

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*

October 11, 2011

TO: Persons on the attached mailing list.

RE: City of Victoria  
Permit No. WQ0010466002

**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 Victoria Public Library, 302 North Main Street, Victoria, 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 Victoria  
Permit No. WQ0010466002

FOR THE APPLICANT:

Lynn Short  
City of Victoria  
700 Main Street, Suite 108  
Victoria, Texas 77901

Roger E. Schenk, Jr.  
Camp Dresser & McKee, Inc.  
12357-A Riata Trace Parkway, Suite 210  
Austin, Texas 78727

PROTESTANTS/INTERESTED  
PERSONS:

See Attached List.

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

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

Julian D. Centeno, Jr., P.E.,  
Technical Staff  
Texas Commission on Environmental  
Quality  
Water Quality Division MC-148  
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:

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

ARMSTRONG , WILL  
105 CREEKSIDE DR  
VICTORIA TX 77904-1101

ARMSTRONG , WILL  
PO BOX 1758  
VICTORIA TX 77902-1758

AUPPERLE , DOROTHY  
1204 S LAURENT ST  
VICTORIA TX 77901-9300

BROWN , DAVID P  
116 CREEKSIDE DR  
VICTORIA TX 77904-1102

CANNADY , ADRIAN  
1804 PLANTATION RD  
VICTORIA TX 77904-2286

CARDENAS , LILLIE  
2301 S LAURENT ST  
VICTORIA TX 77901-9307

CARDENAS , RAYMOND  
2301 S LAURENT ST  
VICTORIA TX 77901-9307

CLEGG , JOHN & JUDY  
808 BOB WHITE RD  
VICTORIA TX 77905-0618

COMPEAN , YNBS P  
1604 PLEASANT GREEN DR  
VICTORIA TX 77905-1321

CONCERNED CITIZEN ,  
1804 PLEASANT GREEN DR  
VICTORIA TX 77905-1317

CREWS , JOHN  
2505 N NAVARRO ST  
VICTORIA TX 77901-3912

DAUGHERTY , ROSEMARY  
2205 S LAURENT ST  
VICTORIA TX 77901-9483

DEARMAN , ALLAN  
1903 S LAURENT ST  
VICTORIA TX 77901-9444

DODSON , JAMES A  
410 N VINE ST  
VICTORIA TX 77901-6430

FOWLER , DALE  
20 COTSWOLD LN  
VICTORIA TX 77904-1675

GANAUER , ERIK  
1402 S LAURENT ST  
VICTORIA TX 77901-0805

GANT , RHONDA J  
1804 PLEASANT GREEN DR  
VICTORIA TX 77905-1317

GARCIA , MR & MRS DANIEL B  
1803 PLEASANT GREEN DR  
VICTORIA TX 77905-1316

GARCIA , EMILIA & JOHN  
1105 ODEM ST  
VICTORIA TX 77901-9312

GARCIA , EMILIA  
1105 ODEM ST  
VICTORIA TX 77901-9312

GARCIA , MARIA  
2516 BOOKER ST  
VICTORIA TX 77901-7709

GOIKE , KATHLEEN  
1101 NE WATER ST  
VICTORIA TX 77901-9233

HIPES , STEVE  
104 WOODHAVEN DR  
VICTORIA TX 77904-1146

HOSEY , ERNEST I  
1804 PLEASANT GREEN DR  
VICTORIA TX 77905-1317

HOSEY , ROSIE J  
1804 PLEASANT GREEN DR  
VICTORIA TX 77905-1317

HUBNIK , ANDREA  
1101 NE WATER ST  
VICTORIA TX 77901-9233

JANECKA , VALERIE  
1101 NE WATER ST  
VICTORIA TX 77901-9233

JERNIGAN , DIANNE  
WOOLSON REAL ESTATE CO.  
2715 HOUSTON HWY  
VICTORIA TX 77901-5740

JONES , LOUISE MARIE  
1101 NE WATER ST  
VICTORIA TX 77901-9233

KORENEK , EVELYN  
1101 NE WATER ST  
VICTORIA TX 77901-9233

LOPEZ , LUCIANA  
1901 HAND RD  
VICTORIA TX 77901-9328

LOTT , BETTY & FRANK  
806 B CONVENT ST  
VICTORIA TX 77901-8320

MANTEY , LANELL  
106 BUCKINGHAM ST  
VICTORIA TX 77904-1842

MARTINEZ , SANTOS  
905 OLIVER ST  
VICTORIA TX 77901-7260

MCNARY , KEVIN  
2792 HAND RD  
VICTORIA TX 77905-1306

MCNARY , ROSE  
1305 ODEM ST  
VICTORIA TX 77901-9316

MENDOZA , ROSALINDA  
2506 PUTNEY ST  
VICTORIA TX 77901-1355

MORALEZ , PETER  
407 E 3RD ST  
VICTORIA TX 77901-9207

MORRISON , THE HONORABLE GEANIE W  
HOUSE OF REPRESENTATIVES  
PO BOX 2910  
AUSTIN TX 78768-2910

OZUNA , RAMONA  
1703 HAND RD  
VICTORIA TX 77901-9310

PAVLIK , GERALDINE  
1101 NE WATER ST  
VICTORIA TX 77901-9233

PEREZ , EMILY  
2205 S LAURENT ST  
VICTORIA TX 77901-9483

PEREZ , HENRY  
2205 S LAURENT ST  
VICTORIA TX 77901-9483

PEREZ , ROBERT  
2205 S LAURENT ST  
VICTORIA TX 77901-9483

RACHID , OMAR  
101 HAMPTON CT  
VICTORIA TX 77904-2218

RANGEL , DENISE  
203 N VINE ST  
VICTORIA TX 77901-6444

SANCHEZ , JESSE M  
2003 S LAURENT ST  
VICTORIA TX 77901-9447

SANCHEZ , PAULA R  
2003 S LAURENT ST  
VICTORIA TX 77901-9447

SCHORP , PATRICE  
1101 NE WATER ST  
VICTORIA TX 77901-9233

TRUCHARD , MILDRED  
1101 NE WATER ST  
VICTORIA TX 77901-9233

URESTI JR , ALFONSO  
1203 S LAURENT ST  
VICTORIA TX 77901-7759

URESTI , CHRISTINE  
1203 S LAURENT ST  
VICTORIA TX 77901-7759

URESTI , CRICELIA  
1203 S LAURENT ST  
VICTORIA TX 77901-7759

VIVIAN , RANDY  
3404 N BEN WILSON ST  
VICTORIA TX 77901-4497

ZAFERZO , MARK  
125 KREEKVIEW DR  
VICTORIA TX 77904-1665

TPDES PERMIT NO. WQ0010466002

APPLICATION BY  
THE CITY OF VICTORIA

§  
§  
§

2011 OCT -7 PM 3: 50  
BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY  
GENERAL CLERK'S OFFICE

---

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT**

---

The Executive Director of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on the City of Victoria's (Victoria) application for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010466002 and the Executive Director's preliminary decision. As required by Title 30 of the 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 the Chief Clerk received timely comment letters and formal comments at the public meeting from the following persons: Representative Geanie Morrison; Sister M. Evelyn Korenek, on behalf of The Sisters of the Incarnate Word and Blessed Sacrament (SIWBS); Henry Perez on behalf of 15 individuals (Henry Perez, Emily Perez, Robert Perez, Rosemary Daugherty, Raymond Cardenas, Lillie Cardenas, Earnest Hosey, Rosie Hosey, Alfonso Uresti, Chistine Uresti, and Cricelia Uresti), Kevin McNary, Dale Fowler, Dianne Jernigan, Steve Hipes, Dorothy Aupperle, Rosalinda Mendoza, Rose McNary, Sister Patrice Schorp, Erik Ganauser, Sister Maria Garcia, Sister Andrea Hubnik, Sister Mildred Truchard, Luciana Lopez and Rhonda Gant.

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 Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at [www.tceq.state.tx.us](http://www.tceq.state.tx.us).

### **Access to Rules, Laws, and Records**

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

- To access the Secretary of State website: [www.sos.state.tx.us](http://www.sos.state.tx.us);
- For TCEQ rules in Title 30 of the Texas Administrative Code: [www.sos.state.tx.us/tac/](http://www.sos.state.tx.us/tac/) (select “TAC Viewer” on the right, then “Title 30 Environmental Quality”);
- For Texas statutes: [www.capitol.state.tx.us/statutes/statutes.html](http://www.capitol.state.tx.us/statutes/statutes.html);
- To access the TCEQ website: [www.tceq.state.tx.us](http://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”);
- For Federal rules in Title 40 of the Code of Federal Regulations: [www.epa.gov/epahome/cfr40.htm](http://www.epa.gov/epahome/cfr40.htm);
- For Federal environmental laws: [www.epa.gov/epahome/laws.htm](http://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 Victoria Public Library, 302 North Main Street, Victoria, Texas.

## BACKGROUND

### Description of Facility

Victoria applied to the TCEQ for a new TPDES Permit No. WQ0010466002, which would authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 4.4 million gallons per day (MGD) in the interim phase, and an annual average flow not to exceed 6.6 MGD in the final phase. The Odem Street Wastewater Treatment Plant (WWTP) would be an activated sludge process plant operated in the conventional mode in the interim and final phases. Treatment units would include a bar screen, aeration basins, final clarifiers and an ultraviolet disinfection system. The facility has not been constructed.

The effluent limitations in all phases of the draft permit, based on a 30 day average, are 20 milligrams per liter (mg/l) biochemical oxygen demand (BOD<sub>5</sub>), 20 mg/l total suspended solids (TSS), 126 colony forming units (CFU) or most probable number (MPN) *E. coli* per 100 ml, 2.0 mg/l minimum dissolved oxygen (DO), and pH between 6.0 and 9.0 standard units. Additionally, in both phases the 30-day average total phosphorus must be reported.

The treated effluent would be discharged via pipe to the Guadalupe River Below San Marcos River in Segment No. 1803 of the Guadalupe River Basin. The designated uses for Segment No. 1803 are high aquatic life use, public water supply, and contact recreation. The WWTP would be located along Hand Road, between Southwest Ben Jordan Street and Odem Street; 1.5 miles west of the intersection of US Highway 87 and US Highway 29, south of Victoria's city limits in Victoria County, Texas 77901.

### Procedural Background

The application for a new permit was received on August 20, 2010 and declared administratively complete on November 15, 2010. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on November 28, 2010 in the *Victoria Advocate*. The alternative language NORI was published in Spanish on

December 3, 2010 in *Revista de Victoria*. The Combined Notice of Application and Preliminary Decision (NAPD) and Notice of Public Meeting was published on June 21, 2011 in the *Victoria Advocate*. The alternative language NAPD and Notice of Public Meeting was published on July 8, 2011 in the *Revista de Victoria*. A public meeting was held in Victoria on July 21, 2011, the public comment period ended on August 8, 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:

Representative Morrison, Rosalinda Mendoza, Rose McNary, Sister M. Evelyn Korenek, Sister Patrice Schorp, Kevin McNary, and Erik Ganauser expressed concern over odors from the proposed WWTP.

### RESPONSE 1:

Facilities that treat wastewater have the potential to generate odors. 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). These rules provide three options for applicants to satisfy the nuisance odor abatement and control requirement. Victoria 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 Victoria, or by providing odor control.<sup>1</sup> According to its

---

<sup>1</sup> 30 TAC § 309.13(e).

permit application, Victoria will meet the buffer zone requirements by ownership of the buffer zone area. Additionally, Victoria stated that it will cover the bar screen at the plant headworks, where the raw wastewater enters the treatment facility as an additional measure to control and abate nuisance odor.<sup>2</sup>

If anyone experiences nuisance odor conditions or any other suspected incidents of noncompliance with the permit or TCEQ rules they may be reported to TCEQ by calling toll-free 1-888-777-3186 or the TCEQ Region 14 Office in Austin at (361) 825-3100. Citizen complaints may also be filed on-line at <http://www.tceq.state.tx.us/compliance/complaints/index.html>. If Victoria fails to comply with all requirements of the permit, it may be subject to enforcement action.

Moreover, the permit does not limit the ability of an individual to seek legal remedies against Victoria 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 may interfere with the normal use and enjoyment of property.

**COMMENT 2:**

Representative Morrison, Sister M. Evelyn Korenek, and Kevin McNary expressed concern over diseases that could result from the proposed WWTP.

Specifically, Kevin McNary expressed concern over pathogens from the WWTP being spread by wild animals, birds, rodents, roaches and mosquitoes. Kevin McNary expressed concern regarding respiratory and gastrointestinal exposure to toxic gases,

---

<sup>2</sup> Comment by Victoria at the public meeting held in Victoria on July 21, 2011.

airborne chemicals, waterborne, food borne, blood borne, and sexually transmitted diseases, including human viral, bacterial, fungal, and parasitic pathogens.

**RESPONSE 2:**

According to 30 TAC §§ 106.1, 106.531 and 106.532, the treatment process proposed for the Odem Street WWTP will not make a significant contribution of air contaminants to the atmosphere. Therefore, the facility is permitted by rule pursuant to the Texas Health and Safety Code, and the Texas Clean Air Act, §§ 382.057 and 382.05196 (See Response 7). Thus, the emissions from the proposed facility are not expected to be a vehicle for the spread of diseases.

TCEQ's rules require WWTPs to be completely fenced and have a lockable gate at each access point.<sup>3</sup> The effluent will be disinfected by ultraviolet light (UV) to further protect human health. Additionally, the proposed facility is subject to the provisions of the Texas Health and Safety Code as it pertains to the abatement of public health nuisance.<sup>4</sup> Consequently, the spread of disease by wild animals, birds, rodents, roaches and mosquitoes is very unlikely.

**COMMENT 3:**

Sister M. Evelyn Korenek stated that during flood events untreated wastewater will cause the water downstream of the WWTP to become unsafe. Similarly, Erik Ganauser expressed concern with groundwater contamination and contamination resulting from rainfall events and runoff.

---

<sup>3</sup> 30 TAC § 217.328.

<sup>4</sup> Texas Health and Safety Code, Chapter 343.

**RESPONSE 3:**

According to Victoria's permit application the facility will be located above the 100-year flood level. Regardless, TCEQ does not have jurisdiction to address flooding issues in the wastewater permitting process. The wastewater permitting process is limited to controlling the discharge of pollutants into or adjacent to water in the state and protecting the water quality of the state's rivers, lakes and coastal waters. However, the draft permit does include effluent limits and other requirements that Victoria must meet at all times including rainfall events and periods of flooding.

**COMMENT 4:**

Sister Maria Garcia is concerned about possible leaks from the plant.

**RESPONSE 4:**

The Victoria WWTP must be built in accordance with TCEQ's rules which require that basins, pipes, valves and fittings for the proposed WWTP follow nationally recognized engineering standards for structural integrity and watertightness. Further, the plans and specifications for the facility will have to be approved by the Executive Director before construction.<sup>5</sup>

**COMMENT 5:**

Luciana Lopez and Rose McNary expressed concern that Victoria did not provide an Attachment to its site plan indicating that it used the appropriate FEMA flood plain maps to determine if the location for the proposed facilities is subject to 100-year frequency flood events.

---

<sup>5</sup> See, City of Victoria Draft Permit, Other Requirements, Item 8, Page 32.

**RESPONSE 5:**

According to Victoria's application, it used FEMA FIRM Panels 4806370125D and 4806380010E to determine the location of the 100-year flood plain.<sup>6</sup> The permit application does not require a site map to be submitted if the proposed site is above the 100-year frequency flood level.<sup>7</sup> According to Victoria's application, the location proposed for its WWTP is above the FEMA 100-year flood plain, therefore, it was not required to submit a site map.

**COMMENT 6:**

Rose McNary expressed concern that Victoria did not provide a plat or site map, with an engineer's seal, certifying the accuracy of the property boundaries, buffer zone distance, updated footprint of the treatment unit's interim and final phases, or distance scale.

**RESPONSE 6:**

TCEQ's rules do not require the site map or buffer zone map to be signed and sealed by an engineer.<sup>8</sup> The rules require that an application for a municipal WWTP be signed by either a principal executive officer or a ranking elected official.<sup>9</sup> Additionally, the person that signs the application must make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and

---

<sup>6</sup> See, City of Victoria, Domestic Wastewater Permit Application, Technical Report 1.1, page 10, item 5(a).

<sup>7</sup> See, Domestic Wastewater Permit Application Technical Report 1.1, page 10, item 5(a).

<sup>8</sup> 30 TAC Chapter 305.

<sup>9</sup> 30 TAC § 305.44(a).

belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."<sup>10</sup>

Victoria's application was signed under penalty of law and certified by Will Armstrong, Mayor, City of Victoria, and included the required site map and buffer zone map. Thus, the permit application complies with the requisite TCEQ rules.

**COMMENT 7:**

Kevin McNary stated that dangerous bioaerosol airborne polycyclic aromatic hydrocarbons will be released from the WWTP.

**RESPONSE 7:**

The Texas Clean Air Act provides that certain facilities may be exempt from the requirements of an air quality permit if, upon review, it is found that those facilities will not make a significant contribution of air contaminants to the atmosphere and that human health and the environment will be protected. According to the TCEQ rules, wastewater treatment plants have undergone this review and are permitted by rule, provided the WWTP only performs the functions listed in the rule.<sup>11</sup> The treatment process proposed for the Odem Street Wastewater Treatment Facility will not make a significant contribution of air contaminants to the atmosphere pursuant to the Texas Health and Safety Code, the Texas Clean Air Act, §§382.057 and 382.05196, and is therefore, permitted by rule.

---

<sup>10</sup> 30 TAC § 305.44(b).

<sup>11</sup> 30 TAC § 106.532.

**COMMENT 8:**

Kevin McNary expressed concern that deadly chemicals such as chlorine and ozone will be used in the WWTP.

**RESPONSE 8:**

Chlorine and ozone are typically used in wastewater treatment for disinfection, however, the disinfection system proposed by Victoria for the proposed Odem Street WWTP is ultraviolet (UV) light disinfection. Because Victoria will use UV for disinfection, neither chlorine nor ozone will be used at any stage of the treatment process.

**COMMENT 9:**

Kevin McNary expressed concern that the Annual Pretreatment Program Status Report from the Guadalupe Blanco River Authority (GBRA), dated March 5, 2010, does not require testing for tributyltin. According to Kevin McNary since there are five significant industrial users (SIUs), 20 industrial or commercial facilities, and 231 food establishments in Victoria, testing for tributyltin should be required to determine if it is present in the effluent of the WWTP.

**RESPONSE 9:**

At this time, the TCEQ does not require permittees with an approved TPDES pretreatment program or other domestic wastewater permit applicants to sample and analyze the influent or effluent of each WWTP for tributyltin (TBT), unless there is a reason to believe that it is present in the effluent. The application instructions provides that not all facilities are required to test for TBT and that testing will be required for

domestic facilities that receive wastewater from the following types of industrial or commercial operations:<sup>12</sup>

1. manufacturers and formulators of tributyltin or related compounds, including, but not limited to Standard Industrial Classification (SIC) code 2879;
2. ship, boat and marine structure painting, including, but not limited to SIC code 1721;
3. ship and boat building and repairing, including, but not limited to SIC codes 3731, 3732 and 3441;
4. ship and boat cleaning, salvage, wrecking and scaling, including, but not limited to SIC codes 4499 and 7699;
5. operation and maintenance of marine cargo handling facilities and marinas, including, but not limited to SIC codes 4491 and 4493;
6. facilities engaged in wood preserving, including, but not limited to, SIC code 2491; and
7. any other industrial or commercial facility for which TBT is known to be present, or for which there is any reason to believe that TBT may be present in the effluent.

Based on literature searches, TBT is normally found in wood preservation, antifouling pesticide in marine paints, antifungal action in textiles, wood pulp and paper mill systems, leather processing facilities, and breweries. The two most recent pretreatment annual reports submitted by the GBRA and Victoria to the TCEQ on March 5, 2010, and March 14, 2011, do not indicate that any of the five SIUs in Victoria have the associated SIC codes and types of industries or activities listed above.

---

<sup>12</sup> *Instructions for Completing the Domestic Wastewater Permit Application*, p. 64 of 90, Item 1, Table 1.

Additionally, since this permit is for a WWTP that has not yet been constructed, there is no wastewater effluent discharged to be sampled and analyzed. Currently, Victoria is only required to conduct wastewater influent and effluent sampling of the two WWTPs that discharge wastewater, receive wastewater contributions from SIUs and are covered under the approved TPDES pretreatment program.

**COMMENT 10:**

Kevin McNary expressed concern that analytical data samples for Volatile Compounds, Acid Compounds, Base/Neutral Compounds, Pesticides, and additional toxic pollutants regulated under 30 TAC Chapter 307 were taken six months before the one year prior to the date of the new domestic wastewater application permit that was submitted to TCEQ.

**RESPONSE 10:**

No analytical data for toxic pollutant screening is available because the proposed facility has not been built. Hence, there is no effluent to be sampled and analyzed.

**COMMENT 11:**

Kevin McNary expressed concern over contamination of nearby private water wells.

**RESPONSE 11:**

The TCEQ's rules prohibit WWTP units from being located closer than 250 feet from private water wells.<sup>13</sup> According to Victoria's application, the location of the

---

<sup>13</sup> 30 TAC § 309.13(c).

WWTP will comply with the unsuitable site characteristics requirements found in 30 TAC §309.13(a) through (d).

**COMMENT 12:**

Emily Perez, Rosalinda Mendoza, Rose McNary, and Sister Maria Garcia expressed concern over the health effects the proposed facility will have on individuals including children and the elderly.

**RESPONSE 12:**

The Texas Water Quality Standards require that discharges may not degrade the receiving waters,<sup>14</sup> and may not result in situations that impair existing, attainable or designated uses, and that surface waters not be toxic to man, or to terrestrial or aquatic life.<sup>15</sup> The effluent limits in the draft permit are set to maintain and protect the existing instream uses.

In this case, the receiving stream uses are high aquatic life use, public water supply and contact recreation. The Executive Director determined that these uses should be protected if the facility is operated and maintained as required by the proposed permit and regulations. Additionally, the treated effluent will be disinfected prior to discharge to protect human health.

Finally, the draft permit specifically prohibits the unauthorized discharge or wastewater or other waste and requires Victoria to take all reasonable steps to minimize or prevent discharges or other permit violations that would adversely affect human

---

<sup>14</sup> 30 TAC § 307.5.

<sup>15</sup> 30 TAC § 307.6(b).

health or the environment.<sup>16</sup> The draft permit also requires Victoria to provide analytical results for Outfall 001 for toxicity screening within 120 days from the start-up of the WWTP. The Executive Director's staff will evaluate the results to ensure the draft permit is protective of human health.

**COMMENT 13:**

Emily Perez and Sister Maria Garcia expressed concern over the effects the proposed facility will have on property values, an individual's ability to relocate and whether the city was willing to compensate individuals.

**RESPONSE 13:**

Texas Water Code Chapter 26 and applicable wastewater regulations do not authorize the agency to consider property values or an individual's ability to relocate when reviewing a wastewater permit application. Any request for compensation must be addressed to Victoria.

**COMMENT 14:**

Henry Perez inquired how many industrial and Victoria County users the permit will serve, how much industrial wastewater volume in MGDs will the proposed plant receive, and from which industrial users.

**RESPONSE 14:**

According to Victoria's application there are five significant industrial users (SIUs) (two of which do not discharge any wastewater) and 20 other industrial or commercial facilities that are discharging wastewater to Willow Street WWTP collection

---

<sup>16</sup> City of Victoria, Draft Permit, Page 9, Items d and g.

system.<sup>17</sup> These SIUs were included in Victoria's pretreatment program annual reports submitted to the TCEQ on March 5, 2010, and March 14, 2011. The reported total average flow for the SIUs is 0.164 MGD and for the other 20 industrial or commercial facilities is 0.131 MGD. The SIUs listed in the pretreatment program annual reports are: Cintas, Citizens Medical Center, Fisher Stevens, Victoria Advocate, and Victoria Precision Alloys.

The proposed Odem Street WWTP is a new facility. Once the Odem Street WWTP is operational the facility will be covered under Victoria's approved TPDES pretreatment program. The Odem Street WWTP will replace the Willow Street WWTP; once construction is completed, the wastewater from the Willow Street WWTP will be routed to the new Odem Street WWTP. Once wastewater is routed, the Odem Street WWTP will receive the same industrial wastewater contributions as the Willow Street WWTP currently receives.

**COMMENT 15:**

Henry Perez expressed concern that a specific route from the proposed Odem Street WWTP to the Guadalupe River is not clearly defined in the permit application. Sister Andrea Hubnik and Sister Mildred Truchard expressed concern that for certain items Victoria provided a non-descriptive pipe size, but additional information is missing including the direction, length, or distance of the pipe.

---

<sup>17</sup> City of Victoria, Permit Application, Page 36, Worksheet 6.o, Item 1(a).

**RESPONSE 15:**

The specific route of the pipe from the WWTP to the outfall is not required to be defined in the permit application; nonetheless, according to Victoria's application, the route would be "via discharge pipes along Hand Rd, SW Ben Jordan and Bottom St."<sup>18</sup> Information about direction, length, or distance of the pipe is not required by the application, however, the draft permit provides:

"[p]rior to construction of the treatment facilities, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) a summary transmittal letter in accordance with the requirements in 30 TAC Section 217.6(c). If requested by the Wastewater Permitting Section, the permittee shall submit plans, specifications and final engineering design report which comply with 30 TAC Chapter 217, Design Criteria for Domestic Wastewater Systems. The permittee shall clearly show how the treatment system will meet the permitted effluent limitations required on Pages 2 and 2a of the permit."<sup>19</sup>

Additionally, Page 1 of the draft permit provides that the permit does not "grant to the permittee the right to use private or public property for conveyance of wastewater along the discharge route . . ." and that "[i]t is the responsibility of the permittee to acquire property rights as may be necessary to use the discharge route."

**COMMENT 16:**

Sister Andrea Hubnik and Sister Mildred Truchard expressed concern that the application does not provide a physical address for the facility.

---

<sup>18</sup> City of Victoria, Permit Application, Page 6, Domestic Administrative Report, Item 5(b).

<sup>19</sup> City of Victoria, Draft Permit, Other Requirement 8.

**RESPONSE 16:**

TCEQ requires that applicants provide either a valid United States Postal Service address, or a complete written location access description.<sup>20</sup> According to Victoria's application the Odem Street WWTP will be located "along Hand Road, between Southwest Ben Jordan Street and Odem Street; 1.5 miles west of the intersection of US Highway 87 and US Highway 59, south of the City of Victoria city limits in Victoria County, Texas 77091." The Executive Director determined that the written location access description provided by Victoria was sufficient.

**COMMENT 17:**

Emily Perez expressed concern that Victoria did not provide at least two photographs of the proposed point of discharge, at least one photograph of the proposed effluent disposal site, or a plot plan or map showing the location and direction of each photograph.

**RESPONSE 17:**

While the TCEQ Applications Review and Processing Team requests two photographs of the point of discharge, it is not required by rule. Therefore, the one photo Victoria submitted was sufficient for review. A plot plan is not necessary for administrative completeness, because the site plan shows the layout of the site. Since Victoria requested authorization to discharge effluent to waters in the state and it did not request authorization to use land application, then an effluent disposal site is

---

<sup>20</sup> Instructions for Completing the Domestic Wastewater Permit Application (rev. 09/01/2010), page 24.

neither required nor relevant to the processing of this application. Thus, Victoria was not required to submit a site plan for a disposal site.

**COMMENT 18:**

Henry Perez, Luciana Lopez, Rhonda Gant, and Emily Perez expressed concern that the application is incomplete regarding permitted or proposed flows. Emily Perez is concerned that Victoria did not provide a flow diagram, Attachment F, that identifies lift stations, passing pipe, constructed emergency overflows system, protection systems from flood events, or a flow diagram to point of discharge at the outfall.

**RESPONSE 18:**

The application is technically complete with regards to the proposed flows because Technical Reports 1.0 and 1.1 provide the design flow (MGD), the 2-hour peak flow (MGD), the date construction is estimated to commence and the date waste disposal is estimated to commence. The final phase flow was revised from 8.8 MGD to 6.6 MGD according to Victoria's request in a letter dated January 14, 2011. The flow diagram provided does not have a bypass pipe or overflow system because EPA policy does not allow bypass to be incorporated in the facility design and neither EPA nor TCEQ allow overflow systems. The influent lift station is part of the headworks.

**COMMENT 19:**

Henry Perez expressed concern that the proposed flows may have a negative impact on the aquatic life, public water supply, and contact recreational uses.

**RESPONSE 19:**

Treated effluent discharged in accordance with the requirements of the draft permit will be protective of surface water uses, including the existing aquatic life, the public water supply and recreation. As part of the permit application process, TCEQ determines the uses of the receiving waters and establishes effluent limits that are protective of those uses. The designated uses for Segment No. 1803 (Guadalupe River Below San Marcos River) are contact recreation, public water supply, and high aquatic life uses. The effluent limitations in the draft permit will maintain and protect the existing instream uses.

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, using Victoria's proposed flow of 6.6 MGD. 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. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Guadalupe River Below San Marcos River, which has been identified as having high aquatic life use. Therefore, existing uses will be maintained and protected.

Additionally, in both phases of the draft permit, Victoria is required to use an Ultraviolet Light (UV) system for disinfection. To ensure the effluent is completely disinfected, the draft permit includes an *E. coli* effluent limit of 126 colony forming units or most probable number as a geometric mean.

**COMMENT 20:**

Henry Perez inquired why the Willow Street plant flow data was not used in the proposed permit application, since the plant's flows will be transferred to the proposed Odem Street plant. Specifically Mr. Perez is concerned with the Items 8.C.(2)(b), 8.C.(3)(b), 8.C.(4)(b), 8.C.(5)(a), and 8.C.(6)(a) from the Executive Director's Fact Sheet. Mr. Perez also inquired what the Willow Street plant flow parameters are and whether more stringent parameters would be applicable to the proposed Odem Street plant.

**RESPONSE 20:**

Items 8.C.(2)(b), 8.C.(3)(b) and 8.C.(4)(b) of the Executive Director's Fact Sheet provide that "[n]o analytical data is available for screening against water quality-based effluent limitations since the facility is not in operation." Items 8.C.(5)(a) and 8.C.(6)(a) state that the draft permit includes whole effluent biomonitoring. The language in the Executive Director's Fact Sheet for Items 8.C.(2)(b), 8.C.(3)(b), 8.C.(4)(b), 8.C.(5)(a), and 8.C.(6)(a) is the standard language used for new wastewater discharge permits for facilities that have not been built.

The Willow Street Wastewater Treatment Facility effluent data cannot be used to evaluate compliance by the proposed Odem Street Wastewater Treatment Facility with the calculated water-quality-based effluent limitations for toxic pollutants because these effluent limitations were calculated using Odem Street Wastewater Treatment Facility flow data. The effluent limits in mg/l for the conventional pollutants, BOD<sub>5</sub> and TSS, are the same for the Odem Street Wastewater Treatment Facility and the Willow Street

Wastewater Treatment Facility. However, the treatment processes employed at the Odem Street Wastewater Treatment Facility and the Willow Street Wastewater Treatment Facility are not the same.

**COMMENT 21:**

Rhonda Gant expressed concern that according to the 2010 U.S. Census the population of Victoria's metropolitan population does not provide sufficient justification for the need for the proposed permit as required by Exhibit A of the permit application. Specifically, according to Rhonda Gant, there is no substantiation that Victoria's population projected growth is expected to exceed the design limitations of the current treatment facilities by 2015 or to justify that the current wastewater treatment facilities will reach capacity in the next 20-year planning horizon, there is no information to justify the need to close, demolish or decommission the Willow Street WWTP, and there is no data to justify that a new wastewater treatment capacity is needed within the Victoria metropolitan area. Rhonda Gant also stated that the current permitted WWTP can accept additional volume of wastewater and have the capacity for additional wastewater treatment.

**RESPONSE 21:**

In considering the issuance of a domestic wastewater discharge permit, "the commission may deny or alter the terms and conditions of the proposed permit, ... based on consideration of need, including the expected volume and quality of the influent and the availability of existing or proposed area-wide or regional waste collection, treatment, and disposal systems not designated as such by commission order pursuant to

provisions of this subchapter.”<sup>21</sup> The Odem Street Wastewater Treatment Facility is intended to replace the aging Willow Street Wastewater Treatment Facility. During the public meeting, the City of Victoria’s representatives stated that the Willow Street Wastewater Treatment Facility was constructed in 1916 and is within the 100-year floodplain and had been flooded in the past.<sup>22</sup>

The City of Victoria estimates the population that would receive wastewater service in year 2015 to be 68,395. The City of Victoria also estimates the unit wastewater generation rate to be 121 gallons per capita per day based on a study conducted by CDM for the City of Victoria. The study further determined a peaking factor of 1.2 based on maximum 3-month flows and 1.4 based on maximum month flows. Thus, the projected wastewater flows would be approximately 9.9 million gallons per day (MGD) with a 1.2 peaking factor or 11.6 MGD with a 1.4 peaking factor, while the aggregate capacity of the Odem Street Wastewater Treatment Facility and the Victoria Regional Wastewater Treatment Facility would be 16.2 MGD.<sup>23</sup> The Executive Director finds that Victoria provided adequate justification regarding the need for the requested flow to withstand scrutiny under Section 26.0282 of the Texas Water Code.

**COMMENT 22:**

Rhonda Gant and Kevin McNary expressed concern that there was no documentation provided to justify that either the TCEQ or EPA has caused the city of Victoria to initiate engineering and financial planning for expansion, or obtain necessary

---

<sup>21</sup> Texas Water code § 26.0282.

<sup>22</sup> The Public Meeting was held in Victoria on July 21, 2011.

<sup>23</sup> See, Justification of wastewater need found as attached in Victoria’s letter dated January 14, 2011.

authorization to commence construction of additional wastewater treatment facilities because of the 75/90 percent provision, or that TCEQs Executive Director has issued a waiver because the population to be served has caused noncompliance.

**RESPONSE 22:**

TCEQ's rules require that whenever the flow measurements for any WWTP reaches 75% of the permitted average daily or annual average flow for three consecutive months, the permittee must initiate engineering and financial planning for expansion or upgrading of the wastewater treatment or collection facilities. Whenever the average daily or annual average flow reaches 90% of the permitted average daily flow for three consecutive months, the permittee shall obtain necessary authorization from the commission to commence construction of the necessary additional treatment or collection facilities.<sup>24</sup>

A WWTP does not have to be operating at either 75% or 90% capacity before the owner submits an application for expansion of its WWTP. The owner can be proactive in assessing future needs and then applying to increase capacity based on such needs. In this case, Victoria did not have to wait for either the TCEQ or the EPA to initiate expansion of its wastewater treatment facility.

**COMMENT 23:**

Emily Perez expressed concern that Victoria did not provide a separate description for each phase of the permit. Luciana Lopez expressed concern that Attachment K of the permit application (relating to Design Calculations) does not have

---

<sup>24</sup> 30 TAC § 305.126(a).

the design calculations that show the ability of the treatment system to meet effluent quality for each phase, according to the requirements of 30 TAC Chapter 217, Design Criteria for Sewage Systems.

**RESPONSE 23:**

In a letter dated January 14, 2011, Victoria attached a revised page 1 of the Domestic Technical Report 1.0. The January 14, 2011 letter included a description of each requested phase and revised design information. Victoria provided sufficient design information in Attachment K to demonstrate the WWTP will be able to meet the effluent limits of 20 mg/l BOD<sub>5</sub> and 20 mg/l TSS.<sup>25</sup> Actual arithmetical calculations are not necessary because Victoria used the design criteria in 30 TAC Chapter 217 from which the treatment units sizing was derived. The results of the calculations were verified by the Executive Director's staff.

**COMMENT 24:**

Emily Perez expressed concern that an analysis of the pollutants in the treated effluent from the existing Willow Street WWTP was not included in Victoria's application.

**RESPONSE 24:**

TCEQ requires applicants to provide results from the analysis of samples of effluent from the actual, operating facility, and not the assumed values from a facility that is not in operation. The draft permit requires that "Within 120 days from the start-up of the facility, the permittee shall complete Attachment A with the analytical results

---

<sup>25</sup> 30 TAC § 217.154(b)(2).

for Outfall 001.”<sup>26</sup> Attachment A contains the tables with the pollutants to be analyzed for toxicity screening.

**COMMENT 25:**

Kevin McNary expressed concern that analytical data for Significant Industrial Users (SIUs) may not have been sampled in the Annual Pretreatment Program Status Report from GBRA, dated March 5, 2010 for March, 2009 through February, 2010. Kevin McNary stated that samples may have been taken six months before the one year prior to the date of the new domestic wastewater application, but there are no dates for results of the times sampled.

**RESPONSE 25:**

Since Odem Street WWTP is for a new facility that has not yet been constructed, there is no wastewater effluent discharged to be sampled and analyzed. Currently, Victoria is only required to conduct influent and effluent sampling of the two WWTPs that discharge wastewater and are covered under the approved TPDES pretreatment program. The two most recent pretreatment program annual reports submitted by GBRA and Victoria to the TCEQ on March 5, 2010, and March 14, 2011, include influent and effluent data for the Willow Street WWTP. Therefore, the influent data for the Willow Street WWTP should provide a close representation of the influent data at the Odem Street WWTP once it is constructed and the wastewater from the Willow Street WWTP is re-routed to it. However, the effluent data from the Willow Street WWTP cannot be used to evaluate compliance by the proposed Odem Street WWTP because the

---

<sup>26</sup> City of Victoria, Draft Permit, Page 32, Item 12.

treatment processes that will be employed at the Odem Street WWTP are not the same as the treatment processes that the Willow Street WWTP is using.

**COMMENT 26:**

Sister Mildred Truchard expressed concern that the application does not currently specify Whole Effluent Toxicity (WET) testing and that Victoria has not submitted the results of WET tests from the past four and a half years. Sister Truchard stated that, according to Victoria's application, Victoria currently operates a facility with a flow 1.0 MGD or greater, has a pretreatment program, submitted certification that the facility does have SIUs, and is applying for a new discharge permit that may require a WET testing; therefore, Victoria should have submitted WET results.

**RESPONSE 26:**

The draft permit is for the proposed Odem Street WWTP. There is no WET testing history for the Odem Street WWTP because the WWTP has not been constructed. A WET testing requirement for the Odem Street WWTP is included in the draft permit.<sup>27</sup>

**COMMENT 27:**

Luciana Lopez and Sister Andrea Hubnik expressed concern that Victoria did not provide information that wetlands do not exist on the property, will not be filled, and has not obtained necessary authorization from the U.S. Corp of Engineers concerning wetlands.

---

<sup>27</sup> City of Victoria, Draft Permit, Pages 33-50.

**RESPONSE 27:**

An applicant may not locate a wastewater treatment plant unit in wetlands.<sup>28</sup> According to Victoria there are no wetlands in the area of the proposed facility location.<sup>29</sup>

**COMMENT 28:**

Sister Andrea Hubnik expressed concern that the application is incomplete regarding whether the project will involve sealing caves, fractures, sinkholes, or other karst features. Sister Hubnik also expressed concern that the application did not include the depth of excavation, a need for substantial base-fill and other significant land elevation issues, and railroad vibration impacting the site.

**RESPONSE 28:**

Information regarding the sealing of caves, fractures, sinkholes, or other karst features, the depth of excavation is part of the Supplemental Permit Information Form (SPIF). Information about the need for substantial base-fill and other significant land elevation issues, and railroad vibration impacting the site are not required by the permit application.

As part of its agreement with the EPA, TCEQ sends the SPIF to the Texas Historical Commission, Texas Parks and Wildlife Department, U.S. Fish and Wildlife and U.S Army Corps of Engineers. These agencies use the information in the SPIF to determine if the proposed project will impact anything in their jurisdiction. The TCEQ does not use the information provided in the SPIF in its evaluation of the application.

---

<sup>28</sup> 30 TAC §309.13(b)

<sup>29</sup> See, Supplemental Permit Information Form (SPIF), which is part of the permit application.

Victoria did not check the box corresponding to sealing caves, fractures, sinkholes, or other karst features in the SPIF. This means that the proposed WWTP construction project will not involve these activities. If additional information about construction impacts is needed, Victoria will be contacted to provide the information to the agency or agencies concerned.

**COMMENT 29:**

Henry Perez inquired who will approve the construction plan for the proposed Odem Street plant.

**RESPONSE 29:**

If the draft permit is issued, the TCEQ's Wastewater Permitting Section will review and approve the construction plan for the proposed Odem Street WWTP. The draft permit provides:

Prior to construction of the treatment facilities, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) a summary transmittal letter in accordance with the requirements in 30 TAC Section 217.6(c). If requested by the Wastewater Permitting Section, the permittee shall submit plans, specifications and final engineering design report which comply with 30 TAC Chapter 217, Design Criteria for Domestic Wastewater Treatment Systems. The permittee shall clearly show how the treatment system will meet the permitted effluent limitations required on Pages 2 and 2a of the permit.<sup>30</sup>

**COMMENT 30:**

Henry Perez inquired what TCEQ site or landfill will receive sludge from the proposed facility. Mr. Perez also inquired where the TCEQ land application site or co-disposal landfill is located.

---

<sup>30</sup> Draft Permit, Other Requirement 8.

Sister Patrice Schorp stated the application is incomplete because Victoria: did not check permitted landfill and composting as a sludge disposal method required under Item 6.b; the August 16, 2010 Letter (Attachment H) from the public works director is unclear regarding the final method of sludge disposal; the county where the disposal sites are located is omitted; and there is no method described to haul sludge to a disposal site.

Luciana Lopez expressed concern that the application did not provide a sewage sludge solids management plan that includes the identification and ownership of the ultimate sludge disposal site, a system of documenting the amount of solids disposed of in dry weight form, or the procedures and methods of solids removal from both the wastewater and sludge treatment process.

**RESPONSE 30:**

According to Victoria's application, the sludge from the proposed Odem Street WWTP will be pumped to the Victoria Regional Wastewater Treatment Facility (TPDES Permit No. WQ0011078001) for further processing and disposal.<sup>31</sup> A letter from the Director of Public Works for the City of Victoria, confirming this sludge handling method is included in the application. Therefore, the application is technically complete with respect to sludge management and disposal.

**COMMENT 31:**

Henry Perez expressed concern that the draft permit did not contain the appropriate pretreatment language.

---

<sup>31</sup> See, Domestic Technical Report 1.0, Page 3, Items 6(b) and (c).

**RESPONSE 31:**

The proposed Odem Street WWTP has not been built and, therefore, there are no significant industrial wastewater contributions to the WWTP. The pretreatment program language and requirements in the Contributing Industries and Pretreatment Requirements section of the draft permit for this facility are appropriate since there are no industrial wastewater contributions. Once construction is completed, the Odem Street WWTP will replace the Willow Street WWTP, the wastewater from the Willow Street WWTP will be routed to the new Odem Street WWTP, and the Odem Street WWTP will receive the same industrial wastewater contributions as the Willow Street WWTP currently receives.

**COMMENT 32:**

Luciana Lopez expressed concern that Victoria did not provide information that there are no surface water intakes for domestic drinking water supply located within five miles downstream from the point of discharge.

**RESPONSE 32:**

The outfall for the Odem Street WWTP will be in the same general location as the existing Willow Street WWTP outfall. Additionally, based on information available from the TCEQ Public Drinking Water Section, there are no intakes for domestic drinking water supplies located within five miles downstream of Victoria's proposed outfall.

**COMMENT 33:**

Henry Perez expressed concern that the City of Victoria will be unable to develop technically based local limits (TBLs) for the proposed Odem Street plant.

**RESPONSE 33:**

Since the Odem Street WWTP will receive wastewater contributions from SIUs, the pretreatment language and requirements in the proposed permit (Contributing Industries and Pretreatment Requirements section) will require Victoria to develop TBLLs for the Odem Street WWTP once the facility is constructed and it commences wastewater discharges. Victoria will be required to submit to the TCEQ, within sixty days of commencement of discharge from the Odem Street WWTP, a written notification that a technical redevelopment of the current TBLLs, and other components of the pretreatment program will be submitted within twelve months of commencement of discharge from the Odem Street WWTP. Victoria must demonstrate and certify that the new TBLLs will attain the Texas Surface Water Quality Standards (30 TAC Chapter 307) for water in the state. Victoria must also demonstrate and certify that the new TBLLs will prevent: pass through of pollutants, inhibition of or interference with the treatment facility, worker health and safety problems, and sludge contamination. The technical development of the TBLLs should be developed in accordance with EPA's Local Limits Development Guidance, July 2004, and EPA Region 6's Technically Based Local Limits Development Guidance, October 12, 1993.

**COMMENT 34:**

Emily Perez, Rose McNary and Henry Perez expressed concern that Victoria did not provide sufficient information that the application complies with 30 TAC § 309.13 a-d, e, f, and g. Emily Perez and Rose McNary expressed concern that Victoria has not met

the buffer zone requirements and did not provide sufficient information to ensure buffer zone requirements are met by property ownership.

**RESPONSE 34:**

As required, Victoria included a buffer zone map in its application that shows its property boundaries, the required buffer zone for all phases, each treatment unit and the distance from each treatment unit to the nearest property boundary.<sup>32</sup> Victoria also stated that it owns the required buffer zone area and that it will comply with the requirements of 30 TAC §309.13(a) through (d).

Section 309.13(f) only applies to facilities which will not meet the buffer zone requirement by one of the alternatives described in 30 TAC §309.13(e). Section 309.13(f) includes a request for a variance in the application. Because Victoria represents that it owns the entire buffer zone, this provision does not apply to Victoria's permit application.

Section 309.13(g) requires that the permittee comply with the selected buffer zone alternative at all times. This section is incorporated in the draft permit.<sup>33</sup> Therefore, Victoria complied with the requirements of the permit application.

**COMMENT 35:**

Henry Perez stated that the City of Victoria should not be allowed to change effluent limitations.

---

<sup>32</sup> See, Domestic Administrative Report 1.1, Page 13, Item 2.

<sup>33</sup> City of Victoria, Draft Permit, Page 31, Other Requirement 5, provides: "[t]he permittee shall comply with the requirements of 30 TAC § 309.13(a) through (d). In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC § 309.13(e)."

**RESPONSE 35:**

The effluent limits in the draft permit for the Odem Street WWTP are the same as the limits for the Willow street WWTP, except that the Odem Street draft permit authorizes a higher effluent flow and requires total phosphorus effluent monitoring and reporting. The draft permit for the Odem Street WWTP also includes *E. coli* effluent limitations and monitoring requirements as required by recent rule changes in 30 TAC Chapters 309 and 319.

The draft permit, once issued, will not allow a change in effluent limitations. An application for a major permit amendment will have to be applied for in order to change the effluent limits.

**COMMENT 36:**

Henry Perez expressed concern regarding the low stream flow and severe drought conditions in the Guadalupe River near the current outfall. Henry Perez also inquired whether the severe drought conditions were considered in the development of the draft permit.

**RESPONSE 36:**

To ensure Victoria's permit would be protective during hot weather and when the Guadalupe River was at low flow, the dissolved oxygen modeling analysis was performed using low-flow conditions and warm summertime water temperatures, when discharge conditions are typically most restrictive for dissolved oxygen. In the case of this discharge, base flow and temperature were developed from United States Geological Survey (USGS) stream gage data. Base flow derived from these data correspond to the

lowest flow observed to occur over a consecutive 7-day period with a 2-year recurrence interval, also referred to as a 7Q2 flow. This flow represents a conservative low-flow condition, but does not necessarily represent severe drought conditions. The dissolved oxygen criterion for the Guadalupe River applies when flow conditions are at or above 7Q2 low flows, so extending the dissolved oxygen modeling analysis to evaluate potential impacts under flow conditions less than 7Q2 does not provide a valid result. USGS gage-derived 7Q2 flows are developed using an approximately 30-year set of data and are updated on a regular basis. If the drought persists, calculated 7Q2 flows may diminish as well, and these revised flows would be incorporated into any future analyses of this facility.

**COMMENT 37:**

Henry Perez expressed concern that the endangered species determination is 13 years old, unreliable and needs to be reevaluated. Sister Andrea Hubnik expressed concern that the land site has unique geological features, vegetation and habitat that should require an environmental study for endangered species, vegetation habitat or other sensitive, endangered eco-systems.

**RESPONSE 37:**

The United States Fish and Wildlife Service (USFWS) biological opinion issued in 1998 addressed the assumption by the State of Texas of the National Pollutant Discharge Elimination System (NPDES). The document outlines the interagency coordination necessary to ensure that endangered and threatened aquatic and aquatic-dependent species are identified and that concerns are addressed appropriately. The

TCEQ coordinates with USFWS and EPA to maintain up-to-date data on endangered and threatened aquatic and aquatic-dependent species. Although the determination is 13 years old, the information that is used in reviewing discharge permits is current.

**COMMENT 38:**

Henry Perez expressed concern that a waste load evaluation was not completed for the segment identified in item 8.b.2 of the permit application and inquired whether this item included consideration for severe drought conditions.

**RESPONSE 38:**

A Waste Load Evaluation (WLE) is a term used in reference to a specific type of dissolved oxygen modeling analysis. A WLE is typically performed either when monitoring data has identified possible dissolved oxygen impairment, or when there are a large number of permitted dischargers in an area such that a calibrated watershed modeling approach is deemed to be necessary or highly beneficial. Such models are typically needed when the potential interaction of multiple wastewater discharges may impact in-stream dissolved oxygen levels.

At the present time, modeling approaches to address documented dissolved oxygen impairments are managed through the Total Maximum Daily Load (TMDL) program rather than through WLEs.

The Executive Director does not anticipate that the dissolved oxygen in Guadalupe River will be impaired by either the proposed Odem Street WWTP or the existing WWTPs. The discharge scenario represented by the Victoria area wastewater

treatment facilities, in which all discharges go directly into the Guadalupe River, is not one that would typically require a complex watershed-wide modeling approach.

Waste Load Evaluations and other large-scale watershed models are typically performed under summertime temperature and low-flow (7Q2) conditions, unless non-summer conditions have been demonstrated to represent a potentially more restrictive discharge situation.

**COMMENT 39:**

Henry Perez and Kevin McNary, expressed concern over how the land for the WWTP was obtained. Erik Ganauser expressed concern concerning the location of the facility and recommended another location near Highway 59. Erik Ganauser also expressed concern that the proposed site is not the most beneficial land use.

**RESPONSE 39:**

The permitting process is intended to control the discharge of pollutants into or adjacent to water in the state and to protect the water quality of the state's rivers, lakes and coastal waters. TCEQ does not have jurisdiction to address concerns over how the property was obtained or whether there might be a better use for the property in the wastewater permitting process. These concerns should be addressed with the City of Victoria.

**COMMENT 40:**

Erik Ganauser expressed concern with increased traffic including truck traffic coming in and out of the facility, increased noise, and visual impact of the facility.

**RESPONSE 40:**

The permitting process is intended to control the discharge of pollutants into or adjacent to water in the state and to protect the water quality of the state's rivers, lakes and coastal waters. TCEQ does not address traffic, noise or the visual impact of a facility in evaluating a wastewater discharge permit. The draft permit, however, does not authorize any invasion of personal rights or any violation of federal, state, or local laws or regulations.<sup>34</sup>

**COMMENT 41:**

Henry Perez inquired whether the city of Victoria plans to request any variances to this permit and will the variances be available for public comment before a final determination is made for this permit.

**RESPONSE 41:**

Victoria did not request any variance in its application.

**COMMENT 42:**

Henry Perez stated that in regard to item 11.b of the permit application, additional information dated January 14, 2011, March 9, 2011, April 1, 2011, and May 17, 2011 was not available for public viewing or copying at the Victoria Public Library.

**RESPONSE 42:**

TCEQ's rules require that a copy of the administratively complete application be available for viewing and copying in a public place.<sup>35</sup> According to TCEQ's rules:

---

<sup>34</sup> City of Victoria, Draft Permit, page 1.

<sup>35</sup> 30 TAC § 39.405(g).

A copy of the complete application (including any subsequent revisions to the application) and executive director's preliminary decision must be available for review and copying beginning on the first day of newspaper publication required by this section and remain available until the commission has taken action on the application or the commission refers issues to State Office of Administrative Hearings.<sup>36</sup>

Victoria's application was declared administratively complete on November 15 2010. The Executive Director used the additional information that Victoria submitted (January 14, 2011, March 9, 2011, April 1, 2011, and May 17, 2011) to complete the technical review; a copy of these letters is available by contacting the Office of the Chief Clerk at 512-239-3300.

The January 14, 2011 letter is Victoria's response to technical comments from the permit writer on the permit application.

The March 9, 2011 letter is Victoria's response to comments from the permit writer about redundancy in facility design.

The April 1, 2011 letter is an e-mail exchange between the consultant and the permit writer regarding the permit numbers for Victoria's two existing wastewater treatment facilities.

The May 17, 2011 letter references Victoria's comments on the draft permit.

---

<sup>36</sup> 30 TAC §39.405(g)(2).

**COMMENT 43:**

Sister Patrice Schorp expressed concern that the application omits and does not identify the areas to be served outside the Victoria city limits as identified in Exhibit A, Justification of Wastewater Need, which states “The proposed Odem Street WWTP service area will serve some Victoria County residents located outside the City Limits...”

**RESPONSE 43:**

Victoria’s application justifies the need for the facility by indicating the projected flows, i.e., population projection and unit wastewater generation rate. The application does not require the specific areas to be identified in justifying the proposed flows.<sup>37</sup>

**COMMENT 44:**

Sister Patrice Schorp expressed concern that the Laboratory Accreditation under Item 14 of the application is signed by the city of Victoria public works director but does not provide the credentials of any laboratory licenses, certifications or accreditation.

**RESPONSE 44:**

Item 14 of the Domestic Wastewater Permit Application Technical Report requires that applicants certify all laboratory tests must meet the requirements of 30 TAC Chapter 25. TCEQ does not require applicants to identify the analytical laboratories that they intend to use; the certification is used to put applicants on notice that when they provide analytical results to the TCEQ, the results must be from a laboratory that meets the requirements of 30 TAC Chapter 25. Because the Odem Street WWTP has not been built, Victoria was not required to submit analytical results with its

---

<sup>37</sup> City of Victoria, Permit Application, Technical Report, Exhibit A.

application. The certification by the public works director indicates he is aware that any results submitted in the future must comply with 30 TAC Chapter 25.

**COMMENT 45:**

Kevin McNary expressed concern that the Annual Pretreatment Program Status Report from GBRA, dated March 5, 2010, may not have been signed by the appropriate person because the report was signed by the City of Victoria Public Works Director. Kevin McNary also noted that the Annual Pretreatment Program Status Report does not provide information on the credentials of any laboratory, or any information on any laboratory licenses, certifications or accreditations.

**RESPONSE 45:**

The TCEQ does not require that permittees with an approved TPDES pretreatment program submit the actual laboratory analytical reports for the samples collected at each WWTP's influent and effluent. Permittees are only required to submit the analytical data results in a tabulated format. The permittee is required to maintain the actual laboratory reports that include the signature from the laboratory's authorized representative. As required by 30 TAC Chapter 25, and as part of the permit application and TPDES permit requirements, permittees are required to use laboratories that are accredited and meet the Environmental Testing Laboratory Accreditation and Certification requirements.

**COMMENT 46:**

Sister Andrea Hubnik expressed concern that the Application did not provide information regarding whether the project would involve visual effects that could

damage or detract from a historic property's integrity. Sister Hubnick expressed concern that various structures exist on the property, there are no building construction dates provided by the applicant, and the potential for below ground level historic foundation structures may exist and merit archeological study and analysis. Sister Hubnick expressed concern that the site is one mile or less from Victoria's Historical District and the property may have historical significance because of its proximity to the Guadalupe River and Victoria's Historical District, including prehistoric sites, historical landmarks, prehistoric and historical artifact, historical structural foundations, and other land uses significant to the settling and founding of the City of Victoria that merit study and analysis.

**RESPONSE 46:**

The Supplemental Permit Information Form (SPIF) in Victoria's permit application was sent to the Texas Historical Commission. The TCEQ has not received any comments from the Texas Historical Commission.

**COMMENT 47:**

Rose McNary expressed concern that the landowners map and information was not submitted by the September 27, 2010 deadline; the landowners map and supporting information was not submitted until October 19, 2010 and November 8, 2010. According to Rose McNary, because of the delay all affected landowners may not have been identified or notified as required by the TCEQ, in violation of Texas Water Code Section 5.115.

**RESPONSE 47:**

It is normal business protocol for TCEQ staff to work with applicants on obtaining the necessary information to complete the application when the applicant is making a good faith effort to provide the information. TCEQ staff works with the applicants to obtain the landowners map, and may require applicants to submit additional details to the map that was originally submitted with the application, so that all potentially affected landowners are identified and subsequently notified.

For Victoria's application, staff could not confirm that the landowners map originally submitted with the application identified all potentially affected landowners; consequently, Victoria was requested to provide a revised map. These additional steps ensured that all potentially affected landowners were ultimately identified and notified.

**COMMENT 48:**

Rose McNary expressed concern that Victoria did not provide information that any permanent school fund land is affected by the application as required by Texas Water Code Section 5.115.

**RESPONSE 48:**

Victoria indicated that there is no permanent school fund land that is affected.<sup>38</sup>

**COMMENT 49:**

Erik Ganauser, Emily Perez, and Sister Maria expressed concern regarding the proximity of the proposed WWTP to a school and a Boys and Girls Club.

---

<sup>38</sup> See, Administrative Report, Page 12, Item 1.d.

**RESPONSE 49:**

Vitoria's proposed WWTP must comply with all the buffer zones required by 30 TAC § 309.13; TCEQ's rules do not include requirements for larger buffer zones near school or children's clubs. According to its permit application, Victoria will meet the buffer zone requirements by ownership.

In addition, the Texas Water Quality Standards require that discharges may not result in degrading the receiving waters, and may not result in situations that impair existing, attainable or designated uses, and that surface waters not be toxic to man, or to terrestrial or aquatic life. Provided Victoria meets its effluent limits, the Executive Director has determined that the surface water will not be degraded and the treated effluent will be disinfected to protect human health.

**COMMENT 50:**

Rose McNary expressed concern that the property had once been used by native American Indians. Sister Mildred Truchard inquired what would be considered Indian Land.

**RESPONSE 50:**

TCEQ asks for information regarding whether the proposed WWTP is located on or does the treated effluent cross American Indian Land because American Indian Tribes are independent sovereigns and therefore may not be covered by the TCEQ's TPDES permitting program.<sup>39</sup> For purposes of this question Indian Land is land held by a recognized American Indian Tribe.

---

<sup>39</sup> Instructions for Completing the Domestic Wastewater Permit Application, Page 29, Item 8.o.

**COMMENT 51:**

Dale Fowler, Dianne Jernigan, Steve Hipes, and Dorothy Aupperle expressed support of the proposed WWTP.

**RESPONSE 51:**

TCEQ acknowledges the comment in support of proposed WWTP.

**CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT**

No changes were made to the draft permit in response to comments.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.  
Executive Director

Robert Martinez, Director  
Environmental Law Division



---

Chrissie Angeletti, 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

**CERTIFICATE OF SERVICE**

I certify that on October 7, 2011, the "Executive Director's Response to Public Comment" for Permit No. WQ0010466002 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



---

Chrissie Angeletti, Staff Attorney  
Environmental Law Division

REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY