

Ladonna Castanuela
Texas Commission on Environmental Quality
Office of chief Clerk MC 105
P.O. Box 13087
Austin, Texas 78711-3087

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MAY 24 2010

BY *ll*

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CHIEF CLERKS OFFICE

2010 MAY 20 PM 3:56

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

May 19, 2010

Re: TCEQ Permit No.: WQ0011867001
Renewal of the City of Fair Oaks Ranch Waste Water Treatment Plant Permit
MOTION FOR RECONSIDERATION

Dear Madam,

As is noted in the attached documents, my wife and I have requested a public meeting and a contested case hearing in the above referenced matter. On April 23, 2010 we received correspondence from the TCEQ Executive Director (ED) denying these requests. By way of this letter we are submitting a MOTION FOR RECONSIDERATION of the denial of our public meeting request and our contested case hearing request. The TCEQ's responses to our comments were in fact both dismissive and non-responsive. Two of the three responses failed to address the issues that we raised or failed to recognize flawed elements in the renewal application and ongoing technical review. In denying these requests the TCEQ committed several key errors which are discussed herein:

Comment 1: My family and I reside approximately 200 feet east of the City of Fair Oaks Ranch's (City) wastewater treatment plant. Over the last year we have experienced significant nuisance odors and vector issues (flies). Due to these nuisance conditions we are prevented from the reasonable use and enjoyment of our yard and the areas outside our home. We have complained to the City and TCEQ about the issue and have even met with their representatives about the matter. Nevertheless the significant nuisance issues still exist

While I am located 200 feet from the heart of the City's WWTP, the drying beds are located less than 50 feet from my property line, well inside of the minimum buffer distance noted in the draft permit.

TCEQ responded that the special conditions in the draft permit were designed to minimize nuisance odor and protect human health. If this were the case then why does our entire neighborhood experience nauseating odors on a weekly and often daily basis? Please be aware that this is not the occasional odd odor, it is in fact so frequent and pungent that we are denied the use of our own yard and outdoor activities on our own property. I hesitate to calculate the impact that this has had on our property value. The Special Conditions of the Draft permit deviate from the current permit conditions and reflect changes made in the facility by the operator at the direction of the Commission to address the nuisance matter. This operational change does not satisfy the statutory language for a No Changes Renewal as suggested by the ED in Response 2. In fact the ED's response recognizes the failure of the Region 13 TCEQ office's efforts to investigate this matter by suggesting that we do the work of the TCEQ by collecting

evidence (Citizen Collected Evidence) for use in future enforcement action. It is interesting that the ED will dismiss our current request for a public meeting and/or contested case hearing to "air out the issues" (pun intended) and to hopefully seek a reasonable resolution and then in the same breath they will encourage us to collect evidence for future enforcement. Somehow I doubt that is the intent of the agency and is the very type of contradictory behavior that will cause great grimaces during the Sunset review of the Commission next spring.

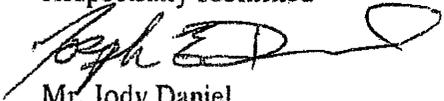
Comment 2: The City has promised certain actions and changes to their process to correct these issues and to eliminate the nuisance conditions. Given the fact that their permit is being renewed we feel that the proposed and "promised changes" should be reviewed and given the level of scrutiny that is provided by a contested case hearing, not simply the level of review found in a technical review. Due to the magnitude of the proposed changes this is not a simple no change renewal. It is imperative that the wastewater treatment plant bring their technology and operating practices up to a level that prevents the emission of these noxious odors and the health issues associated with the ever present flies.

As was pointed out above this is not a No Changes Renewal as the ED suggests. The representations that the City has made were in the presence of TCEQ Regional Staff and other City officials. The ED's lack of awareness of these representations is a failure of communication between the TCEQ Regional Investigator, the applicant and the ED. But the lack of awareness by the ED does not constitute the absence of the representations. Given this fact we feel that reconsideration is warranted of the decision to deny our requests for a public meeting and a contested case hearing. Provided the opportunity of an evidentiary hearing the information related to the City's representation can be placed into the record. Absent these opportunities we are simply being denied due process and fair consideration.

Comment 3: We requested a Public Meeting

The ED denied the public meeting after stating what factors should be considered in determining whether or not to grant a public meeting. At no point in the ED's response does he state how our request failed to satisfy any of the factors, including significant public interest. Please be aware, as we have articulated to the Region and the Applicant, we are speaking for ourselves and for many of our neighbors who suffer from these odors. All that we ask is for fair and impartial consideration, that the process be open to us and that the applicant make the proper changes to the facility to prevent these odors.

Respectfully submitted



Mr. Jody Daniel
29743 No Le Haze Drive
Fair Oaks Ranch, Texas 78015-4562

ditch, final clarifier, digester, sludge drying beds, chlorine contact chamber, effluent lift station and effluent holding ponds.

The effluent limitations in the draft permit, based on a daily average, are 20 mg/l BOD₅ and 20 mg/l TSS. The effluent shall contain a chlorine residual of at least 1.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal and Transportation. Sludge generated from the treatment facility is hauled by a registered transporter and disposed of at a TCEQ permitted landfill, Tessman Road Landfill, Permit No. 1410C, in Bexar County. The draft permit authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

Procedural Background

The TCEQ received the application for permit renewal from the City of Fair Oaks Ranch on August 10, 2009 and declared it administratively complete on September 11, 2009. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORD) in the *Borne Star* on September 29, 2009. The Applicant published the Notice of Application and Preliminary Decision (NAPD) in the *Borne Star* on January 8, 2010. The public comment period ended on February 8, 2010. This application was administratively complete after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999 (76th Legislature, 1999).

COMMENTS AND RESPONSES

COMMENT 1:

Mr. Daniel has expressed concern that he and his family have experienced significant nuisance odors and vector issues (flies) and due to these conditions, they are prevented from the reasonable use and enjoyment of their yard and the areas outside their home. He also states that after complaining to the TCEQ these issues still exist.

RESPONSE 1:

TCEQ rules require domestic wastewater treatment facilities to meet buffer zone requirements for the abatement and control of nuisance odor according to 30 TAC Section 309.13(e). However, 30 TAC § 309.13(f) states that facilities whose original permit application was made prior to October 8, 1990 are not required to comply with the buffer zone requirement.

The following Special Provisions in the draft permit regarding irrigation practices and management are intended to minimize nuisance odor and protect human health and the environment:

3. The permittee shall maintain and operate the treatment facility in order to achieve optimum efficiency of treatment capability. This shall include required monitoring of effluent flow and quality as well as appropriate grounds and building maintenance.
4. Irrigation practices shall be designed and managed so as to prevent ponding of effluent or contamination of ground and surface waters and to prevent the occurrence of nuisance conditions in the area. Tailwater control facilities shall be provided as necessary to prevent the discharge of any wastewater from the irrigated land.
5. Wastewater shall not be applied for irrigation during rainfall events or when the ground is frozen or saturated.
6. The irrigated crops include golf course bermuda grass. Application rates to the 280 acres of irrigated land . . . shall not exceed 2.0 acre-feet per year per acre irrigated. The permittee is responsible for providing equipment to determine application rates and maintaining accurate records of the volume of effluent applied. These records shall be made available for review by the Texas Commission on Environmental Quality and shall be maintained for at least three years.
7. Holding ponds shall conform to the Texas Commission on Environmental Quality "Design Criteria for Sewerage Systems" requirements for stabilization ponds with regard to construction and levee design, and a minimum of 2 feet of freeboard shall be maintained.
8. The permittee shall obtain representative soil samples from the root zones of the disposal site and analyze the samples as outlined in the following paragraph.

An annual analysis of a representative soil sample taken from the root zone of the irrigated site shall be made. Each soil boring shall be separated into three samples according to the following depth zones: 0 to 6 inches, 6 to 18 inches and 18 to 30 inches below the ground surface. Each zone shall be thoroughly mixed prior to being analyzed. Sampling procedures shall employ accepted techniques of soil science for obtaining representative analytical results. Analysis shall be performed for pH, total nitrogen, potassium, phosphorus and conductivity.

The permittee shall submit the results of the soil sample analyses to the TCEQ Regional Office (MC Region 13) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division during September of each year.

10. If the effluent is to be transferred to a holding pond or tank, re-chlorination prior to the effluent being delivered into the irrigation system will be required. A trace chlorine residual shall be maintained in the effluent at the point of irrigation application.
11. The permittee shall erect adequate signs stating that the irrigation water is from a non-potable water supply for any area where treated effluent is stored or where there exist hose bibs or faucets. Signs shall consist of a red slash superimposed over the international symbol for drinking water accompanied by the message "DO NOT DRINK THE WATER" in both English and Spanish. All piping transporting the effluent shall be clearly marked with these same signs.
12. Spray fixtures for the irrigation system shall be of such design that they cannot be operated by unauthorized personnel.
13. Irrigation with effluent shall be accomplished only when the area specified is not in use.
14. Permanent transmission lines shall be installed from the holding pond to each tract of land to be irrigated utilizing effluent from that pond.
15. Facilities for the retention of treated or untreated wastewater shall be adequately lined to control seepage. . . ."

If this facility is operated and maintained as permitted and in accordance with TCEQ rules, nuisance odor and vector incidents would be minimized.

Permit Condition No. 7 in the draft permit states that a "permit does not convey any property rights of any sort, or any exclusive privilege." The permit does not authorize any invasion of personal rights or any violation of federal, state, or local laws or regulations. It is the Applicant's responsibility to acquire the necessary property rights to carryout the permitted activity. The draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

Individuals are encouraged to report any concerns about nuisance odor issues or suspected noncompliance with this permit or other environmental regulation by contacting the TCEQ Regional Office at 210-460-3096, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. You may also file citizen complaints on-line at <http://www.tceq.state.tx.us/compliance/complaints/index.html>. If the facility is found to be out

of compliance with the terms and conditions of the permit, it will be subject to possible enforcement action. Citizen-collected evidence may be used in such an action. See 30 TAC § 70.4, Enforcement Action Using Information Provided by Private Individual, for details on gathering and reporting such evidence. The TCEQ has long had procedures in place for accepting environmental complaints from the general public but now has a new tool for bringing potential environmental problems to light. Under the citizen-collected evidence program, individuals can provide information on possible violations of environmental law and the information can be used by the TCEQ to pursue enforcement. In this program, citizens can become involved and may eventually testify at a hearing or trial concerning the violation. For additional information, see the TCEQ publication, *"Do You Want to Report an Environmental Problem? Do You Have Information or Evidence?"* This booklet is available in English and Spanish from the TCEQ Publications office at 512-239-0028, and may be downloaded from the agency website at www.tceq.state.tx.us (under Publications, search for document no. 278).

COMMENT 2:

Mr. Daniel states that the City of Fair Oaks Ranch has promised certain conditions and changes to their process to correct issues to eliminate nuisance conditions, and given the fact that their permit is being renewed, he feels that the "promised changes" should be reviewed and given the level of scrutiny that is provided by a contest case hearing, not simply the review of a technical review. He believes that, due to the magnitude of proposed changes, this is not a simple no change renewal and it is imperative that the wastewater treatment plant bring their technology and operating practices up to levels that prevent emission of noxious odors and health issues associated with ever present flies rather than the current 30 plus year old technology that the City of Fair Oaks Ranch is trying to operate with.

RESPONSE 2:

To ensure that the proposed wastewater treatment plant meets water quality standards for the protection of surface water quality, groundwater, and human health according to TCEQ rules and policies, the proposed draft permit includes effluent limitations and monitoring requirements for five day Biochemical Oxygen Demand (BOD₅), Total Suspended Solids (TSS), chlorine residual, and pH. The proposed draft permit also includes an additional requirement for the disposal of domestic sludge generated from the wastewater treatment facility in accordance with TCEQ rules. In drafting the proposed draft permit, the Executive Director has determined that the conditions contained therein are protective of the environment, water quality, and human health and that it meets TCEQ rules and requirements. The Executive Director is not aware of any "promised changes" made to the commenter or anyone else by the permittee, as such the Executive Director lacks requisite information to address this issue. Please see response no. 1 above on how to report complaints about the facility. Noncompliance with the permit will result in enforcement action against the permittee.

Finally, "[f]acilities for which plans and specifications have been approved prior to March 1, 1990, are not required to resubmit revised plans and specifications to meet changed requirements in [Section 309.13] in obtaining renewal of an existing permit." See 30 TAC § 309.13(h). This

facility has been in existence since 1977. The permittee has not proposed any changes to the permit since 1977 that would trigger a major amendment under 30 TAC § 305.62(c)(1).

COMMENT 3:

Mr. Daniel has requested a public meeting for the proposed permit renewal for City of Fair Oaks Ranch to allow for citizen involvement.

RESPONSE 3:

To determine if a public meeting should be held, the Executive Director considers the factors set out in Title 30 of the Texas Administrative Code, Section 55.154. This rule requires that a public meeting be held if: (1) the Executive Director determines that there is a substantial or significant degree of public interest in an application; (2) a member of the legislature who represents the general area in which the facility is located or proposed to be located requests that a public meeting be held; or (3) when a public meeting is otherwise required by law. Based on these factors, the Executive Director has determined not to hold a public meeting in this case.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

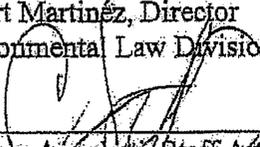
No changes to the draft permit have been made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.
Executive Director

Robert Martínez, Director
Environmental Law Division

By 
Chrissie Angelelli, Staff Attorney
Environmental Law Division
State Bar No. 24059383
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
(512) 239-1204

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CHIEF CLERKS OFFICE

2010 MAY 20 PM 3: 57

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

From: PUBCOMMENT-OPA
To: PUBCOMMENT-OCC2
Date: 5/21/2010 10:42 AM
Subject: Fwd: Public comment on Permit Number WQ0011867001
Place: PUBCOMMENT-OCC2
Attachments: Daniel Motion for Reconsideration.pdf

RFR

>>> PUBCOMMENT-OCC 5/20/2010 4:00 PM >>>

>>> <jody@glasschalk.com> 5/20/2010 3:50 PM >>>

MWID
70041

REGULATED ENTY NAME:FAIR OAKS PLANT
RN NUMBER:RN101613123
PERMIT NUMBER:WQ0011867001
DOCKET NUMBER:
COUNTY:BEXAR
PRINCIPAL NAME:CITY OF FAIR OAKS RANCH
CN NUMBER:CN600532170

FROM

NAME:Jody Daniel
E-MAIL:jody@glasschalk.com
COMPANY:
ADDRESS:29743 NO LE HACE DR
FAIR OAKS RANCH TX 78015-4562

PHONE:

FAX:

COMMENTS:Ladonna Castanuela Texas Commission on Environmental Quality Office of chief Clerk MC 105 P.O. Box 13087 Austin, Texas 78711-3087 May 19, 2010 Re: TCEQ Permit No.: WQ0011867001 Renewal of the City of Fair Oaks Ranch Waste Water Treatment Plant Permit MOTION FOR RECONSIDERATION Dear Madam, As is noted in the attached documents, my wife and I have requested a public meeting and a contested case hearing in the above referenced matter. On April 23, 2010 we received correspondence from the TCEQ Executive Director (ED) denying these requests. By way of this letter we are submitting a MOTION FOR RECONSIDERATION of the denial of our public meeting request and our contested case hearing request. The TCEQs responses to our comments were in fact both dismissive and non-responsive. Two of the three responses failed to address the issues that we raised or failed to recognize flawed elements in the renewal application and ongoing technical review. In denying these requests the TCEQ committed several key errors which are discussed herein: Comment 1: My family and I reside approximately 200 feet east of the City of Fair Oaks Ranchs (City) wastewater treatment plant. Over the last year we have experienced significant nuisance odors and vector issues (flies). Due to these nuisance conditions we are prevented from the reasonable use and enjoyment of our yard and the areas outside our home. We have complained to the City and TCEQ about the issue and have even met with their representatives about the matter. Nevertheless the significant nuisance issues still exist While I am located 200 feet from the heart of the Citys WWTP, the drying beds are located less than 50 feet from my property line, well inside of the minimum buffer distance noted in the draft permit. TCEQ responded that the special conditions in the draft permit were designed to minimize nuisance odor and protect human health. If this were the case then why does our entire neighborhood experience nauseating odors on a weekly and often daily basis? Please be aware that this is not the occasional odd odor, it is in fact so frequent and pungent that we are denied the use of our own yard and outdoor activities on our own property. I hesitate to calculate the impact that this has had on our property value. The Special Conditions of the Draft permit deviate from the current permit conditions and reflect changes made in the facility by the operator at the direction of the Commission to address the nuisance matter. This operational change does not satisfy the statutory language for a No Changes Renewal as suggested by the ED in Response 2. In fact the EDs response recognizes the failure of the Region 13 TCEQ offices efforts to investigate this matter by suggesting that we do the work of the TCEQ by collecting evidence (Citizen Collected Evidence) for use in future enforcement action. It is interesting that the ED will dismiss our current request for a public meeting and/or contested case hearing to air out the issues (pun intended) and to hopefully seek a reasonable resolution and then in the same breath they will encourage us to collect evidence for future enforcement. Somehow I doubt that is the intent of the agency and is the very type of contradictory behavior that will cause great grimaces during the Sunset review of the Commission next spring. Comment 2: The City has promised certain actions and changes to their process to correct these issues and to eliminate the nuisance conditions. Given the fact that their permit is being renewed we feel that the proposed and promised changes should be reviewed and given the level of scrutiny that is provided by a contested case hearing, not simply the level of review found in a technical review. Due to the magnitude of the proposed changes this is not a simple no change renewal. It is imperative that the wastewater treatment plant bring their technology and operating practices up to a level that prevents the emission of these noxious odors and the health issues associated with the ever present flies. As was pointed out above this is not a No Changes Renewal as the ED suggests. The representations that the City has made were in the presence of TCEQ Regional Staff and other City officials. The EDs lack of awareness of these representations is a failure of communication between the TCEQ Regional Investigator, the applicant and the ED. But the lack of awareness by the ED does not constitute the absence of the representations. Given this fact we feel that reconsideration is warranted of the decision to deny our requests for a public meeting and a contested case hearing. Provided the opportunity of an evidentiary hearing the information related to the Citys representation can be placed into the record. Absent these opportunities we are simply being denied due

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

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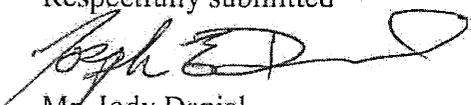
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Respectfully submitted -


Mr. Jody Daniel
29743 No Le Haze Drive
Fair Oaks Ranch, Texas 78015-4562

TCEQ PERMIT NO. WQ0011867001

APPLICATION BY

CITY OF FAIR OAKS RANCH

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§
§

BEFORE THE

TEXAS COMMISSION

ENVIRONMENTAL QUALITY

2010 APR 15 AM 11:30
CHIEF CLERK'S OFFICE

TEXAS
COMMISSION
ON 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 application by the City of Fair Oaks Ranch (Applicant) for a renewal of Permit No. WQ0011867001, and on the Executive Director's preliminary decision on the application. This permit will not authorize a discharge of pollutants into water in the State. As required by 30 Texas Administrative Code (TAC) Section 55.156, before a permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk timely received comment letters from Mr. Jody Daniel. This response addresses all such timely public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

BACKGROUND

Description of Facility

The City of Fair Oaks Ranch has applied to the TCEQ for a renewal of TCEQ Permit No. WQ0011867001. The permit would authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 500,000 gallons per day via surface irrigation of 280 acres of Fair Oaks Ranch Golf and Country Club land. The wastewater treatment facility and disposal site are located on the northern border of Bexar County, west of Ralph Fair Road and south of Cibolo Creek at the extreme east side of Fair Oaks Ranch in Bexar County, Texas 78015. The wastewater treatment facility and disposal site are located in the drainage basin of Upper Cibolo Creek in Segment No. 1908 of the San Antonio River Basin. The draft permit does not authorize any discharge of pollutants into water in the State.

The Fair Oaks Ranch wastewater treatment facilities consist of an activated sludge process plant using the extended aeration mode. Treatment units include a lift station, bar screen, oxidation

ditch, final clarifier, digester, sludge drying beds, chlorine contact chamber, effluent lift station and effluent holding ponds.

The effluent limitations in the draft permit, based on a daily average, are 20 mg/l BOD₅ and 20 mg/l TSS. The effluent shall contain a chlorine residual of at least 1.0 mg/l after a detention time of at least 20 minutes based on peak flow.

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7. Holding ponds shall conform to the Texas Commission on Environmental Quality "Design Criteria for Sewerage Systems" requirements for stabilization ponds with regard to construction and levee design, and a minimum of 2 feet of freeboard shall be maintained.
8. The permittee shall obtain representative soil samples from the root zones of the disposal site and analyze the samples as outlined in the following paragraph.

An annual analysis of a representative soil sample taken from the root zone of the irrigated site shall be made. Each soil boring shall be separated into three samples according to the following depth zones: 0 to 6 inches, 6 to 18 inches and 18 to 30 inches below the ground surface. Each zone shall be thoroughly mixed prior to being analyzed. Sampling procedures shall employ accepted techniques of soil science for obtaining representative analytical results. Analysis shall be performed for pH, total nitrogen, potassium, phosphorus and conductivity.

The permittee shall submit the results of the soil sample analyses to the TCEQ Regional Office (MC Region 13) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division during September of each year.

10. If the effluent is to be transferred to a holding pond or tank, re-chlorination prior to the effluent being delivered into the irrigation system will be required. A trace chlorine residual shall be maintained in the effluent at the point of irrigation application.
11. The permittee shall erect adequate signs stating that the irrigation water is from a non-potable water supply for any area where treated effluent is stored or where there exist hose bibs or faucets. Signs shall consist of a red slash superimposed over the international symbol for drinking water accompanied by the message "DO NOT DRINK THE WATER" in both English and Spanish. All piping transporting the effluent shall be clearly marked with these same signs.
12. Spray fixtures for the irrigation system shall be of such design that they cannot be operated by unauthorized personnel.
13. Irrigation with effluent shall be accomplished only when the area specified is not in use.
14. Permanent transmission lines shall be installed from the holding pond to each tract of land to be irrigated utilizing effluent from that pond.
15. Facilities for the retention of treated or untreated wastewater shall be adequately lined to control seepage. . . ."

If this facility is operated and maintained as permitted and in accordance with TCEQ rules, nuisance odor and vector incidents would be minimized.

Permit Condition No. 7 in the draft permit states that a "permit does not convey any property rights of any sort, or any exclusive privilege." The permit does not authorize any invasion of personal rights or any violation of federal, state, or local laws or regulations. It is the Applicant's responsibility to acquire the necessary property rights to carryout the permitted activity. The draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

Individuals are encouraged to report any concerns about nuisance odor issues or suspected noncompliance with this permit or other environmental regulation by contacting the TCEQ Regional Office at 210-460-3096, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. You may also file citizen complaints on-line at <http://www.tceq.state.tx.us/compliance/complaints/index.html>. If the facility is found to be out

of compliance with the terms and conditions of the permit, it will be subject to possible enforcement action. Citizen-collected evidence may be used in such an action. See 30 TAC § 70.4, Enforcement Action Using Information Provided by Private Individual, for details on gathering and reporting such evidence. The TCEQ has long had procedures in place for accepting environmental complaints from the general public but now has a new tool for bringing potential environmental problems to light. Under the citizen-collected evidence program, individuals can provide information on possible violations of environmental law and the information can be used by the TCEQ to pursue enforcement. In this program, citizens can become involved and may eventually testify at a hearing or trial concerning the violation. For additional information, see the TCEQ publication, "*Do You Want to Report an Environmental Problem? Do You Have Information or Evidence?*" This booklet is available in English and Spanish from the TCEQ Publications office at 512-239-0028, and may be downloaded from the agency website at www.tceq.state.tx.us (under Publications, search for document no. 278).

COMMENT 2:

Mr. Daniel states that the City of Fair Oaks Ranch has promised certain conditions and changes to their process to correct issues to eliminate nuisance conditions, and given the fact that their permit is being renewed, he feels that the "promised changes" should be reviewed and given the level of scrutiny that is provided by a contest case hearing, not simply the review of a technical review. He believes that, due to the magnitude of proposed changes, this is not a simple no change renewal and it is imperative that the wastewater treatment plant bring their technology and operating practices up to levels that prevent emission of noxious odors and health issues associated with ever present flies rather than the current 30 plus year old technology that the City of Fair Oaks Ranch is trying to operate with.

RESPONSE 2:

To ensure that the proposed wastewater treatment plant meets water quality standards for the protection of surface water quality, groundwater, and human health according to TCEQ rules and policies, the proposed draft permit includes effluent limitations and monitoring requirements for five day Biochemical Oxygen Demand (BOD₅), Total Suspended Solids (TSS), chlorine residual, and pH. The proposed draft permit also includes an additional requirement for the disposal of domestic sludge generated from the wastewater treatment facility in accordance with TCEQ rules. In drafting the proposed draft permit, the Executive Director has determined that the conditions contained therein are protective of the environment, water quality, and human health and that it meets TCEQ rules and requirements. The Executive Director is not aware of any "promised changes" made to the commenter or anyone else by the permittee, as such the Executive Director lacks requisite information to address this issue. Please see response no. 1 above on how to report complaints about the facility. Noncompliance with the permit will result in enforcement action against the permittee.

Finally, "[f]acilities for which plans and specifications have been approved prior to March 1, 1990, are not required to resubmit revised plans and specifications to meet changed requirements in [Section 309.13] in obtaining renewal of an existing permit." See 30 TAC § 309.13(h). This

facility has been in existence since 1977. The permittee has not proposed any changes to the permit since 1977 that would trigger a major amendment under 30 TAC § 305.62(c)(1).

COMMENT 3:

Mr. Daniel has requested a public meeting for the proposed permit renewal for City of Fair Oaks Ranch to allow for citizen involvement.

RESPONSE 3:

To determine if a public meeting should be held, the Executive Director considers the factors set out in Title 30 of the Texas Administrative Code, Section 55.154. This rule requires that a public meeting be held if: (1) the Executive Director determines that there is a substantial or significant degree of public interest in an application; (2) a member of the legislature who represents the general area in which the facility is located or proposed to be located requests that a public meeting be held; or (3) when a public meeting is otherwise required by law. Based on these factors, the Executive Director has determined not to hold a public meeting in this case.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

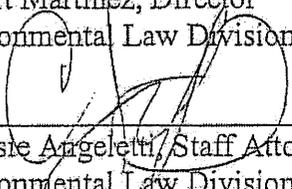
No changes to the draft permit have been made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.
Executive Director

Robert Martínez, Director
Environmental Law Division

By 
Chrissie Argeletti, Staff Attorney
Environmental Law Division
State Bar No. 24059383
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
(512) 239-1204

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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

OPA

OCT 21 2009

BY BP

MWD
70041

H
PM

October 19, 2009

CERTIFIED MAIL _____

Re: City of Fair Oaks Ranch
Renewal of Wastewater Disposal Permit No.: WQ0011867001

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2009 OCT 20 PM 2:40
CHIEF CLERKS OFFICE

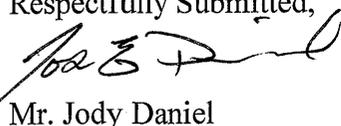
Dear Sir/Madam,

My family and I reside approximately 200 feet east of the City of Fair Oaks Ranch's (City) wastewater treatment plant. Over the last year we have experienced significant nuisance odors and vector issues (flies). Due to these nuisance conditions we are prevented from the reasonable use and enjoyment of our yard and the areas outside our home. We have complained to the City and TCEQ about the issue and have even met with their representatives about the matter. Nevertheless the significant nuisance issues still exist. The City has promised certain actions and changes to their process to correct these issues and to eliminate the nuisance conditions. Given the fact that their permit is being renewed we feel that the proposed and "promised changes" should be reviewed and given the level of scrutiny that is provided by a contested case hearing, not simply the level of review found in a technical review. Due to the magnitude of the proposed changes this is not a simple no change renewal. It is imperative that the wastewater treatment plant bring their technology and operating practices up to a level that prevents the emission of these noxious odors and the health issues associated with the ever present flies.

Please be aware that we recognize the need and value of the wastewater treatment plant and we do not oppose its operation, if that operation is in compliance with the current TCEQ control technologies and operational standards, rather than the 30+ year old technology that the City is trying to operate with.

My family and I are directly affected by the operation of this facility and are therefore different than the general public. We therefore **specifically request both a Public Meeting and a Contested Case Hearing on the renewal of the above referenced wastewater disposal permit.** We also request that both the Public Meeting and the Contested Case Hearing be held locally to allow for citizen involvement

Respectfully Submitted,


Mr. Jody Daniel
29743 No Le Haze Drive
Fair Oaks Ranch, Texas 78015-4562

me

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 24, 2010

Mr. Jody Daniel
29743 No Le Haca Drive
Fair Oaks Ranch, Texas 78015-4562

2010 FEB 25 PM 3:07
CHIEF CLERKS OFFICE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

RE: Application by City of Fair Oaks Ranch, Inc. for Renewal of TPDES Permit No. WQ0011867001

Dear Mr. Daniel,

We have received your request for a public meeting on the permit application submitted by the City of Fair Oaks Ranch. To determine if a public meeting should be held, the Executive Director considers the factors set out in Title 30 of the Texas Administrative Code, Section 55.154. These rules require that a public meeting be held if: (1) the Executive Director determines that there is a substantial or significant degree of public interest in an application; (2) a member of the legislature who represents the general area in which the facility is located or proposed to be located requests that a public meeting be held; or (3) when a public meeting is otherwise required by law. Based on these factors, the Executive Director has determined not to hold a public meeting in this case.

TCEQ appreciates your interest in environmental issues. If you have any further questions regarding your request for a public meeting, please feel free to contact the TCEQ Office of Public Assistance at 1-800-687-4040 or Chrissie Angeletti at 512-239-1204.

Sincerely,

A handwritten signature in black ink, appearing to read "Chrissie Angeletti".

Chrissie Angeletti, Staff Attorney
Environmental Law Division MC-173

cc: LaDonna Castañuela, TCEQ Chief Clerk, MC-105
Bridget C. Bohac, Director, TCEQ Office of Public Assistance MC-108
Chris Linendoll, E.I.T., Manager, Wastewater Permitting Section, MC-148
Brian Sierant, Permit Specialist, Wastewater Permitting Section, MC-148