

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

July 21, 2011

TO: Persons on the attached mailing list.

RE: City of Denison
Permit No. WQ0010079003

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 Denison City Hall, 500 West Chestnut, Denison, 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:

Melissa Chao, Acting Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

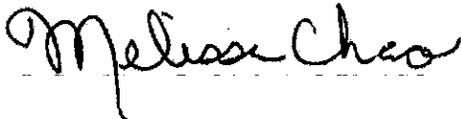
Processing of Requests.

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,



Melissa Chao
Acting Chief Clerk

MC/er

Enclosure

MAILING LIST
for
City of Denison
Permit No. WQ0010079003

FOR THE APPLICANT:

James Moon
City of Denison
P.O. Box 347
Denison, Texas 75021

Joe Freeland
Mathew and Freeland, L.L.P.
327 Congress Avenue, Suite 300
Austin, Texas 78701

PROTESTANTS/INTERESTED
PERSONS:

Mrs. James A. Clement
1267 Georgetown Road
Pottsboro, Texas 75076-6905

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

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

Donald J. Camp, P.E., Technical Staff
Texas Commission on Environmental
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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
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Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK
via electronic mail:

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

TPDES PERMIT NO. WQ0010079003

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APPLICATION BY

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BEFORE THE

CITY OF

TEXAS COMMISSION ON

CHIEF CLERKS OFFICE

DENISON

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 City of Denison (Applicant) for renewal of a Texas Pollutant Discharge Elimination System (TPDES) permit, No. WQ0010079003, and the ED's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section (§) 55.156, before a permit is issued, the ED prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk received a timely filed comment letter from Mrs. James A. Clement.

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.texas.gov.

BACKGROUND

Description of Facility

The Applicant has applied for a renewal of TPDES Permit No. WQ0010079003, that would authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 6,000,000 gallons per day (gpd).

The Paw Paw Wastewater Treatment Facility is an activated sludge process plant operated in the conventional mode. Treatment units include bar screens, grit chambers,

primary clarifiers, aeration basins, final clarifiers, aerobic digesters, a belt filter press, sand drying beds, two shaving basins, and an ultraviolet (UV) system.

The facility is located east of the City of Denison, approximately 1,600 feet east and 2,200 feet north of the intersection of Center Street and Farm-to-Market Road 120 in Grayson County, Texas 75021. The treated effluent is discharged via pipeline to the Red River Below Lake Texoma in Segment No. 0202 of the Red River Basin. The designated uses for Segment No. 0202 are contact recreation, public water supply and high aquatic life use. Segment No. 0202 is not currently listed on the State's inventory of impaired and threatened waters (the Clean Water Act §303(d) list). This is a renewal application for a public domestic wastewater treatment facility and should not contribute to the impairment of this segment.

In accordance with the recent amendments to 30 TAC Chapters 309 and 319 and to ensure disinfection, an effluent limitation for E. coli bacteria has been added to the draft permit. The effluent limitations in the draft permit will maintain and protect the existing instream uses. The effluent limitations in the draft permit, based on a 30-day average, are 20 mg/l five-day Biochemical Oxygen Demand (BOD₅), 20 mg/l Total Suspended Solids (TSS), 126 E. coli Colony Forming Units (CFU) or Most Probable Number (MPN) per 100 ml, and 2.0 mg/l minimum dissolved oxygen (DO). The Applicant will use an UV system for disinfection purposes.

Procedural Background

TCEQ received the renewal application on November 30, 2010 and declared it administratively complete on December 15, 2010. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on December 26, 2010 in the *Herald Democrat*. The Notice of Application and Preliminary Decision (NAPD) was published on May 1, 2011 in the *Herald Democrat*. The public comment period ended on May 31, 2011. This application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

Access to Rules, Laws and Records

The following websites may be useful:

- Secretary of State website for all administrative rules: www.sos.state.tx.us
- TCEQ rules in 30 Texas Administrative Code: www.sos.state.tx.us/tac/ (select "TAC Viewer" on the right, then "Title 30 Environmental Quality")
- Texas statutes: <http://www.statutes.legis.state.tx.us/>
- TCEQ website: <http://www.tceq.state.tx.us/rules/index.html> (to download rules in Microsoft Word or Adobe PDF formats, select "Rules, Policy, & Legislation," then "Rules and Rulemaking," then "Download TCEQ Rules")
- Federal rules in Title 40 of the Code of Federal Regulations: <http://www.epa.gov/lawsregs/search/40cfr.html>
- Federal environmental laws: <http://www.epa.gov/lawsregs/>

Commission records for this facility are available for viewing and copying at TCEQ's main office in Austin, 12100 Park 35 Circle, Building E, Room 103 (Central Records, for existing or past permits), or Building F, 1st Floor (Office of the Chief Clerk, for the current application until final action is taken). The application for this facility has been available for viewing and copying at Denison City Hall, 500 West Chestnut, Denison, Texas since publication of the NORI. The permit application, draft permit, statement of basis/technical summary, and ED's preliminary decision have been available for viewing and copying at the same location since publication of the NAPD.

COMMENTS AND RESPONSES

COMMENT 1:

Mrs. James A. Clement commented that she believes that the Red River is losing its banks because nutrient rich effluent is causing trees to grow in the River. She believes

the trees are redirecting the River's path. Mrs. Clement suggested that the discharge should be directed downstream and away from the bank of the Red River.

RESPONSE 1:

Texas Water Code, § 26.121, authorizes discharges into water in the state, provided the discharger obtains a permit from the Commission. The TCEQ evaluates applications for wastewater treatment plants, based on the Texas Water Code, TCEQ rules, the Federal Clean Water Act, applicable U.S. Environmental Protection Agency rules, and the information provided in the application. The ED has determined that the draft permit for the Paw Paw Wastewater Treatment Facility is protective of the environment, water quality, and human health, and that it meets TCEQ rules and requirements.

Further, the quality of the Applicant's WWTP effluent was reviewed during the application process for this permit. Nutrient limits were not recommended because: 1.) numeric nutrient criteria and the nutrient screening process for rivers and streams are in the development phase and are not yet final, 2.) the discharge is relatively small compared to the size of the receiving water body, and 3.) nutrient levels were below average for the treated effluent discharged from the WWTP.

Finally, maps submitted with the Applicant's application indicate a pre-existing island near the confluence of Paw Paw Creek and Red River. The Applicant's outfall appears to be downstream of this island. This island near the Applicant's outfall is most likely part of a natural alluvial fan caused by the tributary, Paw Paw Creek, entering the Red River at this same point. Alluvial fans are deposits of sediment, often but not always fan-shaped, that naturally occur where streams change gradient or flow into other streams. The decrease in stream slope causes the stream to lose energy and deposit much of its sediment load. This natural deposition of sediment is the most likely cause of the island and associated trees

If anyone observes any potential permit violations or potential violations of TCEQ rules, those potential violations may be reported to TCEQ by calling toll-free 1-888-777-

3186, or by calling the Dallas/Fort Worth Regional Office at 817-588-5800. Citizen complaints may also be filed on-line at:
<http://www.tceq.state.tx.us/compliance/complaints/index.html>. If the Applicant fails to comply with any requirement of the permit, it may be subject to enforcement action.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

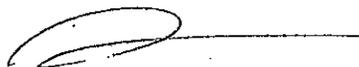
No changes to the draft permit have been made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division



Alicia Ramirez, Staff Attorney
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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY