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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

September 30, 2011

TO: Persons on the attached mailing list.

RE: City of Aledo
Permit No. WQ0010847001

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 City of Aledo, City Hall, 200 Old Annetta Road, Aledo, 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.texas.gov/about/comments.html> or by mail to the following address:

Bridget C. Bohac, 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 Public Education Program, toll free, at 1-800-687-4040.

Sincerely,



Bridget C. Bohac
Chief Clerk

BCB/lg

Enclosure

MAILING LIST
for
City of Aledo
Permit No. WQ0010847001

FOR THE APPLICANT:

Kathleen Wedell
City of Aledo
P.O. Box 1
Aledo, Texas 76008

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

PROTESTANTS/INTERESTED
PERSONS:

Martin O. Siegmund
10 Taylor Court
Aledo, Texas 76008

Fred B. Werkenthin, Jr.
Booth Ahrens & Werkenthin, PC
515 Congress Avenue, Suite 1515
Austin, Texas 78701

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 EXECUTIVE DIRECTOR
via electronic mail:

Brian Christian, Director
Texas Commission on Environmental
Quality
Small Business and Environmental
Assistance
Public Education Program MC-108
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK
via electronic mail:

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

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

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TCEQ PERMIT NO. WQ0010847001

CHIEF CLERKS OFFICE

APPLICATION BY § BEFORE THE TEXAS
 §
 § COMMISSION ON
 §
 CITY OF ALEDO § ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (TCEQ) files this Response to Public Comment (Response) on the City of Aledo's application and Executive Director's preliminary decision. 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 a comment letter from Martin O. Siegmund. This response addresses all such timely public comments received, whether or not withdrawn.

Access to Rules, Laws, and Records

Please consult the following websites to access the rules and regulations applicable to this permit:

- Secretary of State website: www.sos.state.tx.us;
- TCEQ rules in Title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac/;
- Texas statutes: <http://www.statutes.legis.state.tx.us/>;
- TCEQ website: www.tceq.state.tx.us (for downloadable rules in WordPerfect or Adobe PDF formats, select "Rules, Policy, & Legislation," then "Rules and Rulemaking," then "Download TCEQ Rules");
- Federal environmental laws and rules: www.epa.gov/epahome/laws.htm.

- Commission records for this facility are available for viewing and copying and are located at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk). The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at the City of Aledo, City Hall, 200 Old Annetta Road, Aledo, Texas.

BACKGROUND

Description of Facility

The City of Aledo has applied to the TCEQ for a renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010847001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 600,000 gallons per day. The wastewater treatment facility serves the City of Aledo.

The treated effluent is discharged to an unnamed tributary; thence to Clear Fork Trinity River Below Lake Weatherford in Segment No. 0831 of the Trinity River Basin. The unclassified receiving water use is no significant aquatic life use for the unnamed tributary. The designated uses for Segment No. 0831 are high aquatic life use, public water supply, and contact recreation. The facility is located at 600 Barnwell Road, approximately 0.5 mile west of the intersection of Farm-to-Market Road 5 and Farm-to-Market Road 1187 in the City of Aledo in Parker County, Texas 76008.

Procedural Background

The application for a new permit was received on March 4, 2011 and declared administratively complete on April 12, 2011. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on April 29, 2011 in *The Community News*. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on July 29, 2011 in *The Community News*. The public comment period ended on August 29, 2011. This application was administratively complete on or

after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

COMMENTS AND RESPONSES

COMMENT 1:

Mr. Siegmund comments that he, his family and his friends would be adversely affected by Aledo's permit renewal because unpleasant, offensive, and stifling odors from the plant frequently invade his property. According to Mr. Siegmund, the offensive odors come into his backyard in evenings, and that the odors make it unpleasant to fish in his small lake which is near the plant. Mr. Siegmund also commented that the odors make riding four-wheelers near the plant unpleasant. Additionally, Mr. Siegmund comments that there are three homes in the buffer zone and that the city does not have a buffer zone on any of the properties.

RESPONSE 1:

TCEQ rules require domestic wastewater treatment facilities meet buffer zone requirements for the abatement and control of nuisance odor according to 30 TAC Section 309.13(e). These rules provide three options for applicants to satisfy the nuisance odor abatement and control requirement. The Applicant can meet this requirement by ownership of the buffer zone area, by restrictive easement from the adjacent property owners for any part of the buffer zone not owned by the Applicant, or by providing odor control.

Aledo has a nuisance odor control plan for the interim phase of its WWTP. The City of Aledo is subject to Other Requirement No. 4 in its existing permit for the existing (interim) phase facilities. Other Requirement No. 4 states that "[T]he permittee shall maintain nuisance odor prevention for the interim phase treatment facilities in accordance with 30 TAC §309.13(e)(2). The headwork and blowers of the plant shall be enclosed to prevent odor and noise nuisance and sludge drying beds must be

abandoned. The permittee shall maintain temperature control equipment so that all blower units will operate enclosed with windows and doors closed. The permittee shall comply with the requirements of 30 TAC §309.13(a) through (d).”

Aledo was required to submit a nuisance odor prevention plan to address odors in the final phase of its permit. Aledo submitted the nuisance odor prevention plan on July 29, 2010, TCEQ approved the plan on September 28, 2010. The nuisance odor prevention plan requires Aledo to provide screenings containment, dewatered solids containment and ventilation, and ozone treatment. When Aledo begins operating in the final phase it must comply with the nuisance odor prevention plan.

If anyone notices problems with odor or any other issue that needs to be addressed, please contact the Dallas Fort Worth Regional Office at 817-588-5800, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186.

Citizen complaints may also be filed on-line at

www.tceq.texas.gov/compliance/complaints/index.html. The TCEQ may also be reached about complaints via email at cmplaint@tceq.texas.gov. The TCEQ investigates all complaints received.

In addition, the permit does not limit the ability to seek legal remedies against an applicant regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that interfere with the normal use and enjoyment of property.¹

COMMENT 2:

Mr. Siegmund comments that his property of approximately 100 acres and his home has suffered a significant decline in value because of odor from the plant.

RESPONSE 2:

The TCEQ has no jurisdiction to address property value impact issues in the wastewater permitting process. The wastewater permitting process is limited to

¹ See, City of Aledo Draft Permit, Page 1.

controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. However as mentioned above, the permit does not limit the ability to seek legal remedies against an applicant regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that interfere with the normal use and enjoyment of property.

COMMENT 3:

Mr. Siegmund comments that there is a strong odor from untreated wastewater coming out from a manhole located on his property. He further comments that he has asked the City of Aledo at least three times in the last year and half to correct this problem but that the City has ignored the complaints.

RESPONSE 3:

Discharges of untreated wastewater from the collection system are not authorized. If anyone has concerns regarding an unauthorized discharge, odor or any other issue, please contact the Dallas Fort Worth Regional Office at 817-588-5800, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186.

The Aledo WWTP has a compliance history of 9.12, which is average. The TCEQ's regional office has not received any complaints recently. Additionally, the TCEQ regional office conducts both periodic and regular inspections of wastewater facilities based on complaints received. To report complaints about the facility, please contact the TCEQ at 1-888-777-3186 to reach the appropriate TCEQ regional office or by e-mail at cmplaint@TCEQ.state.tx.us. Noncompliance with TCEQ rules or the permit may result in an enforcement action.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

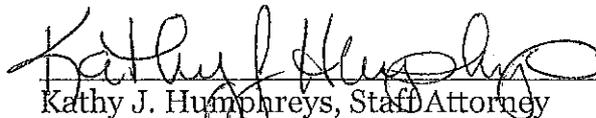
No changes to the draft permit have been made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division



Kathy J. Humphreys, Staff Attorney
Environmental Law Division

State Bar No. 24006911

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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
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