evaluate the procedures at the facility and take steps to ensure that the potential for storm water contamination is kept to a minimum. Qualified personnel, who are familiar with the industrial activities performed at the facility, must conduct monthly inspections to determine the effectiveness of the Good Housekeeping Measures, Spill Prevention and Response Measures, Best Management Practices, and the Employee Training Program. The development of the plan will help to ensure less potential for possible pollutants potentially found in storm water being discharged from the facility. Likewise, any changes to the SWP3 will not make the permit any less stringent or protective than the draft permit that was available for public review and comment.

COMMENT 18:

Wendi Hammond comments the application fails to adequately identify and analyze the "wilderness" description of the receiving waters, especially the receiving waters further downstream from the outfalls.

RESPONSE 18:

Worksheet 4.0- Receiving Waters in the permit application requires the Applicant to describe the receiving waters within three miles of the discharge point. The application lists four descriptions: Wilderness, Natural Area, Common Setting, and Offensive to describe the aesthetics of the stream. The Applicant listed Natural Area: trees and/or native vegetation common; some development evident (from fields, pastures, dwellings); and water clarity discolored. The Applicant is also required to send photographs of area upstream and downstream of the discharge point.

As part of the permit application process, receiving water information provided within the application is used to supplement the ED's preliminary determination of the uses of the receiving waters in accordance with the TSWQS and the IPs. The supplemental information provided by the Applicant in the application was sufficient for the ED's staff to review the potential impacts on the receiving water relevant to this permit.

COMMENT 19:

Wendi Hammond questions the consistency and compatibility of the application and proposed permit with the applicable water quality management plan.

RESPONSE 19:

The Agency does not routinely include industrial wastewater permits in the Water Quality Management Plan (WQMP) update unless it directly pertains to a Total Maximum Daily Load (TMDL) or a Waste Load Evaluation (WLE) for the designated segment. The draft permit was reviewed based on the current water quality standards, which are consistent with the State's WQMP.

COMMENT 20:

Wendi Hammond comments that the application does not contain adequate facility designs and specifications.

RESPONSE 20:

TCEQ staff reviewed the application and concluded that the required information was submitted. TCEQ does not dictate a specific treatment process for the treatment of the wastewater in TPDES permits. The permit application on the Technical Report 1.0 on Page 3 requires a list of any physical, chemical, and/or biological treatment process that is used for the treatment of wastewater to be authorized for disposal at the facility. The permit application also requires a flow diagram of each treatment unit and all sources of wastewaters that flow into the treatment plant and to each outfall.

COMMENT 21:

Wendi Hammond comments that the proposed permit fails to provide in clear and enforceable terms the character of the discharge and the character of the flow limitations.

RESPONSE 21:

Page 2 of the draft permit lists the authorized wastestreams to be cooling tower blowdown and low volume waste sources for Outfall 001. Blowdown is defined in the draft permit at Other Requirement No. 8 as meaning the minimum discharge of recirculating water for the purpose of discharging materials contained in the water, the further buildup of which would cause concentration in amounts exceeding limits established by best engineering practices. Low volume waste sources is defined in the draft permit at Other Requirement No. 5 as wastewaters from, but not limited to wet scrubber air pollution control systems, ion exchange water treatment system (cation/anion mixed bed waste), water treatment evaporator blowdown, boiler blowdown, laboratory and sampling streams (water from eye wash station and showers), media filter backwash, floor drainage, cooling tower basin cleaning wastes, and blowdown from recirculating house service water systems. Domestic and air conditioning wastes are not included. The flow limit for this outfall is provided on Page 2 of the draft permit as well. The permitted flow limits for Outfall 001 are a daily average flow not to exceed 1,430,000 gallons per day, and a daily maximum flow not to exceed 1,940,000 gallons per day.

Page 2a of the draft permit lists the character of the discharge authorized from Outfall 002 as being storm water. Since storm water discharges are based on precipitation events, it is difficult to assign a specific flow limit. Therefore, the flow limit provided for Outfall 002 is intermittent and flow variable. The facility will be required to record the flow from this outfall during rain events and provide that data to the TCEQ.

Additionally, see **Response 22** below, as it relates to enforceable terms in the draft permit.

COMMENT 22:

Wendi Hammond comments that the draft permit fails to comply with federal and state enforceability requirements because the application and draft permit fail to require necessary information, reporting, and/or record keeping, including, but not limited to, sufficient frequency and type of monitoring to detect violations.

RESPONSE 22:

The draft permit was developed according to the applicable state and federal rules and requirements. The draft permit contains effluent limitations, standard provisions, and permit-specific provisions typically found in other wastewater discharge permits for steam electric generating facilities. If the permit is issued, all of the limitations and provision become enforceable requirements of the permit. Therefore, the TCEQ believes this draft permit is enforceable.

Because many wastewater discharge permits are developed in accordance with federal regulations, EPA oversees TCEQs enforcement of wastewater issues. In addition to monthly self-reporting requirements and wastewater treatment plant inspections, TCEQ relies on citizen complaints to help ensure compliance with its rules and permits. Citizens may contact the TCEQ at 1-888-777-3186,

the regional office in the Dallas/Fort Worth area at 817-588-5800, or by e-mail at complaint@TCEQ.state.tx.us to report suspected violations or to file a complaint.

COMMENT 23:

Wendi Hammond comments that the draft permit does not require sufficient frequency and type of monitoring (e.g., whole effluent toxicity monitoring) to detect violations or evaluate water criteria, degradation and/or toxicity as the conditions of discharge and conditions in the receiving waters change from time to time.

RESPONSE 23:

The draft permit requires Whole Effluent Toxicity (WET) testing. Specifically, the draft permit requires a 48-hour Acute WET test at a frequency of once per quarter and a 24-hour acute WET test at a frequency of twice per year. WET testing is designed to protect the receiving water quality from the combined toxic effect of pollutants which may be present in the effluent. Acute WET testing measures the survival of an invertebrate and vertebrate test species within a mixture of wastewater and the receiving water at various concentrations. The concentrations are dictated by the TCEQ Implementation Procedures and are based on the discharge mixing zone. In this case, the most stringent dilution series to protect aquatic life is included in the draft permit. If a WET test shows that the effluent has the potential to cause lethal effects in the receiving stream, the Applicant is required to identify the toxicant or toxicants and reduce or eliminate the toxicity of the effluent. The testing methods and frequencies required within the draft permit are consistent with TSWQS and the WET testing policies and procedures identified in the IPs. A detailed description of WET testing is contained in the IPs which is available in the TCEQ's website at http://www.tceq.state.tx.us/comm_exec/forms_pubs/pubs/rg/rg-194.html.

COMMENT 24:

Wendi Hammond comments that the application fails to appropriately consider any unpleasant odor quality of the effluent and the possible adverse effect that it might have on the receiving body of water having an established recreational standard.

RESPONSE 24:

The TSWQS state that "[c]oncentrations of taste and odor producing substances shall not interfere with the production of potable water by reasonable water treatment methods, impart unpalatable flavor to food fish including shellfish, result in offensive odors arising from the waters, or otherwise interfere with the reasonable use of the water in the state." 30 TAC § 307.4(b)

The purpose of the TSWQS is to maintain the quality of water in the state and to be protective of human health. The TCEQ uses *E. coli* as an indicator of recreational suitability in effluent limits for TPDES wastewater discharges. Indicator bacteria, although not generally pathogenic, are indicative of potential contamination by feces of warm blooded animals. The level of *E. coli* that is considered

a concern for potential contamination by feces of warm blooded animals is 126 colonies per 100 ml or greater. This permit does not contain any effluent limits for bacteria because this is an indutrial discharge permit and does not contain a domestic wastewater component. The domestic wastewater producted at the facility will be routed to an onsite septic tank for treatment and disposal.

COMMENT 25:

Wendi Hammond comments that the draft permit requires testing of Outfall 001 and 002 discharges within 90 days after the permit is issued; however, the plant may not be operational at that time. The initial discharge may or may not actually be the first time industrial wastewater is discharged in any amount from outfall 001 or when the plant is operational for outfall 002. For example, some wastewater discharge may occur during construction and/or pre-start up testing. The testing may not accurately reflect the analysis that would happen when the plant is operational.

RESPONSE 25:

The TCEQ acknowledges that the facility may not be in operation within 90 days after the permit is issued. In response to this comment, Other Requirement No. 9 for Outfall 001 was revised to require effluent samples to be taken from the first four discharges of wastewater within 90 days of commencement of commercial operations. Other Requirement No. 11 for Outfall 002 was also to require effluent samples be taken within 90 days of commencement of commercial operations, or from the first four storm water events after commencement of commercial operations. By revising these requirements, the effluent samples submitted to the TCEQ for review will be more representative of the actual water quality to be expected from the facility during normal operations.

COMMENT 26:

Wendi Hammond comments that the Applicant's compliance history at this or other facilities require denial of the application, or at the very least, closer scrutiny of the information in the application and additional conditions and terms in the proposed permit to minimize the likelihood of future violations.

RESPONSE 26:

During the technical review, the ED reviews the compliance history of the company and the site, based on the criteria in 30 TAC, Chapter 60. The compliance history is reviewed for the company and site for the five-year period prior to the date the permit application was received by the ED. The compliance history includes multimedia compliance-related components about the site under review. These components include the following: enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emissions events, investigations, notices of violations, audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs and early compliance. 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 (sites never investigated)
Average: 0.10 < rating < 45 (generally complies with environmental regulations)
Poor: 45 < rating (performs below average)

As of February 2, 2010, this site has a rating of 3.01 and a classification of AVERAGE BY DEFAULT. The company rating and classification, which is the average of the ratings for all sites the company owns, is 3.01 and a classification of AVERAGE. Based on this rating and classification, the ED determined that the company is operating in compliance with rules and regulations, and that there is no basis to deny the permit based on compliance issues.

COMMENT 27:

Wendi Hammond comments that the application and draft permit fail to comply with the requisite federal and state laws and regulations concerning Best Technology Available (BTA).

RESPONSE 27:

The proposed draft permit was drafted in accordance with 40 CFR § 423.15, New Source Performance Standards (NSPS). The NSPS are as stringent as the BTA regulations for power plants found at 40 CFR § 423.13. Therefore, the TCEQ believes the draft permit complies with the requisite federal and state laws and regulations concerning BTA.

The TCEQ also received approval of the draft permit from EPA in July, 2009. Therefore, the TCEQ believes the draft permit meets all applicable state and federal rules regarding wastewater discharge permitting for steam electric generating facilities.

COMMENT 28:

Wendi Hammond comments the application and draft permit fail to minimize adverse environmental impacts and that the draft permit improperly undermines public participation by postponing analysis and determinations concerning Best Technology Available (BTA) analysis for minimizing Adverse Environmental Impacts (AEI) until after the permit is issued by the agency.

RESPONSE 28:

The TCEQ assumes this comment is in regards to the applicability of the Clean Water Act, § 316(b), having to do with Cooling Water Intake Structures and the determination that the structure used at the proposed facility meets BTA analysis for minimizing AEI. The proposed facility will receive its raw water from the City of Corsicana from an intake structure controlled and operated by the city. Since the facility will be obtaining its raw water through a contract from a public water system, the requirements of § 316(b) do not apply to this facility and the determinations concerning BTA for minimizing AEI are not required to be made for this facility.

COMMENT 29:

Wendi Hammond comments that the TCEQ improperly developed the proposed draft permit on documents that are not compatible with or approved by federal law and or state law requirements.

RESPONSE 29:

The draft permit was drafted in accordance with all appropriate state and federal law requirements. This includes, but is not limited to 40 CFR Parts 423 and 122; 30 TAC Chapters 305, 307, and 319; Federal Clean Water Act Chapter 402; and Texas Water Code § 26.027.

COMMENT 30:

Wendi Hammond comments that the proposed permit fails to provide in clear and enforceable terms rates of application to the waters including, but not limited to, the quantity, flow, location of disposal and condition of disposal.

RESPONSE 30:

Page 2 of the draft permit, addressing Outfall 001, authorizes the discharge of cooling tower blowdown and low volume waste sources at a daily average flow not to exceed 1,430,000 gallons per day and a daily maximum flow not to exceed 1,920,000 gallons per day. It further requires the effluent monitoring samples be taken on the southeast corner of the plant site, at the Outfall 001 effluent pipe sampling portal, after all wastewaters have commingled, and prior to entering the unnamed tributary of Little Pin Oak Creek. Page 2a of the draft permit, addressing Outfall 002, authorizes the discharge of storm water on an intermittent and flow variable basis. Due to the intermittent nature of storm water, no flow limit could be assigned at this outfall. The effluent samples for compliance purposes for this outfall are to be taken after wastewater is discharged from the storm water retention pond and prior to entering the unnamed tributary of Little Pin Oak Creek.

The Definitions and Standard Permit Conditions section of the draft permit also contains conditions which dictate when a facility may or may not discharge wastewater.

COMMENT 31:

Wendi Hammond comments that the application and draft permit inadequately address the inclusion of additional wastestreams including, but not limited to, low volume waste sources, metal cleaning wastewater, etc. This includes, but is not limited to, providing effluent limitations for pollutants resulting from metal cleaning.

RESPONSE 31:

The permit application requested the authorization to discharge cooling tower blowdown and low volume waste sources via Outfall 001 and storm water via Outfall 002. Technology-based effluent

limits for low volume waste sources based on 40 CFR § 423.15 have been imposed in the draft permit for total suspended solids and oil and grease at Outfall 001.

The permit application did not request authorization to discharge metal cleaning waste. Therefore, appropriate technology-based limits for this particular wastestream were not included in the proposed draft permit. If the facility begins to produce water resulting from metal cleaning, or any other wastestream not already specified in the permit, the facility would need to submit a major amendment request to the TCEQ requesting the authorization to discharge these new waste streams. At that point the appropriate effluent limits would be placed in the permit.

COMMENT 32:

Wendi Hammond questions the adequacy of the impoundments, outfall canals, and outfall routes to protect the surface and ground waters from contamination. This includes, but is not limited to, the construction, liners, berms, etc.

RESPONSE 32:

The only impoundment proposed at the facility is the storm water retention pond. The only water this pond will receive and store is storm water run-off from non-industrial areas of the facility. The draft permit contains a requirement for the Applicant to produce storm water best management practices (BMPs) for the facility which are intended to reduce the amount of contaminated runoff from the facility and potential pollutants from entering the storm water retention pond. The storm water from this type of facility also would qualify for coverage under the TPDES Multi-Sector Industrial General Permit for Storm Water, TXR50000, which does not require storm water retention ponds to be lined. Therefore, proposed draft permit does not require this pond to be lined since it is only permitted to contain non-contact storm water.

The wastewater discharged from this facility, if constructed, will be screened as described in **Response 1**. This screening should ensure the wastewater entering the outfall routes and canals should protect aquatic life in the surface water and ground water from contamination.

COMMENT 33:

Wendi Hammond comments that the draft permit fails to adequately require monitoring, record-keeping, and reporting to comply with "free available chlorine" and "total residual chlorine" limitations. The application and draft permit improperly identify and limit outfall parameters including, but not limited to, Biochemical Oxygen Demand (BOD) monitoring, chlorine residual monitoring, maximum chlorine residual limits.

RESPONSE 33:

Based on the discharge of cooling tower blowdown via Outfall 001, the draft permit requires record-

keeping, monitoring and recording of free available chlorine in accordance with federal regulations.[9] Total residual chlorine is not required to be monitored or reported by the draft permit. Based on 40 CFR § 423.15, total residual chlorine limits are required for facilities which discharge once-through cooling water. Since the facility does not propose to use once through cooling water, effluent limits for total residual chlorine were not included in the draft permit. The draft permit does not contain an effluent limit for BOD. Therefore, this limit could not have been improperly identified in the draft permit.

COMMENT 34:

Diane Rawlins comments that the plant is not going to provide power to Navarro County, and therefore should be built where they need the power. **Vicky Prater** comments that no company, city, or county government has the right to force an unwanted industry on a population that does not want it.

RESPONSE 34:

In the evaluation of the permit application, the feasibility or need for electricity cannot be considered by TCEQ in developing the proposed wastewater discharge permit. The permit application review for a TPDES permit is limited to the wastewater treatment and/or disposal operations proposed at the facility. TCEQ does not have the authority to determine the amount of energy that is required by the State of Texas or to limit the number of energy providers.

COMMENT 35:

Wendi Hammond comments that the new source determination was not properly performed.

RESPONSE 35:

The new source determination was performed in accordance with 40 CFR § 122.4(i). First, that section provides that a permit may not be issued to a new source or a new discharger, if the discharge from its construction or operation will cause or contribute to the violation of water quality standards. Because the proposed discharge from this facility will be screened, as described in **Response 1**, above, the facility is not expected to cause or contribute to the violation of water quality standards if operated and maintained as permitted. Second, the ED reviewed whether the proposed discharge route is to a segment listed on the states' inventory of impaired and threatened water, the 2008 Clean Water Act 303(d) list, and found that it was not. Third, the ED determined that the proposed discharge route is not to a segment with a finalized total maximum daily load (TMDL).

Finally, the ED performed a new source review in accordance with 40 CFR § 122.2 to determine the appropriate federal effluent guidelines to apply to the discharge from the proposed facility. Based on this review, technology-based effluent limits from 40 CFR § 423.15, New Source Performance Standards were imposed on the discharge from the proposed facility. These guidelines represent the

[9] 40 CFR § 423.15

most stringent federal technology-based effluent limits for this type of facility.

COMMENT 36:

Bryan Downs, James L. Thompson, Daniel Roberts, Barbara Roberts, Tina Roberts Denbow, Tonya Roberts, Rick Anderson, and **Vicky Prater** have concerns regarding Pin Oak Creek overflowing and affecting their ability to travel and access parts of their property as a result of the discharge from the facility. **Diane Rawlins** is concerned that if the discharge of 1.5 million gallons of water will flood the entire discharge route. Ms. Rawlins would like the facility to find an alternative discharge route to the reservoir. **Wendi Hammond** is concerned that the discharge from the facility might contribute to flooding and significant erosion since downstream areas are already subject to flooding and significant erosion under existing circumstances. **Terry Loftis** thinks it is irresponsible the TCEQ does not take erosion and flooding into account during the permitting process.

RESPONSE 36:

TCEQ does not address flooding issues in the wastewater permitting process, unless there is a potential impact to water quality. The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The draft permit includes effluent limits and other requirements that the Applicant must meet, even during rainfall events and periods of flooding. Page 1 of the draft permit includes the following language:

> 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.

COMMENT 37:

Jason K. Dodd comments that he feels the discharge of polluted wastewater in this area far outweigh any financial gains associated with this operation.

RESPONSE 37:

The TCEQ does not have jurisdiction to prohibit owners and operators from seeking authorization for the discharge of wastewater, nor from receiving such authorization if they comply with all statutory and regulatory requirements. Based on the TCEQ's review of this application, including analysis of health impacts and use of best available control technology, this facility should comply with all applicable health effects guidelines and discharge control requirements.

COMMENT 38:

Wendi Hammond comments that the application fails to provide adequate information concerning the impact of access roads, utility lines and construction easements involved in the project.

RESPONSE 38:

The TCEQ's jurisdiction for a permit application of this type is limited to the issues set out by statute. The TCEQ may not consider the impact of roads, utility lines, or construction easements in determining whether to approve or deny an industrial wastewater discharge application. However, the scope of the Agency's regulatory jurisdiction does not affect or limit the ability of a landowner to seek relief from a court in response to activities that interfere with the landowner's use and enjoyment of property.

COMMENT 39:

Mayor Cliff Brown, Lee Mcleary, Lindsay King, and Liz Smith expressed their support for the proposed TPDES permit and the proposed project.

RESPONSE 39:

The TCEQ acknowledges these comments.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

In response to Comment 25 the following changes have been made to the draft permit.

Other Requirement No. 9 has been revised as follows, changes are underlined:

Wastewater discharged via Outfall 001 shall be sampled and analyzed for those parameters listed on Attachment 1, Table 1 and Table 2 of this permit for a minimum of four (4) separate sampling events which are a minimum of one (1) week apart. Attachment 1 shall be completed with the analytical results for Outfall 001 and sent to the TCEQ, Wastewater Permitting Section (MC-148), Industrial Team. Analytical testing for Outfall 001 shall be conducted within 90 days of commencement of commercial operations. 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.

Other Requirement No. 11 has been revised as follows, changes are underlined:

Storm water discharged via Outfall 002 shall be sampled and analyzed for those parameters listed on Attachment 1, Table SW-1 of this permit at least once by grab sample within the first 30 minutes of discharge or once by a flow weighted composite sample if equipment is available. Attachment 1,

Table SW-1 shall be completed with the analytical results for Outfall 002 and sent to the TCEQ, Wastewater Permitting Section (MC-148), Industrial Team. Analytical testing for Outfall 002 shall be conducted within 90 days of commencement of commercial operations, or from the first four storm water events after commencement of commercial operations. 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.

Respectfully submitted,

Texas Commission on Environmental Quality

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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 10, 2010

TO: Persons on the attached mailing list.

RE: Navarro Generating LLC
TPDES Permit No. WQ0004870000

Decision of the Executive Director.

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

Enclosed with this letter is a copy of the Executive Director's Response to Comments. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Corsicana Public Library, 100 North 12th Street, Corsicana, 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/ms

Enclosures

MAILING LIST
for
Navarro Generating LLC
TPDES Permit No. WQ0004870000

FOR THE APPLICANT:

Chris Shugart
Navarro Generating LLC
1600 Smith Street, Suite 4025
Houston, Texas 77002

PROTESTANTS/INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

Christiaan Siano, Staff Attorney
Texas Commission on Environmental Quality
Environmental Law Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087

Tres Koenings, Technical Staff
Texas Commission on Environmental Quality
Water Quality Division MC-148
P.O. Box 13087
Austin, Texas 78711-3087

FOR OFFICE OF PUBLIC ASSISTANCE
via electronic mail:

Bridget Bohac, Director
Texas Commission on Environmental Quality
Office of Public Assistance MC-108
P.O. Box 13087
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL
via electronic mail:

Blas J. Coy, Jr., Attorney
Texas Commission on Environmental Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK
via electronic mail:

LaDonna Castañuela
Texas Commission on Environmental Quality
Office of Chief Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087

ALLARD , LEON D
2016 GLENWOOD CIR
CORSICANA TX 75110-3420

ANDERSON , RICK B
716 BROOKHAVEN DR
IRVING TX 75061-7915

ANDERSON , RICKY B
716 BROOKHAVEN DR
IRVING TX 75061-7915

BLANK , ERNEST
6735 FM 709 S
CORSICANA TX 75110-9353

BLANK , PAT E
6735 FM 709 S
CORSICANA TX 75110-9353

BROWN , CLIFFORD L
319 W 7TH AVE
CORSICANA TX 75110-6447

CLAMONS , C CLOVER PROJECT MANAGER
SWCA
BLDG 1 STE 110
4407 MONTEREY OAKS BLVD
AUSTIN TX 78749-4411

DENBOW , TINA ROBERTS
1028 HIDDEN HILLS DR
CORSICANA TX 75110-9562

DODD , JASON K
270 LINCOLN DR
STREETMAN TX 75859-3295

DOWNS , BRYAN
6346 SW COUNTY ROAD 2150
RICHLAND TX 76681-4306

GAFFORD , KIMBERLY
7426 SW COUNTY ROAD 2030
PURDON TX 76679-3088

GARNETT , NANCY
TXI
STE 700W
1341 W MOCKINGBIRD LN
DALLAS TX 75247-6913

GARVEY , JAN & RICHARD
214 SE COUNTY ROAD 3124A
CORSICANA TX 75109-0821

HAMMOND , WENDI
LAW OFFICE OF WENDI HAMMOND
7325 AUGUSTA CIR
PLANO TX 75025-3517

HYDEN , HELEN J
181 SW COUNTY ROAD 0020
CORSICANA TX 75110-9312

JONES , CONSTANCE L
13412 HWY 14
RICHLAND TX 76681-4319

JONES , ELLA
12244 HWY 14
RICHLAND TX 76681-4377

JONES , ELLA MAE
13412 HWY 14
RICHLAND TX 76681-4319

JONES , PATRICIA J
6346 SW COUNTY ROAD 2150
RICHLAND TX 76681-4306

KING , JACKLYN T
8040 FM 642
PURDON TX 76679-3105

KING , LINDSAY
1625 GLENBROOK ST
CORSICANA TX 75110-1578

KREJCI , PHIL
301 BENTWOOD CIR
CORSICANA TX 75109-0581

LOFTIS , SUSAN M
2714 OAK VALLEY LN
CORSICANA TX 75110-0217

LOFTIS , TERRY LYNN
2714 OAK VALLEY LN
CORSICANA TX 75110-0217

MCCLEARY , LEE
1501 N 22ND ST
CORSICANA TX 75110-2805

MCHARGUE , DAVID
PO BOX 797
WORTHAM TX 76693-0797

MORGAN , CHARLES E
609 E FM 489
BUFFALO TX 75831-6814

MUIR , JENNIFER & ROBERT
8608 FM 709 S
CORSICANA TX 75110-9348

NELSON , JOHN D
1001 DOBBINS RD
CORSICANA TX 75110-2217

PATTERSON , MARGARITA & PATRICK R
6944 SW COUNTY ROAD 0030
CORSICANA TX 75110-9321

PENDERGRASS , LYNN & SHARON
177 KINGSWOOD DR
STREETMAN TX 75859-3062

PICKETT , HELEN
129 FCR 925
MEXIA TX 76667-2977

PRATER , HAL W
3310 NE COUNTY ROAD 0091
CORSICANA TX 75109-8444

PRATER , VICKY
PO BOX 1896
CORSICANA TX 75151-1896

RAWLINS , DIANA
PEOPLE UNTIED FOR THE ENVIRON
1541 W 4TH AVE
CORSICANA TX 75110-4261

ROBERTS , BARBARA & DANIEL
PO BOX 174
RICHLAND TX 76681-0174

ROBERTS , TONYA
120 MARTIN RD
CORSICANA TX 75110-8780

SMITH , GEORGE A
8021 TOURMOLINE
STREETMAN TX 75859-7162

SMITH , LIZ
6082 SW COUNTY ROAD 0050
CORSICANA TX 75110-5479

SPAE , BILL
PO BOX 208
POWELL TX 75153-0208

STEED , FRANK
3514 FRANCISCO BAY DR
KERENS TX 75144-6197

STEELE , CARLA
6819 FM 709 S
CORSICANA TX 75110-9306

THOMPSON , JAMES L
6346 SW COUNTY ROAD 2150
RICHLAND TX 76681-4306

WARD , SHARON
159 PR 917
FAIRFIELD TX 75840

WARREN , JAMES
6334 SW COUNTY ROAD 2150
RICHLAND TX 76681-4306

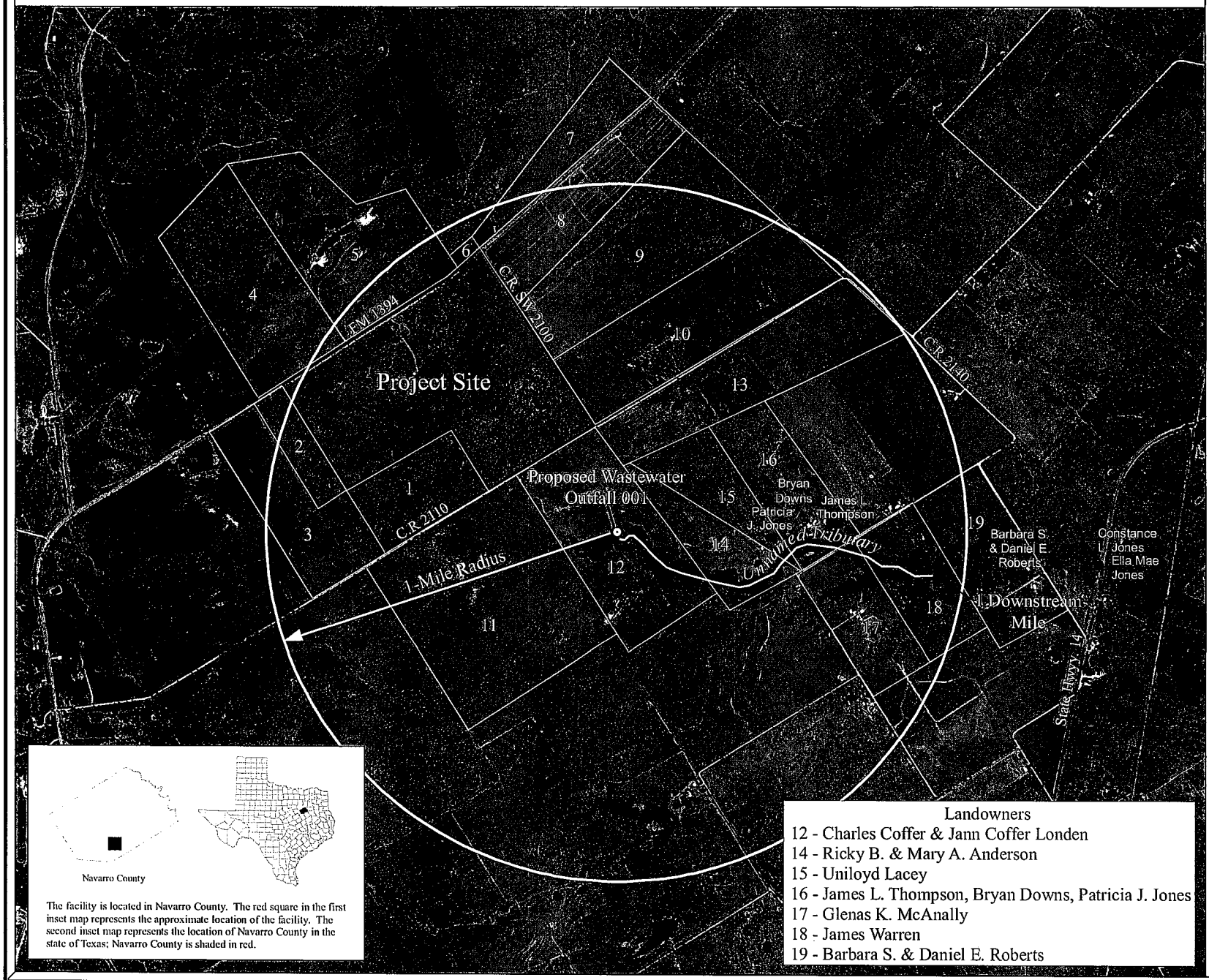
WEEMPE , MIKE
1100 W MAIN ST
RICHLAND TX 76681-4339

WERKENTHIN JR , FRED B
BOOTH AHRENS & WERKENTHIN PC
STE 1515
515 CONGRESS AVE
AUSTIN TX 78701-3504

WILLIS , RONNY
4015 COUNTRY CLUB RD
CORSICANA TX 75110-1154

Attachment C

Navarro Generating
TPDES Permit
Map Requested by TCEQ Office of Legal Services for Commissioners' Agenda



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

Landowners
- 12 - Charles Coffer & Jann Coffer Londen
- 14 - Ricky B. & Mary A. Anderson
- 15 - Uniloyd Lacey
- 16 - James L. Thompson, Bryan Downs, Patricia J. Jones
- 17 - Glenas K. McAnally
- 18 - James Warren
- 19 - Barbara S. & Daniel E. Roberts

Protecting Texas by Reducing and Preventing Pollution

TCEQ

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

April 15, 2010

0 0.1 0.2 0.4 Miles

Projection: Texas Statewide Mapping System (TSMS)

Scale 1:25,388

Legend
- Project Site
- Requestor's Property
- Outfall
- Requestor

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor. The vector data are U.S. Census Bureau 1992 TIGER/Line Data (1:100,000). The background of this map is a one-half meter photograph from the 2008 Texas Orthoimagery Project.

This map depicts the following:
(1) The approximate location of the project site. This is labeled "Project Site".
(2) Landowners' properties. These are labeled with numbers that correspond to the list of names.
(3) A line showing the 1-mile downstream distance from the proposed wastewater outfall. This is labeled "1 Downstream Mile".
(4) The proposed wastewater outfall. This is labeled "Proposed Wastewater Outfall 001".
(5) The 1-mile radius. This is labeled "1-Mile Radius".

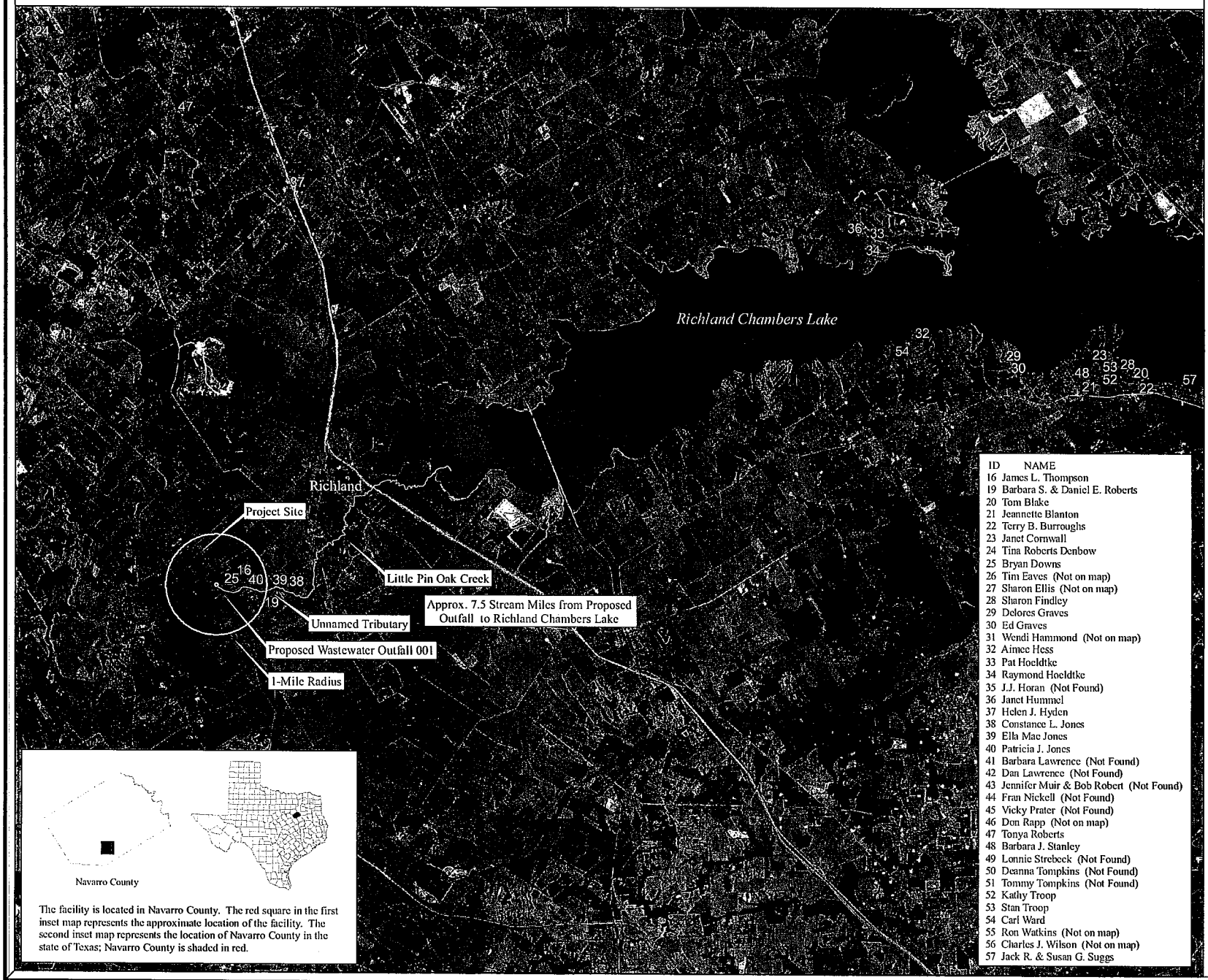
N

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 to its suitability for a particular use. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.

M McDonough CRF-317679

Attachment D

Navarro Generating
TPDES Permit
Map Requested by TCEQ Office of Legal Services for Commissioners' Agenda



ID	NAME
16	James L. Thompson
19	Barbara S. & Daniel E. Roberts
20	Tom Blake
21	Jeannette Blanton
22	Terry B. Burroughs
23	Janet Cornwall
24	Tina Roberts Denbow
25	Bryan Downs
26	Tim Eaves (Not on map)
27	Sharon Ellis (Not on map)
28	Sharon Findley
29	Delores Graves
30	Ed Graves
31	Wendi Hammond (Not on map)
32	Aimee Hess
33	Pat Hoeldtke
34	Raymond Hoeldtke
35	J.J. Horan (Not Found)
36	Janet Hummel
37	Helen J. Hyden
38	Constance L. Jones
39	Ella Mae Jones
40	Patricia J. Jones
41	Barbara Lawrence (Not Found)
42	Dan Lawrence (Not Found)
43	Jennifer Muir & Bob Robert (Not Found)
44	Fran Nickell (Not Found)
45	Vicky Prater (Not Found)
46	Don Rapp (Not on map)
47	Tonya Roberts
48	Barbara J. Stanley
49	Lonnie Strebeck (Not Found)
50	Deanna Tompkins (Not Found)
51	Tommy Tompkins (Not Found)
52	Kathy Troop
53	Stan Troop
54	Carl Ward
55	Ron Watkins (Not on map)
56	Charles J. Wilson (Not on map)
57	Jack R. & Susan G. Sugg

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

Protecting Texas by Reducing and Preventing Pollution

TCEQ

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

April 15, 2010

0 0.5 .1 2 3 Miles

Projection: Texas Statewide Mapping System (TSMS)
Scale 1:176,420

Legend
- Project Site
- Outfall
- Requestor

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor. The vector data are U.S. Census Bureau 1992 TIGER/Line Data (1:100,000). The background of this map is a one-half meter photograph from the 2008 Texas Orthoimagery Project.

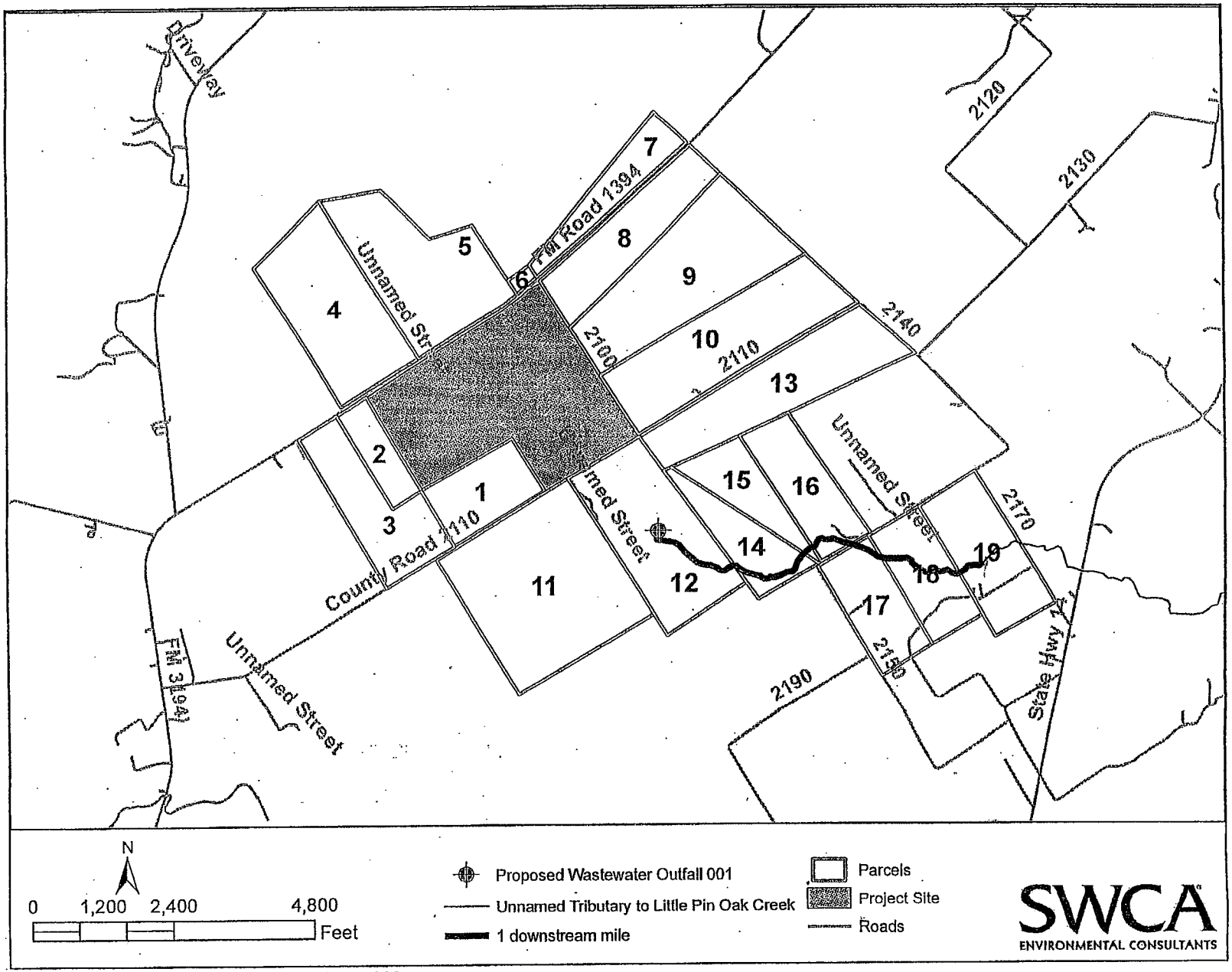
This map depicts the following:
(1) The approximate location of the project site. This is labeled "Project Site".
(2) The proposed wastewater outfall. This is labeled "Proposed Wastewater Outfall 001".
(3) The 1-mile radius. This is labeled "1-Mile Radius".

N

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 to its suitability for a particular use. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.

M McDonough CRF-317679

Attachment E



Attachement A-4 Affected Landowner Parcel Map
Navarro Emergy Center - TPDES Industrial Wastewater Permit Application

Navarro Energy Center
Attachment A-4
Affected Landowner Information

Map Label	Owner Name	Address	City, State Zip
1	E R JACKSON C/O LORENE CRUTCHFIELD	9006 W GLEN DR	DALLAS, TX 75228
2	A REESE BROWN FAMILY LIMITED PARTNERSHIP	5009 LAKESIDE DR	LIBERTY, TX 77575
3	E R JACKSON C/O LORENE CRUTCHFIELD	9006 W GLEN DR	DALLAS, TX 75228
4	BROWN AND HERNS	5009 LAKESIDE DR	LIBERTY, TX 77575
5	A REESE BROWN FAMILY LIMITED PARTNERSHIP	5009 LAKESIDE DR	LIBERTY, TX 77575
6	PAGE BROWN HERN	12 BRISTOL COURT	MONTGOMERY, TX 77356
7	PAGE BROWN HERN	12 BRISTOL COURT	MONTGOMERY, TX 77356
8	KAY LANSFORD RAY	PO BOX 157	RICHLAND, TX 76681
9	KAY LANSFORD RAY	PO BOX 157	RICHLAND, TX 76681
10	DAVIS FAMILY LIVING TRUST C/O F O & SANDRA DAVIS	#5 EARL'S ROW	CONROE, TX 77304
11	KENNETH BUTLER	11260 SW CR 2310	WORTHAM, TX 76693
12	CHARLES COFER & JANN COFFER LONDEN	1908 ALLYSON DR	TUPELO, MS 38804
13	WILLIAM & DELORES BALDWIN	1007 W MAIN	RICHLAND, TX 76681
14	RICKY B & MARY A ANDERSON	716 BROOKHAVEN	IRVING, TX 75061
15	UNILOYD LACEY	6411 LAGRANGE DR	DALLAS, TX 75241
16	JAMES L THOMPSON	6346 SW COUNTY ROAD 2150	RICHLAND, TX 76681
17	GLENAS K MCANALLY	6807 SW CR 2150	RICHLAND, TX 76681
18	JAMES WARREN	6334 SW CR 2150	RICHLAND, TX 76681
19	DANIEL E & BARBARA ROBERTS	BOX 174	RICHLAND, TX 76681

Attachment F

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603384736	NAVARRO GENERATING LLC	Classification: AVERAGE	Rating:3.01
Regulated Entity:	RN105572895	NAVARRO ENERGY CENTER	Classification: AVERAGE BY DEFAULT	Site Rating:3.01

ID Number(s):

AIR NEW SOURCE PERMITS	PERMIT	85534
AIR NEW SOURCE PERMITS	EPA ID	PSDTX1143
AIR NEW SOURCE PERMITS	PERMIT	PAL21
WASTEWATER	PERMIT	WQ0004870000
WASTEWATER	EPA ID	TX0131814

Location: APPROX 3.3 MILES SW OF RICHLAND. THE INTX OF FM 1394 AND SW COUNTY ROAD 2100 MARKS THE NE CORNER OF THE SITE. FROM THIS INTX, THE SITE IS BOUNDED ON 3 SIDES BY THE S SIDE OF FM 1394, THE W OF COUNTY ROAD 2100 AND THE N SIDE OF SW COUNTY ROAD 2110

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: April 14, 2010

Agency Decision Requiring Compliance: Enforcement

Compliance Period: September 01, 2004 to April 14, 2010

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).

N/A

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