

DOCKET NUMBER 2011-2107-IWD

APPLICATION BY	§	BEFORE THE
UNITED STATES DEPARTMENT OF	§	TEXAS COMMISSION ON
ENERGY AND BABCOCK & WILCOX	§	ENVIRONMENTAL
TECHNICAL SERVICES PANTEX, LLC	§	QUALITY
FOR TCEQ PERMIT	§	
NO. WQ0002296000	§	

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUEST

I. Introduction

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to Hearing Request on the application by the United States Department of Energy and Babcock & Wilcox Technical Services Pantex, LLC (Pantex) for a renewal of Texas Water Quality permit number WQ0002296000. A timely contested case hearing request was filed by Mr. Ralph Guajardo.

Attached for Commission consideration are the following:

Attachment A	Satellite Map of Area
Attachment B	Fact Sheet and ED's Preliminary Decision
Attachment C	Draft Permit
Attachment D	ED's Response to Public Comment (RTC)
Attachment E	Compliance History

II. Description Of The Facility

Pantex, which operates the Pantex Plant, a facility principally engaged in the assembly of nuclear weapons from components received from other Department of Energy plants; the fabrication of chemical high explosive components for nuclear weapons; surveillance testing and processing of chemical high explosives; disassembly of nuclear weapons; maintenance, modification, repair and nonexplosive testing of nuclear weapons components; and disposal of treated environmental restoration wastewater, has applied to TCEQ for the renewal of Texas Water Quality Permit No. WQ0002296000, which authorizes the discharge of domestic effluent and industrial effluent at a daily average flow not to exceed 560,000 gallons per day and a maximum flow of 820,000 gallons per day.

The facility is located approximately 17 miles northeast of the City of Amarillo and 10 miles west of the City of Panhandle, west of Farm-to-Market Road 2373, south of Farm-to-Market Road 293 and north of U.S. Highway 60, Carson County, Texas. The effluent is discharged to a playa lake, located adjacent to the watershed of McClellan Creek,

which flows into the North Fork Red River in Segment No. 0224 of the Red River Basin. The designated uses for Segment No. 0224 are high aquatic life use and contact recreation.

III. Procedural Background

The application was received on June 1, 2010 and declared administratively complete on July 19, 2010. The ED completed the technical review of the application on December 21, 2010 and prepared a draft permit. The Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (NORI) was published on August 5, 2010 in the *Amarillo Globe News* and in the *Panhandle Herald*. The Notice of Application and Preliminary Decision (NAPD) was published on June 23, 2011 in the *Amarillo Globe News* and in the *Panhandle Herald/White Deer News*. The public comment period ended on July 25, 2011. The Executive Director's Response to Comment was filed on October 11, 2011 and the deadline to request a contested case hearing was November 14, 2011. This application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

IV. The Evaluation Process for Hearing Requests

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings. The Commission implemented HB 801 by adopting procedural rules in Title 30 of the Texas Administrative Code (30 TAC) Chapters 39, 50, and 55. This application is subject to the HB 801 requirements.

A. Responses to Requests

"The executive director, the public interest counsel, and the applicant may submit written responses to [hearing] requests . . ." 30 TAC § 55.209(d).

According to 30 TAC § 55.209(e), responses to hearing requests must specifically address:

- 1) whether the requestor is an affected person;
- 2) which issues raised in the hearing request are disputed;
- 3) whether the dispute involves questions of fact or of law;
- 4) whether the issues were raised during the public comment period;
- 5) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment;
- 6) whether the issues are relevant and material to the decision on the application; and
- 7) a maximum expected duration for the contested case hearing.

B. Hearing Request Requirements

In order for the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements. As noted in 30 TAC § 55.201(c):

A request for a contested case hearing by an affected person must be in writing, must be filed with the chief clerk within the time provided . . . and may not be based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment.

According to 30 TAC § 55.201(d), a hearing request must substantially comply with the following:

- 1) give the name, address, daytime telephone number, and where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;
- 2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;
- 3) request a contested case hearing;
- 4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director's responses to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law or policy; and
- 5) provide any other information specified in the public notice of application.

C. Requirement that Requestor be an "Affected Person"

In order to grant a contested case hearing, the Commission must determine that a requestor is an "affected person." The factors to consider in making this determination are found in 30 TAC § 55.203 and are as follows:

- 1) For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest

- affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.
- 2) Governmental entities, including local governments and public agencies with authority under state law over issues raised by the application may be considered affected persons.
 - 3) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
 - a) whether the interest claimed is one protected by the law under which the application will be considered;
 - b) distance restrictions or other limitations imposed by law on the affected interest;
 - c) whether a reasonable relationship exists between the interest claimed and the activity regulated;
 - d) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
 - e) likely impact of the regulated activity on use of the impacted natural resource by the person; and
 - f) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

D. Referral to the State Office of Administrative Hearings

30 TAC § 50.115(b) details how the Commission refers a matter to the State Office of Administrative Hearings: “When the commission grants a request for a contested case hearing, the commission shall issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing.” 30 TAC § 50.115(c) further states:

The commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue: (1) involves a disputed question of fact; (2) was raised during the public comment period; and (3) is relevant and material to the decision on the application.

E. Permit Applications Where There is No Right to a Contested Case Hearing

30 TAC § 55.201(i)(5) outlines when a renewal or amended permit application proposed to be issued under the Texas Water Code, Chapter 26, is not subject to a contested case hearing. A permit renewal or amendment is not subject to a contested case hearing when:

- 1) the applicant is not applying to:
 - a) increase significantly the quantity of waste authorized to be discharged; or
 - b) change materially the pattern or place of discharge;
- 2) the activity to be authorized by the renewal or amended permit will maintain or improve the quality of waste authorized to be discharged;
- 3) any required opportunity for public meeting has been given;
- 4) consultation and response to all timely received and significant public comment

- has been given; and
- 5) the applicant's compliance history for the previous five years raises no issues regarding the applicant's ability to comply with a material term of the permit;

V. Evaluation of Hearing Requests

A. Whether the Requestor Complied With 30 TAC §§ 55.201(c) and (d).

Mr. Guajardo submitted a timely written contested case hearing (CCH) request that included contact information and raised disputed issues.

The ED recommends finding that Mr. Guajardo substantially complied with 30 TAC §§ 55.201(c) and (d).

B. The Requestor Has no Right to a Contested Case Hearing on this Renewal Application

This is an application for renewal of a wastewater discharge permit and the Commission must determine whether there is a right to a contested case hearing. The CCH request in this case should be denied under TWC § 26.028(d) and 30 TAC § 55.201(i)(5), because there is no right to a contested case hearing for this permit renewal.

30 TAC § 55.201(i)(5) states that there is no right to a CCH for applications that seek to renew or amend a permit under Texas Water Code, Chapter 26, if: (1) the applicant is not applying to increase significantly the quantity of waste authorized to be discharged or change materially the pattern or place of discharge, (2) The activity to be authorized by the renewal or amended permit will maintain or improve the quality of waste authorized to be discharged, (3) Any required opportunity for public meeting has been given, (4) Consultation and response to all timely received and significant public comment was done, and (5) The applicant's compliance history for the previous five years raises no issues regarding the applicant's ability to comply with a material term of the permit.

This application seeks to renew TCEQ permit no. WQ0002296000. The permit would authorize the same wastewater discharge as does the existing permit with the same effluent limits, so it does not increase significantly the quantity or quality of waste to be discharged and maintains the quality of waste authorized to be discharged. The current draft permit also authorizes the waste water discharge at the same outfall as the existing permit. Therefore, the application does not materially change the place or pattern of discharge.

No public meeting was held for this application. The only public meeting request on the Pantex application was also made by Mr. Guajardo, so the ED determined that there was not sufficient public interest to hold a public meeting on the permit application. Additionally, the only public comments received by the ED on this application were

made by Mr. Guajardo. The ED responded to all of Mr. Guajardo's relevant and material comments in the RTC filed on October 11, 2011. *See Attachment D.*

The compliance history for Pantex raises no issues concerning the ability of the applicant to comply with the terms of the draft permit. Pantex has a classification of "Average" and an overall numerical rating of 2.60. The site also has a classification of "Average" and a numerical rating of 0.15. *See Attachment E.* There were no documented violations in the past five years relating to this permit.

However, Pantex had two water quality violations in the last five years associated with the Texas Land Application Permit, WQ0004397000. Note also that the compliance history for Pantex lists in excess of 25 permit authorizations, and registrations issued for operations at this facility, and that other than the two water quality violations, no other notice of violations (NOVs) were issued for violations of any other permit, authorization, or registration held by Pantex for operations at this facility in the past five years. Therefore, the ED recommends finding that the compliance history raises no issues regarding Pantex's ability to comply with a material term of the permit.

The ED recommends that the Commission find that Mr. Guajardo is not entitled to a contested case hearing under TWC § 26.028(d) and 30 TAC § 55.201(i)(5).

VII. Executive Director's Recommendation

The ED recommends the following actions by the Commission:

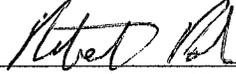
1. Find that there is no right to a contested case hearing under TWC § 26.028(d) and 30 TAC § 55.201(i)(5);
2. Deny Mr. Guajardo's contested case hearing request.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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

Robert Martinez, Director
Environmental Law Division

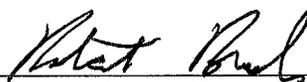
By 
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Representing the Executive Director of the
TCEQ

P.O. Box 13087, MC-173
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(512) 239-5600
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CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2012 the original and seven true and correct copies of the "Executive Director's Response to Hearing Request" relating to the application of the United States Department of Energy and Babcock & Wilcox Technical Services Pantex, LLC for Texas Water Quality Permit No. WQ0002296000 were filed with the Chief Clerk of the TCEQ and a copy was served to all persons listed on the attached mailing list via email, hand delivery, facsimile transmission, inter-agency mail, or by deposit in the U.S. Mail.



Robert D. Brush, Staff Attorney
Environmental Law Division
State Bar No. 00788772

MAILING LIST
FOR PERMIT NO. WQ0002296000
United States Department of Energy and Babcock & Wilcox Technical Services Pantex, LLC.

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FOR THE REQUESTOR

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743239-Offender
William Clements State Prison
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Amarillo, Texas 79107

ATTACHMENT A

U.S. Dept of Energy Pantex Plant

WQ0002296000

Map Requested by TCEQ Office of Legal Services
for Commissioners' Agenda



Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
December 12, 2011

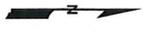


Projection: Texas Statewide Mapping System (TSMMS)
Scale 1:82,000

- Legend**
- Requestor
 - Pantex Plant

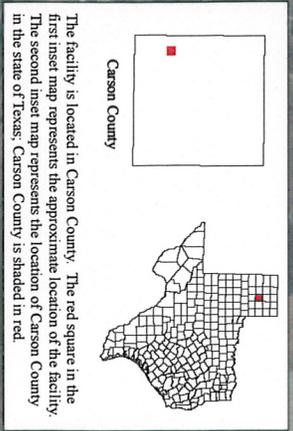
Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor. The vector data are U.S. Census Bureau 1992 TIGER/Line Data (1:100,000). The background of this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

- This map depicts the following:
- (1) Point representing the location of the plant. This is labeled Pantex Plant.
 - (2) Point representing the location of the requestor.
 - (3) One-mile radius. This is labeled "1-Mile Radius".



This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.

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

ATTACHMENT B

TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

DESCRIPTION OF APPLICATION

Applicant: United States Department of Energy and Babcock & Wilcox Technical Services Pantex, LLC; Texas Water Quality Permit No. WQ0002296000.

Regulated Activity: Industrial Wastewater Permit.

Type of Application: Renewal.

Request: Renewal without changes.

Authority: Texas Water Code §26.027; 30 TAC Chapter 305, Subchapters C-F, Chapters 307 and 319, and Commission Policies.

EXECUTIVE DIRECTOR RECOMMENDATION

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. It is proposed the permit be issued to expire on December 1, 2015 in accordance with 30 TAC §305.71, Basin Permitting.

REASON FOR PROJECT PROPOSED

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a renewal of its existing permit.

PROJECT DESCRIPTION AND LOCATION

The applicant operates the Pantex Plant, a facility principally engaged in the assembly of nuclear weapons from components received from other Department of Energy plants; the fabrication of chemical high explosive components for nuclear weapons; surveillance testing and processing of chemical high explosives; disassembly of nuclear weapons; maintenance, modification, repair and nonexplosive testing of nuclear weapons components; and disposal of treated environmental restoration wastewater.

The wastewater system consists of a facultative lagoon, an alternate lagoon, and a holding pond. Wastewater enters the facultative lagoon after passing through a bar screen and is treated via biological activity. Commercially available products may be introduced to reduce algae in the facultative lagoon. The average retention time in the facultative lagoon is approximately 42 days. Effluent is then directed to the holding pond or alternate lagoon prior to discharge via Outfall 001 or disposal via TCEQ Permit No. WQ0004397000 (subsurface irrigation of effluent). Pretreated wastewaters from on-site environmental restoration activities are routed to one of the storage lagoons prior to discharge via Outfall 001 or disposal via TCEQ Permit No. WQ0004397000. The applicant also has two pump and treat systems designed to remove and treat perched groundwater and reuse the treated water for beneficial use. UIC authorization 5W2000017 is also utilized as an alternate means of disposal of the effluent that is authorized to be discharged via this permit. UIC authorization 5W2000017 authorizes the subsurface injection of effluent via the subsurface drip irrigation system (normally authorized via TCEQ Permit No. WQ0004397000) when those irrigation tracts are fallow.

The effluent is a mixture of domestic sewage and industrial wastewater (non-contact wastewaters from heating and cooling, cooling tower blowdown, reverse osmosis system and ion-exchange columns brine, boiler wastewater, steam condensate, chiller condensate wastewater, wastewater from laundry activities, photographic processing wash water, wastewater from the production of energetic, energetic machining wastewaters, wastewater from vehicle maintenance facilities, and wastewater from groundwater remediation activities).

TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION
TCEQ Permit No. WQ0002296000

The plant site is located approximately 17 miles northeast of the City of Amarillo and 10 miles west of the City of Panhandle, west of Farm-to-Market Road 2373, south of Farm-to-Market Road 293 and north of U.S. Highway 60, Carson County, Texas.

The effluent is discharged to a playa lake, located adjacent to the watershed of McClellan Creek which flows into the North Fork Red River in Segment No. 0224 of the Red River Basin. The designated uses for Segment No. 0224 are high aquatic life use and contact recreation. The effluent limits in the draft permit will maintain and protect the existing instream uses. All determinations are preliminary and subject to additional review and/or revisions.

Segment No. 0224 is not currently listed on the State's inventory of impaired and threatened waters, (the 2008 Clean Water Act Section 303(d) list).

SUMMARY OF EFFLUENT DATA

Self-reporting data is not available.

PROPOSED PERMIT CONDITIONS

The draft permit authorizes a discharge of domestic effluent and industrial effluent at a daily average flow not to exceed 0.56 million gallons per day via Outfall 001.

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

<u>Outfall Number</u>	<u>Pollutant</u>	<u>Daily Average</u>	<u>Daily Maximum</u>
001	Flow (MGD)	0.56 MGD	0.82 MGD
	Biochemical Oxygen Demand (5-day)	30 mg/l	70 mg/l
	Chemical Oxygen Demand	N/A	150 mg/l
	Total Suspended Solids	60 mg/l	90 mg/l
	Oil and Grease	N/A	15 mg/l
	Copper (total)	0.5 mg/l	1.0 mg/l
	Manganese (total)	1.0 mg/l	2.0 mg/l
	Zinc (total)	1.0 mg/l	2.0 mg/l
	HMX	0.1 mg/l	Report (mg/l)
	RDX	0.2 mg/l	Report (mg/l)
	PETN	0.4 mg/l	Report (mg/l)
	TNT	0.02 mg/l	Report (mg/l)
	pH	6.0 SU (min)	10.0 SU
	Total Residual Chlorine (*1)	1.0 mg/l (min)	4.0 mg/l

(*1) The domestic sewage effluent shall 1) have a minimum residence time in the treatment system of 21 days before discharge via Outfall 001; or 2) contain a chlorine residual of at least 1.0 mg/l and a maximum chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow).

TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION
TCEQ Permit No. WQ0002296000

Effluent limitations and/or monitoring requirements have been continued from the current permit and were originally established as follows:

- * Effluent limitations for biochemical oxygen demand (5-day) and total suspended solids are continued from the current permit and were previously based on best professional judgment (BPJ) to establish technology-based limitations.
- * Effluent limitations for chemical oxygen demand, oil and grease and pH were previously based on the effluent limitations the TCEQ typically imposes on industrial wastewaters and were established as BPJ technology-based limitations.
- * Effluent limitation and monitoring requirement for total residual chlorine were continued from the current permit and based on disinfection requirements for treated sanitary wastewater. These limitations and monitoring requirements are only required when the permittee cannot maintain a minimum residence time in the treatment system of 21 days before discharge via Outfall 001. The 21 days residence time requirement is based on TCEQ rule 30 TAC 309.3(g)(5).
- * Effluent limitations and monitoring requirements for total copper, total manganese, and total zinc at Outfall 001 are based on 30 TAC 319.22.
- * Effluent limitations and monitoring requirements for HMX, RDX, PETN, and TNT are continued from the current permit and were established as BPJ technology-based limitations.

Biomonitoring requirements are not included in the draft permit.

SUMMARY OF CHANGES FROM APPLICATION

No changes were made from the application.

See the next section for additional changes to the existing permit.

SUMMARY OF CHANGES FROM EXISTING PERMIT

The following additional changes have been made to the draft permit:

- * The permit includes the most current standard language for Standard Permit Conditions (Pages 3-11).
- * Other Requirements Provision No. 11 was modified to include the following sentence:

“The requirements of this provision are suspended until such time that the Executive Director provides the permittee with written directive to resume conducting the actions required in this provision.”

This sentence was added to acknowledge the submission of the Triaminotrinitrobenzene (TATB) Method Modification Application via letter dated December 17, 2008.

TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION
TCEQ Permit No. WQ0002296000

BASIS FOR PROPOSED DRAFT PERMIT

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

1. Application submitted with letter dated June 1, 2010. Additional information received via letter dated June 28, 2010.
2. Existing permits: TCEQ Permit No. WQ0002296000 issued June 24, 2008.
3. TCEQ Rules.
4. "Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, January 2003.
5. "Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits," TCEQ Document No. 98-001.000-OWR-WQ, May 1998.
6. EPA Effluent Guidelines: N/A
7. Consistency with the Coastal Management Plan: N/A

PROCEDURES FOR FINAL DECISION

When an application is declared administratively complete, the Chief Clerk sends a letter to the applicant advising the applicant to publish the Notice of Receipt of Application and Intent to Obtain Permit in the newspaper. In addition, the Chief Clerk instructs the applicant to place a copy of the application in a public place for review and copying in the county where the facility is or will be located. This application will be in a public place throughout the comment period. The Chief Clerk also mails this notice to any interested persons and, if required, to landowners identified in the permit application. This notice informs the public about the application, and provides that an interested person may file comments on the application or request a contested case hearing or a public meeting.

Once a draft permit is completed, it is sent, along with the Executive Director's preliminary decision, as contained in the technical summary or fact sheet, to the Chief Clerk. At that time, Notice of Application and Preliminary Decision will be mailed to the same people and published in the same newspaper as the prior notice. This notice sets a deadline for making public comments. The applicant must place a copy of the Executive Director's preliminary decision and draft permit in the public place with the application. This notice sets a deadline for public comment.

Any interested person may request a public meeting on the application until the deadline for filing public comments. A public meeting is intended for the taking of public comment, and is not a contested case proceeding. After the public comment deadline, the Executive Director prepares a response to all significant public comments on the application or the draft permit raised during the public comment period. The Chief Clerk then mails the Executive Director's Response to Comments and Final Decision to people who have filed comments, requested a contested case hearing, or requested to be on the mailing list. This notice provides that if a person is not satisfied with the Executive Director's response and decision, they can request a contested case hearing or file a request to reconsider the Executive Director's decision within 30 days after the notice is mailed.

The Executive Director will issue the permit unless a written hearing request or request for reconsideration is filed within 30 days after the Executive Director's Response to Comments and Final Decision is mailed. If a hearing request or request for reconsideration is filed, the Executive Director will not issue the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION
TCEQ Permit No. WQ0002296000

If the Executive Director calls a public meeting or the Commission grants a contested case hearing as described above, the Commission will give notice of the date, time, and place of the meeting or hearing. If a hearing request or request for reconsideration is made, the Commission will consider all public comments in making its decision and shall either adopt the Executive Director's response to public comments or prepare its own response.

For additional information about this application contact Michael Sunderlin at (512) 239-4523.

Michael Sunderlin

Date

ATTACHMENT C



TCEQ PERMIT NO. WQ0002296000

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
P.O. Box 13087
Austin, Texas 78711-3087

This is a renewal of TCEQ Permit No.
WQ0002296000 issued on June 24,
2008.

PERMIT TO DISCHARGE WASTES
under provisions of
Chapter 26 of the Texas Water Code

United States Department of Energy (Owner)

and

Babcock & Wilcox Technical Services Pantex, LLC (Operator)

whose mailing address is

P.O. Box 30030
Amarillo, Texas 79120-0030

is authorized to treat and discharge wastes from the Pantex Plant, a facility principally engaged in the assembly of nuclear weapons from components received from other Department of Energy plants; the fabrication of chemical high explosive components for nuclear weapons; surveillance testing and processing of chemical high explosives; disassembly of nuclear weapons; maintenance, modification, repair and nonexplosive testing of nuclear weapons components; and disposal of treated environmental restoration wastewater, (SIC 2892 & 3483)

located approximately 17 miles northeast of the City of Amarillo and 10 miles west of the City of Panhandle, west of Farm-to-Market Road 2373, south of Farm-to-Market Road 293 and north of U.S. Highway 60, Carson County, Texas

to a playa lake, located adjacent to the watershed of McClellan Creek which flows into the North Fork Red River in Segment No. 0224 of the Red River Basin

only according to effluent limitations, monitoring requirements and other conditions set forth in this permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ), the laws of the State of Texas, and other orders of the TCEQ. The issuance of this permit does not grant to the permittee the right to use private or public property for conveyance of wastewater along the discharge route described in this permit. This includes, but is not limited to, property belonging to any individual, partnership, corporation, or other entity. Neither does this permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to use the discharge route.

This permit shall expire at midnight on December 1, 2015.

ISSUED DATE:

For the Commission

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

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

The daily average flow of effluent shall not exceed 0.56 million gallons per day (MGD). The total volume discharged during any 24-hour period shall not exceed 0.82 million gallons.

Effluent Characteristics	Discharge Limitations		Minimum Self-Monitoring Requirements		
	Daily Average mg/L	Daily Maximum mg/L	Single Grab mg/L	Report Daily Average and Daily Maximum Measurement Frequency	Sample Type
Flow (MGD)	0.56 MGD	0.82 MGD	N/A	Continuous	Flow Meter
Biochemical Oxygen Demand (5-day)	30	70	100	1/week	Composite
Chemical Oxygen Demand	N/A	150	150	1/month	Composite
Total Suspended Solids	60	90	100	1/week	Composite
Oil and Grease	N/A	15	15	1/week	Grab
Copper (total)	0.5	1.0	2.0	1/quarter	Grab *1
Manganese (total)	1.0	2.0	3.0	1/quarter	Grab *1
Zinc (total)	1.0	2.0	6.0	1/quarter	Grab *1
HMX	0.1	Report	N/A	1/quarter	Grab *1
RDX	0.2	Report	N/A	1/quarter	Grab *1
PETN	0.4	Report	N/A	1/quarter	Grab *1
TNT	0.02	Report	N/A	1/quarter	Grab *1

*1 Composite sample may be used in lieu of grab sample.

- The domestic sewage effluent shall 1) have a minimum residence time in the treatment system of 21 days before discharge via Outfall 001; or 2) contain a chlorine residual of at least 1.0 mg/l and a maximum chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow), and shall be monitored 5/week, by grab sample. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.
- The pH shall not be less than 6.0 standard units nor greater than 10.0 standard units and shall be monitored 1/day, by grab sample.
- There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
- Effluent monitoring samples shall be taken at the following location: At Outfall 001, prior to discharges to Playa No. 1, at the outlet weir from the wastewater treatment lagoon.

DEFINITIONS AND STANDARD PERMIT CONDITIONS

As required by Title 30 Texas Administrative Code (TAC) Chapter 305, certain regulations appear as standard conditions in waste discharge permits. 30 TAC §§305.121 - 305.129 (relating to Permit Characteristics and Conditions) as promulgated under the Texas Water Code (TWC) §§5.103 and 5.105, and the Texas Health and Safety Code (THSC) §§361.017 and 361.024(a), establish the characteristics and standards for waste discharge permits, including sewage sludge. The following text includes these conditions and incorporates them into this permit. All definitions in Texas Water Code §26.001 and 30 TAC Chapter 305 shall apply to this permit and are incorporated by reference. Some specific definitions of words or phrases used in this permit are as follows:

1. Flow Measurements

- a. Annual average flow - the arithmetic average of all daily flow determinations taken within the preceding 12 consecutive calendar months. The annual average flow determination shall consist of daily flow volume determinations made by a totalizing meter, charted on a chart recorder, and limited to major domestic wastewater discharge facilities with a one million gallons per day or greater permitted flow.
- b. Daily average flow - the arithmetic average of all determinations of the daily flow within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily flow, the determination shall be the arithmetic average of all instantaneous measurements taken during that month. Daily average flow determination for intermittent discharges shall consist of a minimum of three flow determinations on days of discharge.
- c. Daily maximum flow - the highest total flow for any 24-hour period in a calendar month.
- d. Instantaneous flow - the measured flow during the minimum time required to interpret the flow measuring device.
- e. 2-hour peak flow (domestic wastewater treatment plants) - the maximum flow sustained for a two-hour period during the period of daily discharge. The average of multiple measurements of instantaneous maximum flow within a two-hour period may be used to calculate the 2-hour peak flow.
- f. Maximum 2-hour peak flow (domestic wastewater treatment plants) - the highest 2-hour peak flow for any 24-hour period in a calendar month.

2. Concentration Measurements

- a. Daily average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar month, consisting of at least four separate representative measurements.
 - i. For domestic wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values in the previous four consecutive month period consisting of at least four measurements shall be utilized as the daily average concentration.
 - ii. For all other wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values taken during the month shall be utilized as the daily average concentration.
- b. 7-day average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar week, Sunday through Saturday.
- c. Daily maximum concentration - the maximum concentration measured on a single day, by the sample type specified in the permit, within a period of one calendar month.
- d. Daily discharge - the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the sampling day.

The "daily discharge" determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the "daily discharge" determination of concentration shall be the arithmetic average (weighted by flow value) of all samples collected during that day.

- e. Bacteria concentration (Fecal coliform, E. coli, or Enterococci) – the number of colonies of bacteria per 100 milliliters effluent. The daily average bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month. The geometric mean shall be determined by calculating the nth root of the product of all measurements made in a calendar month, where n equals the number of measurements made; or computed as the antilogarithm of the arithmetic mean of the logarithms of all measurements of made in a calendar month. For any measurement of bacteria equaling zero, a substitute value of one shall made for input into either computation method. If specified, the 7-day average for bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
- f. Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as (Flow, MGD x Concentration, mg/l x 8.34).
- g. Daily maximum loading (lbs/day) - the highest daily discharge, in terms of mass (lbs/day), within a period of one calendar month.

3. Sample Type

- a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC §319.9 (a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC §319.9 (b).
 - b. Grab sample - an individual sample collected in less than 15 minutes.
- 4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.
 - 5. The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids that have not been classified as hazardous waste separated from wastewater by unit processes.
 - 6. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

MONITORING AND REPORTING REQUIREMENTS

1. Self-Reporting

Monitoring results shall be provided at the intervals specified in the permit. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall conduct effluent sampling and reporting in accordance with 30 TAC §§319.4 - 319.12. Unless otherwise specified, a monthly effluent report shall be submitted each month, to the Enforcement Division (MC 224), by the 20th day of the following month for each discharge that is described by this permit whether or not a discharge is made for that month. Monitoring results must be reported on an approved self-report form that is signed and certified as required by Monitoring and Reporting Requirements No. 10.

As provided by state law, the permittee is subject to administrative, civil and criminal penalties, as applicable, for negligently or knowingly violating the TWC Chapters 26, 27, and 28; and THSC Chapter 361, including but not limited to knowingly making any false statement, representation, or certification on any report, record, or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, or falsifying, tampering with or knowingly rendering inaccurate any monitoring device or method required by this permit or violating any other requirement imposed by state or federal regulations.

2. Test Procedures

- a. Unless otherwise specified in this permit, test procedures for the analysis of pollutants shall comply with procedures specified in 30 TAC §§319.11 - 319.12. Measurements, tests, and calculations shall be accurately accomplished in a representative manner.
- b. All laboratory tests submitted to demonstrate compliance with this permit must meet the requirements of 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification.

3. Records of Results

- a. Monitoring samples and measurements shall be taken at times and in a manner so as to be representative of the monitored activity.
- b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, records of all data used to complete the application for this permit, and the certification required by 40 CFR §264.73(b)(9) shall be retained at the facility site, or shall be readily available for review by a TCEQ representative for a period of three years from the date of the record or sample, measurement, report, application or certification. This period shall be extended at the request of the Executive Director.
- c. Records of monitoring activities shall include the following:
 - i. date, time, and place of sample or measurement;
 - ii. identity of individual who collected the sample or made the measurement.
 - iii. date and time of analysis;
 - iv. identity of the individual and laboratory who performed the analysis;
 - v. the technique or method of analysis; and
 - vi. the results of the analysis or measurement and quality assurance/quality control records.

The period during which records are required to be kept shall be automatically extended to the date of the final disposition of any administrative or judicial enforcement action that may be instituted against the permittee.

4. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit using approved analytical methods as specified above, all results of such monitoring shall be included in the calculation and reporting of the values submitted on the approved self-report form. Increased frequency of sampling shall be indicated on the self-report form.

5. Calibration of Instruments

All automatic flow measuring or recording devices and all totalizing meters for measuring flows shall be accurately calibrated by a trained person at plant start-up and as often thereafter as necessary to ensure accuracy, but not less often than annually unless authorized by the Executive Director for a longer period. Such person shall verify in writing that the device is operating properly and giving accurate results. Copies of the verification shall be retained at the facility site and/or shall be readily available for review by a TCEQ representative for a period of three years.

6. Compliance Schedule Reports

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date to the Regional Office and the Enforcement Division (MC 224).

7. Noncompliance Notification

- a. In accordance with 30 TAC §305.125(9) any noncompliance that may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ. Report of such information shall be provided orally or by facsimile transmission (FAX) to the Regional Office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the Regional Office and the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.
- b. The following violations shall be reported under Monitoring and Reporting Requirement 7.a.:
 - i. Unauthorized discharges as defined in Permit Condition 2(g).
 - ii. Any unanticipated bypass that exceeds any effluent limitation in the permit.
 - iii. Violation of a permitted maximum daily discharge limitation for pollutants listed specifically in the Other Requirements section of an Industrial Texas Water Quality discharge permit.

- c. In addition to the above, any effluent violation that deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the Regional Office and the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.
 - d. Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Enforcement Division (MC 224) as promptly as possible. For effluent limitation violations, noncompliances shall be reported on the approved self-report form.
8. In accordance with the procedures described in 30 TAC §§35.301 - 35.303 (relating to Water Quality Emergency and Temporary Orders) if the permittee knows in advance of the need for a bypass, it shall submit prior notice by applying for such authorization.
9. Changes in Discharges of Toxic Substances

All existing manufacturing, commercial, mining, and silvicultural permittees shall notify the Regional Office, orally or by facsimile transmission within 24 hours, and both the Regional Office and the Enforcement Division (MC 224) in writing within five (5) working days, after becoming aware of or having reason to believe:

- a. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant listed at 40 CFR Part 122, Appendix D, Tables II and III (excluding Total Phenols) that is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - i. One hundred micrograms per liter (100 µg/L);
 - ii. Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
 - iii. Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
 - iv. The level established by the TCEQ.
- b. That any activity has occurred or will occur that would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant that is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - i. Five hundred micrograms per liter (500 µg/L);
 - ii. One milligram per liter (1 mg/L) for antimony;
 - iii. Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
 - iv. The level established by the TCEQ.

10. Signatories to Reports

All reports and other information requested by the Executive Director shall be signed by the person and in the manner required by 30 TAC §305.128 (relating to Signatories to Reports).

11. All Publicly Owned Treatment Works (POTWs) must provide adequate notice to the Executive Director of the following:
- a. Any new introduction of pollutants into the POTW from an indirect discharger that would be subject to CWA §301 or §306 if it were directly discharging those pollutants;
 - b. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit; and
 - c. For the purpose of this paragraph, adequate notice shall include information on:
 - i. The quality and quantity of effluent introduced into the POTW; and
 - ii. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

PERMIT CONDITIONS

1. General

- a. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in an application or in any report to the Executive Director, it shall promptly submit such facts or information.

- b. This permit is granted on the basis of the information supplied and representations made by the permittee during action on an application, and relying upon the accuracy and completeness of that information and those representations. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked, in whole or in part, in accordance with 30 TAC Chapter 305, Subchapter D, during its term for good cause including, but not limited to, the following:
 - i. Violation of any terms or conditions of this permit;
 - ii. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
 - iii. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- c. The permittee shall furnish to the Executive Director, upon request and within a reasonable time, any information to determine whether cause exists for amending, revoking, suspending, or terminating the permit. The permittee shall also furnish to the Executive Director, upon request, copies of records required to be kept by the permit.

2. Compliance

- a. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment and agreement that such person will comply with all the terms and conditions embodied in the permit, and the rules and other orders of the Commission.
- b. The permittee has a duty to comply with all conditions of the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Health and Safety Code, and is grounds for enforcement action, for permit amendment, revocation, or suspension, or for denial of a permit renewal application or an application for a permit for another facility.
- c. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
- d. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment.
- e. Authorization from the Commission is required before beginning any change in the permitted facility or activity that may result in noncompliance with any permit requirements.
- f. A permit may be amended, suspended and reissued, or revoked for cause in accordance with 30 TAC §§305.62 and 305.66 and TWC §7.302. The filing of a request by the permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- g. There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Other Requirements section of this permit.
- h. In accordance with 30 TAC §305.535(a), the permittee may allow any bypass to occur from a TCEQ permitted facility that does not cause permitted effluent limitations to be exceeded or an unauthorized discharge to occur, but only if the bypass is also for essential maintenance to assure efficient operation.
- i. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under Texas Water Code §§7.051 - 7.075 (relating to Administrative Penalties), 7.101 - 7.111 (relating to Civil Penalties), and 7.141 - 7.202 (relating to Criminal Offenses and Penalties) for violations including, but not limited to, negligently or knowingly violating the federal CWA §§301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under the CWA § 402, or any requirement imposed in a pretreatment program approved under the CWA §§402 (a)(3) or 402 (b)(8).

3. Inspections and Entry

- a. Inspection and entry shall be allowed as prescribed in the TWC Chapters 26, 27, and 28, and THSC Chapter 361.

- b. The members of the Commission and employees and agents of the Commission are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit, or other order of the Commission. Members, employees, or agents of the Commission and Commission contractors are entitled to enter public or private property at any reasonable time to investigate or monitor or, if the responsible party is not responsive or there is an immediate danger to public health or the environment, to remove or remediate a condition related to the quality of water in the state. Members, employees, Commission contractors, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials. If any member, employee, Commission contractor, or agent is refused the right to enter in or on public or private property under this authority, the Executive Director may invoke the remedies authorized in TWC §7.002. The statement above, that Commission entry shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection, is not grounds for denial or restriction of entry to any part of the facility, but merely describes the Commission's duty to observe appropriate rules and regulations during an inspection.

4. Permit Amendment and/or Renewal

- a. The permittee shall give notice to the Executive Director as soon as possible of any planned physical alterations or additions to the permitted facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements. Notice shall also be required under this paragraph when:
 - i. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in accordance with 30 TAC §305.534 (relating to New Sources and New Dischargers); or
 - ii. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations in the permit, nor to notification requirements in Monitoring and Reporting Requirements No. 9;
 - iii. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
- b. Prior to any facility modifications, additions, or expansions that will increase the plant capacity beyond the permitted flow, the permittee must apply for and obtain proper authorization from the Commission before commencing construction.
- c. The permittee must apply for an amendment or renewal at least 180 days prior to expiration of the existing permit in order to continue a permitted activity after the expiration date of the permit. If an application is submitted prior to the expiration date of the permit, the existing permit shall remain in effect until the application is approved, denied, or returned. If the application is returned or denied, authorization to continue such activity shall terminate upon the effective date of the action. If an application is not submitted prior to the expiration date of the permit, the permit shall expire and authorization to continue such activity shall terminate.
- d. Prior to accepting or generating wastes that are not described in the permit application or that would result in a significant change in the quantity or quality of the existing discharge, the permittee must report the proposed changes to the Commission. The permittee must apply for a permit amendment reflecting any necessary changes in permit conditions, including effluent limitations for pollutants not identified and limited by this permit.
- e. In accordance with the TWC §26.029(b), after a public hearing, notice of which shall be given to the permittee, the Commission may require the permittee, from time to time, for good cause, in accordance with applicable laws, to conform to new or additional conditions.

5. Permit Transfer

- a. Prior to any transfer of this permit, Commission approval must be obtained. The Commission shall be notified in writing of any change in control or ownership of facilities authorized by this permit. Such notification should be sent to the Applications Review and Processing Team (MC 148) of the Water Quality Division.
- b. A permit may be transferred only according to the provisions of 30 TAC §305.64 (relating to Transfer of Permits) and 30 TAC §50.133 (relating to Executive Director Action on Application or WQMP update).

6. Relationship to Hazardous Waste Activities

This permit does not authorize any activity of hazardous waste storage, processing, or disposal that requires a permit or other authorization pursuant to the Texas Health and Safety Code.

7. Relationship to Water Rights

Disposal of treated effluent by any means other than discharge directly to water in the state must be specifically authorized in this permit and may require a permit pursuant to Texas Water Code Chapter 11.

8. Property Rights

A permit does not convey any property rights of any sort, or any exclusive privilege.

9. Permit Enforceability

The conditions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

10. Relationship to Permit Application

The application pursuant to which the permit has been issued is incorporated herein; provided, however, that in the event of a conflict between the provisions of this permit and the application, the provisions of the permit shall control.

11. Notice of Bankruptcy.

a. Each permittee shall notify the executive director, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code (11 USC) by or against:

- i. the permittee;
- ii. an entity (as that term is defined in 11 USC, §101(15)) controlling the permittee or listing the permit or permittee as property of the estate; or
- iii. an affiliate (as that term is defined in 11 USC, §101(2)) of the permittee.

b. This notification must indicate:

- i. the name of the permittee;
- ii. the permit number(s);
- iii. the bankruptcy court in which the petition for bankruptcy was filed; and
- iv. the date of filing of the petition.

OPERATIONAL REQUIREMENTS

1. The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control. Process control, maintenance, and operations records shall be retained at the facility site, or shall be readily available for review by a TCEQ representative, for a period of three years.
2. Upon request by the Executive Director, the permittee shall take appropriate samples and provide proper analysis in order to demonstrate compliance with Commission rules. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall comply with all applicable provisions of 30 TAC Chapter 312 concerning sewage sludge use and disposal and 30 TAC §§319.21 - 319.29 concerning the discharge of certain hazardous metals.
3. Domestic wastewater treatment facilities shall comply with the following provisions:
 - a. The permittee shall notify the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, in writing, of any facility expansion at least 90 days prior to conducting such activity.
 - b. The permittee shall submit a closure plan for review and approval to the Land Application Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, for any closure activity at least 90 days prior to conducting such activity. Closure is the act of permanently taking a waste management unit or treatment facility out of service and includes the permanent removal from service of any pit, tank, pond, lagoon, surface impoundment and/or other treatment unit regulated by this permit.
4. The permittee is responsible for installing prior to plant start-up, and subsequently maintaining, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

5. Unless otherwise specified, the permittee shall provide a readily accessible sampling point and, where applicable, an effluent flow measuring device or other acceptable means by which effluent flow may be determined.
6. The permittee shall remit an annual water quality fee to the Commission as required by 30 TAC Chapter 21. Failure to pay the fee may result in revocation of this permit under TWC §7.302(b)(6).
7. Documentation

For all written notifications to the Commission required of the permittee by this permit, the permittee shall keep and make available a copy of each such notification under the same conditions as self-monitoring data are required to be kept and made available. Except for information required for TCEQ permit applications, effluent data, including effluent data in permits, draft permits and permit applications, and other information specified as not confidential in 30 TAC §1.5(d), any information submitted pursuant to this permit may be claimed as confidential by the submitter. Any such claim must be asserted in the manner prescribed in the application form or by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, information may be made available to the public without further notice. If the Commission or Executive Director agrees with the designation of confidentiality, the TCEQ will not provide the information for public inspection unless required by the Texas Attorney General or a court pursuant to an open records request. If the Executive Director does not agree with the designation of confidentiality, the person submitting the information will be notified.

8. Facilities that generate domestic wastewater shall comply with the following provisions; domestic wastewater treatment facilities at permitted industrial sites are excluded.
 - a. Whenever flow measurements for any domestic sewage treatment facility reach 75% of the permitted daily average or annual average flow for three consecutive months, the permittee must initiate engineering and financial planning for expansion and/or upgrading of the domestic wastewater treatment and/or collection facilities. Whenever the flow reaches 90% of the permitted daily average or annual average flow for three consecutive months, the permittee shall obtain necessary authorization from the Commission to commence construction of the necessary additional treatment and/or collection facilities. In the case of a domestic wastewater treatment facility that reaches 75% of the permitted daily average or annual average flow for three consecutive months, and the planned population to be served or the quantity of waste produced is not expected to exceed the design limitations of the treatment facility, the permittee shall submit an engineering report supporting this claim to the Executive Director of the Commission.

If in the judgment of the Executive Director the population to be served will not cause permit noncompliance, then the requirement of this section may be waived. To be effective, any waiver must be in writing and signed by the Director of the Enforcement Division (MC 149) of the Commission, and such waiver of these requirements will be reviewed upon expiration of the existing permit; however, any such waiver shall not be interpreted as condoning or excusing any violation of any permit parameter.

- b. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the Commission, and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and each day is an additional violation until approval has been secured.
 - c. Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment, and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.
9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.
10. For Publicly Owned Treatment Works (POTWs), the 30-day average (or monthly average) percent removal for BOD and TSS shall not be less than 85%, unless otherwise authorized by this permit.
11. Facilities that generate industrial solid waste as defined in 30 TAC §335.1 shall comply with these provisions:
 - a. Any solid waste, as defined in 30 TAC §335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.

- b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.
- c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC §335.8(b)(1), to the Corrective Action Section (MC 127) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.
- d. Construction of any industrial solid waste management unit requires the prior written notification of the proposed activity to the Registration and Reporting Section (MC 129) of the Permitting and Remediation Support Division. No person shall dispose of industrial solid waste, including sludge or other solids from wastewater treatment processes, prior to fulfilling the deed recordation requirements of 30 TAC §335.5.
- e. The term "industrial solid waste management unit" means a landfill, surface impoundment, waste-pile, industrial furnace, incinerator, cement kiln, injection well, container, drum, salt dome waste containment cavern, or any other structure vessel, appurtenance, or other improvement on land used to manage industrial solid waste.
- f. The permittee shall keep management records for all sludge (or other waste) removed from any wastewater treatment process. These records shall fulfill all applicable requirements of 30 TAC Chapter 335 and must include the following, as it pertains to wastewater treatment and discharge:
 - i. Volume of waste and date(s) generated from treatment process;
 - ii. Volume of waste disposed of on-site or shipped off-site;
 - iii. Date(s) of disposal;
 - iv. Identity of hauler or transporter;
 - v. Location of disposal site; and
 - vi. Method of final disposal.

The above records shall be maintained on a monthly basis. The records shall be retained at the facility site, or shall be readily available for review by authorized representatives of the TCEQ for at least five years.

12. For industrial facilities to which the requirements of 30 TAC Chapter 335 do not apply, sludge and solid wastes, including tank cleaning and contaminated solids for disposal, shall be disposed of in accordance with THSC Code Chapter 361.

OTHER REQUIREMENTS

1. Violations of daily maximum limitations for the following pollutants shall be reported orally to TCEQ Region 1 within 24 hours from the time the permittee becomes aware of the violation, followed by a written report within five days:

Copper (Total)
Manganese (Total)
Zinc (Total)

2. EFFLUENT & WASTEWATER DEFINITIONS AND CLASSIFICATIONS

- A. The term "domestic effluent" means treated domestic sanitary sewage and treated laundry wastewater.
 - B. The term "industrial effluent" means "industrial wastewater" which has been treated to remove pollutants. The term "industrial wastewater" includes process wastewater, utility wastewaters, and non-contact cooling (heating) waters.
 - C. The term "process wastewater" means wastewaters from, but not limited to, any water which comes into contact with any product, raw material, product intermediate or process waste. Also included are high explosive filtered wastewater, cooling water for explosives, wastewater from manufacturing explosive components, wastewater from photographic processing (photographic X-ray lab), metal plating plant treated wastewater and wastewater from washdown of equipment, transport vehicles, pipe lines, vessels, storage tanks, process area slabs, storage area slabs and floordrains/sumpdrens, and treated wastewaters from environmental remediation activities.
 - D. The term "utility wastewaters" means wastewaters from, but not limited to, wet scrubber air pollution control systems, ion exchange water treatment system, demineralizer backwash, water treatment, evaporator and boiler blowdown, steam condensates, laboratory and sampling streams, non-contact cooling (heating) operations, cooling tower basin cleaning wastes, cooling tower blowdown, once-through cooling water, reverse osmosis brine, water used to regenerate ion-exchange columns, and wastewaters generated from the sampling and production of monitor wells or the drilling and completion of monitoring wells. Sanitary wastes are not included.
 - E. The term "non-contact cooling (heating) waters" means waters used for the purpose of cooling (heating) which do not come into contact with any product, raw material, product intermediate, or process waste.
 - F. The term "outfall" shall mean any effluent monitoring location that may be identified by the permit.
 - G. The terms "plant area or Pantex plant", when used in this permit, shall mean those land areas either owned or controlled by The United States Department of Energy which are located approximately 17 miles northeast of the City of Amarillo and 10 miles west of the City of Panhandle, west of Farm-to-Market Road 2373, south of Farm-to-Market Road 293 and north of U.S. Highway 60, Carson County, Texas
3. There shall be no discharge of domestic sewage effluent other than that discharged via Outfall 001, or to a septic tank/drainfield system, or disposed via TCEQ Permit No. WQ0004397000 or Underground Injection Control (UIC) Authorization No. 5W2000017.

4. The permittee shall operate the wastewater treatment facility lagoon in such a manner as to maintain a minimum freeboard of two feet. The permittee shall measure and record the freeboard of each pond once per month in a "freeboard log". The freeboard log shall be maintained on site and made available to authorized representatives of the TCEQ.
5. The permittee shall agree to maintain records, in a matter consistent with Requirement 3.b of the "Monitoring Requirements" of this permit, of all surface water sampling and testing. The permittee shall make these records available for inspection upon request of authorized representatives of the TCEQ.

6. MINIMUM ANALYTICAL LEVELS

<u>COMPOUNDS</u>	<u>MAL (mg/L)</u>
Copper (Total)	0.010
Manganese (Total)	0.020
Zinc (Total)	0.005
HMX	N/A
PETN	N/A
RDX	N/A
TNT	N/A

Test methods utilized shall be sensitive enough to demonstrate compliance with the permit effluent limitations. Permit compliance/noncompliance determinations will be based on the effluent limitations contained in this permit with consideration given to the minimum analytical level (MAL) for the parameters specified above.

When an analysis of an effluent sample for any of the parameters listed above indicates no detectable levels above the MAL and the test method detection level is as sensitive as the specified MAL, a value of zero (0) shall be used for that measurement when determining calculations and reporting requirements for the self-reporting form. This applies to determinations of daily maximum concentration, calculations of loading and daily averages, and other reportable results.

When a reported value is zero (0) based on this MAL provision, the permittee shall submit the following statement with the self-reporting form either as a separate attachment to the form or as a statement in the comments section of the form.

"The reported value(s) of zero (0) for _____ [list parameter(s)] _____ on the self-reporting form for [monitoring period date range] _____ is based on the following conditions: 1) the analytical method used had a method detection level as sensitive as the MAL specified in the permit, and 2) the analytical results contained no detectable levels above the specified MAL."

When an analysis of an effluent sample for a parameter indicates no detectable levels and the test method detection level is not as sensitive as the MAL specified in the permit, or an MAL is not specified in the permit for that parameter, the level of detection achieved shall be used for that measurement when determining calculations and reporting requirements for the self-reporting form. A zero (0) may not be used.

7. Flow measuring devices and readily accessible sampling points, as required by this permit, shall be provided by the permittee for each outfall.
8. There is no mixing zone established for these discharges to the playa lake. Water Quality Standards do not apply to this discharge.

9. Permit Conditions, Item 3, Inspections and Entry, is amended for purposes of this permit subject to the provisions of the Atomic Energy Act (as amended).
10. Monitoring results shall be provided at the intervals specified in the permit. For pollutants which are monitored four times per year, the first effluent report shall be submitted three months after the date of permit issuance and subsequent reports every three months thereafter.
11. The permittee shall submit annual reports to the TCEQ, Wastewater Permitting Section, Industrial Team (MC-148) detailing research conducted in establishing a suitable test method for the parameter TATB in the permittee's effluent. The annual reports shall include the following information for test procedures considered for the pollutant TATB until a test method has been submitted to the TCEQ for approval:
 - A. Summary(ies) of test procedure(s) including detection levels, known interferences, etc.;
 - B. Analytical cost(s) of test procedure(s);
 - C. Reference material including method development and accreditation.

The requirements of this provision are suspended until such time that the Executive Director provides the permittee with written directive to resume conducting the actions required in this provision.

12. The permittee shall use test procedures based on U.S. Environmental Protection Agency, *Test Methods for Evaluating Solid Waste*, EPA Manual SW-846, Method 8330 for the analysis of HMX, RDX, PETN, and TNT.
13. Definitions and Standard Permit Conditions, Item 2.c., daily maximum concentration, is amended as follows:

Daily maximum concentration - the maximum concentration measured on a single day, by the sample type specified in the permit, within a period of one calendar month (when required monitoring frequency is equal to or more frequent than once per month) or within the period equivalent to the specified monitoring frequency (when required monitoring frequency is less frequent than once per month).

ATTACHMENT D

TCEQ INTERAGENCY TRANSMITTAL MEMO

DATE: October 11, 2011

TO: Bridget Bohac
CHIEF CLERK
BUILDING F, MC - 105

FROM: Robert Brush
ENVIRONMENTAL LAW DIVISION
BUILDING A, MC-173

Attached: Executive Director's Response to Comments

Application Information:

- Air Permit No.: _____ Name: _____ If known, Docket or CCO Tracking #: _____
- Waste Permit No.: _____ Name: _____ If known, Docket or CCO Tracking #: _____
- Water Permit No.: WQ0002296000 Name United States Department of Energy and Babcock & Wilcox Technical Services Pantex, LLC If known, Docket or CCO Tracking #:

Action Required (*pick one*):

Date stamp and return copy to above-referenced ELD staff attorney and do one of the following:

FOR WASTE & WATER:

- Send Response to Comments Letter which solicits hearing requests and requests for reconsideration to those on the mailing list in your files
For Waste and Water this would occur in all circumstances when comments have been received
- Other Instructions: Please include Michael Sunderlin, MC-148 on the mailing list for this RTC.

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2011 OCT 11 PM 1:36
CHIEF CLERKS OFFICE

APPLICATION BY UNITED STATES DEPARTMENT OF ENERGY AND BABCOCK & WILCOX TECHNICAL SERVICES PANTEX, LLC FOR TCEQ PERMIT NO. WQ0002296000	§ § § § § §	BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
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EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ) files this Response to Public Comment (Response) on the application for renewal of TCEQ Permit No. WQ0002296000 by the United States Department of Energy and Babcock & Wilcox Technical Services Pantex, LLC (Pantex) and the ED's preliminary decision. Pursuant to Title 30 Texas Administrative Code (30 TAC) Section (§) 55.156, before an application is approved and a permit issued, the ED prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk timely received one comment letter from Mr. Ralph Guajardo. This Response addresses all timely filed 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 Public Education Program, Toll Free, at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tecq.texas.gov.

BACKGROUND

Facility Description

Pantex, which operates the Pantex Plant, a facility principally engaged in the assembly of nuclear weapons from components received from other Department of Energy plants; the fabrication of chemical high explosive components for nuclear weapons; surveillance testing and processing of chemical high explosives; disassembly of nuclear weapons; maintenance, modification, repair and nonexplosive testing of nuclear weapons components; and disposal of treated environmental restoration wastewater, has applied to TCEQ for the renewal of Texas Water Quality Permit No. WQ0002296000, which authorizes the discharge of domestic effluent and industrial effluent at a daily average flow not exceed 560,000 gallons per day and a maximum flow of 820,000 gallons per day.

The facility is located approximately 17 miles northeast of the City of Amarillo and 10 miles west of the City of Panhandle, west of Farm-to-Market Road 2373, south of Farm-to-Market Road 293 and north of U.S. Highway 60, Carson County, Texas. The

effluent is discharged to a playa lake, located adjacent to the watershed of McClellen Creek, which flows into the North Fork Red River in Segment No. 0224 of the Red River Basin. The designated uses for Segment No. 0224 are high aquatic life use and contact recreation.

Procedural Background

The application was received on June 1, 2010 and declared administratively complete on July 19, 2010. The ED completed the technical review of the application on December 21, 2010 and prepared a draft permit. The Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (NORI) was published on August 5, 2010 in the *Amarillo Globe News* and in the *Panhandle Herald*. The Notice of Application and Preliminary Decision (NAPD) was published on June 23, 2011 in the *Amarillo Globe News* and in the *Panhandle Herald/White Deer News*. The public comment period ended on July 25, 2011. Since this application was administratively complete after September 1, 1999, it is subject to House Bill 801 (76th Legislature, 1999).

COMMENTS AND RESPONSES

COMMENT 1:

Mr. Guajardo requests that electronic air monitors to be placed in and around Pantex to warn the residents of any unsafe air, vapors, or fumes from the facility. Additionally, Mr. Guajardo comments that the waste ponds should be covered so the fumes will not escape and harm the residents of Potter County or the local wildlife in and around the facility.

Mr. Guagardo also comments that since Pantex manufactures and dismantles bombs, it produces dangerous and harmful waste, toxic waste, radioactive waste, fumes, and vapors that have killed birds and other wildlife that venture on to Pantex property.

RESPONSE 1:

Air quality issues are outside of the scope of normal evaluations for a wastewater discharge permit application. 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.

Separate air quality authorizations are required for all facilities in Texas that emit air contaminants. Pantex has multiple air quality authorizations that are subject to the regulatory oversight of TCEQ. Additionally, air monitoring is conducted on a regular basis at the facility. For more information regarding air quality authorizations please contact the TCEQ Air Permits Division at (512) 239-1250 or you may consult the TCEQ website at: http://www.tceq.state.tx.us/nav/permits/air_permits.html.

All Texas facilities must comply with the Texas Clean Air Act and all TCEQ rules and regulations. Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with the terms of any permit or other environmental regulation by contacting the TCEQ Amarillo Regional Office at (806) 353-9251, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. The TCEQ investigates all complaints received. If the facility is found to be out of compliance with the terms and conditions of its permit, it will be subject to investigation and possible enforcement action.

COMMENT 2:

Mr. Guajardo requests that the history of Pantex and any unsafe accidents should be made public at the public meeting for the benefit of the residents of Potter and Randall counties under The Freedom of Information Act of 1996; The Texas Public Information Law Section 551.074; The Texas Open Meetings Act; The Texas Open Records Act; see *Sample v. Bureau of Prisons*, 466 F.3d 1086 (D.C. Cir. 2006).

RESPONSE 2:

Under Texas law, each person is entitled to complete information about the affairs of government and the official acts of public officials and employees at all times, unless otherwise expressly provided by law. "Public information" means information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it. The term is defined in Government Code Section 552.002.

The TCEQ is committed to upholding the Public Information Act (PIA) and to ensuring public access to its records. All agency staff are obligated to abide by the TCEQ's Operating Policy and Procedure regarding requests for information under the Texas Public Information Act. Open records requests under the PIA may be mailed to:

Texas Commission on Environmental Quality
Attn: Public Information Officer, MC 197
P.O. Box 13087
Austin, Texas 78711-3087

Additional information related to environmental issues at Pantex can be found at the Pantex website (<http://www.pantex.com/about/environment/index.htm>), which is maintained by Pantex to provide the general public access to this type of information.

COMMENT 3:

Mr. Guajardo asks whether an emergency evacuation plan has been devised for the local Texas Department of Criminal Justice (TDCJ) state prison (William P. Clements Unit) and its residents.

RESPONSE 3:

Any emergency evacuation plans devised for TDCJ facilities and its residents fall within the authority of TDCJ and not TCEQ. Any questions on this subject should be directed to the administrators of that specific TDCJ facility.

COMMENT 4:

Mr. Guajardo requests that the TCEQ also notify various other organizations of its findings on Pantex.

RESPONSE 4:

Notice of the Pantex permit was provided in accordance with TCEQ rules at 30 TAC Chapter 39. Public notice was published in multiple newspapers with wide circulation in the area where the facility is located. The NORI was published on August 5, 2010 in the *Amarillo Globe News* and in the *Panhandle Herald*. The NAPD was published on June 23, 2011 in the *Amarillo Globe News* and in the *Panhandle Herald/White Deer News*. The permit application, ED's preliminary decision, and draft permit were made available for viewing and copying at the Carson County Library, 401 Main Street, Panhandle, Texas.

TCEQ does not provide notification to individuals or organization, unless required by law or at the request by an authorized representative of an interested individual or organization. Mr. Guajardo has not demonstrated that he is an authorized representative of any of the organizations he request to be notified. Therefore, no additional notices will be provided to the various organizations listed by Mr. Guajardo absent a request from an authorized representative of any of those groups.

COMMENT 5:

Mr. Guajardo comments that it is TCEQ's job to protect the health and well being of the residents of the City of Amarillo, Potter, and Randall Counties.

RESPONSE 5:

The mission of the TCEQ is to protect our state's human and natural resources consistent with sustainable economic development. TCEQ's goal is clean air, clean water, and the safe management of waste. To accomplish the mission, TCEQ: 1) bases decisions on the law, common sense, good science, and fiscal responsibility; 2) ensures that regulations are necessary, effective, and current; 3) applies regulations clearly and consistently; 4) ensures consistent, just, and timely enforcement when environmental laws are violated; 5) ensure meaningful public participation in the decision-making process; and 6) promotes and fosters voluntary compliance with environmental laws and provide flexibility in achieving environmental goals.

The effluent limitations and other regulatory requirements proposed in the draft permit are consistent with applicable agency rules, regulations, and policies that have been developed and implemented to be protective of human health and the environment.

COMMENT 6:

Mr. Guajardo comments that he has a health condition that was not bad until he got to this State Prison unit. He states that he has demanded and repeatedly requested to be transferred out of this State prison or released on parole for years. Mr. Guajardo also comments that his health and mentality has been adversely affected by Pantex and the TDCJ State Prison System.

RESPONSE 6:

The effluent limitations in the draft permit and in previous versions of this permit were established to be protective of human health and the environment. Those limitations are as follows:

<u>Outfall Number</u>	<u>Pollutant</u>	<u>Daily Average</u>	<u>Daily Maximum</u>
001	Flow (MGD)	0.56 MGD	0.82 MGD
	Biochemical Oxygen Demand (5-day)	30 mg/l	70 mg/l
	Chemical Oxygen Demand	N/A	150 mg/l
	Total Suspended Solids	60 mg/l	90 mg/l
	Oil and Grease	N/A	15 mg/l
	Copper (total)	0.5 mg/l	1.0 mg/l
	Manganese (total)	1.0 mg/l	2.0 mg/l
	Zinc (total)	1.0 mg/l	2.0 mg/l
	HMX	0.1 mg/l	Report (mg/l)
	RDX	0.2 mg/l	Report (mg/l)
	PETN	0.4 mg/l	Report (mg/l)
	TNT	0.02 mg/l	Report (mg/l)
	pH	6.0 SU (min)	10.0 SU
	Total Residual Chlorine (*1)	1.0 mg/l (min)	4.0 mg/l

(*1) The domestic sewage effluent shall 1) have a minimum residence time in the treatment system of 21 days before discharge via Outfall 001; or 2) contain a chlorine residual of at least 1.0 mg/l and a maximum chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow).

Additionally, the following considerations went into the selection of and continuance of specific effluent limitations:

- * Effluent limitations for biochemical oxygen demand (5-day) and total suspended solids are continued from the current permit and were previously based on best professional judgment (BPJ) to establish technology-based limitations.
- * Effluent limitations for chemical oxygen demand, oil and grease, and pH were previously based on the effluent limitations TCEQ typically imposes on industrial wastewaters and were established as BPJ technology-based limitations.
- * Effluent limitation and monitoring requirement for total residual chlorine were continued from the current permit and based on disinfection requirements for treated sanitary wastewater. These limitations and monitoring requirements are only required when the permittee cannot maintain a minimum residence time in the treatment system of 21 days before discharge via Outfall 001. The 21 days residence time requirement is based on TCEQ rule 30 TAC 309.3(g)(5).
- * Effluent limitations and monitoring requirements for total copper, total manganese, and total zinc at Outfall 001 are based on 30 TAC 319.22.
- * Effluent limitations and monitoring requirements for HMX, RDX, PETN, and TNT are continued from the current permit and were established as BPJ technology-based limitations.

TCEQ has no statutory authority with regards to incarceration assignments for inmates or the granting of paroles. Any requests for a transfer to another prison facility should be directed to the Texas Department of Criminal Justice, Classifications, and Records Department at (936) 437-6231. Any questions regarding a prisoner's review status can be directed to the Texas Board of Pardons and Paroles status line at (936) 291-2106.

The Texas Department of Criminal Justice is responsible for ensuring that proper medical, dental and mental health care is provided to the prisoners in their custody. The Patient Liaison Family/Public Hotline number, 936-437-4271, is available for family members and the public to inquire about an incarcerated offender's health care.

COMMENT 7:

Mr. Guajardo asks if a study has been done to assess the public health risks from the Pantex facility and stated that he has a right to know if there is any risk to his health from the Pantex facility. Mr. Guajardo requested that TCEQ provide a bilingual response.

RESPONSE 7:

Pantex was not required to submit any health studies as part of its application, nor is the Executive Director aware of any such study. The wastewater effluent limitations and other regulatory requirements proposed in the draft permit are consistent with applicable agency rules, regulations, and policies that have been developed and are implemented to be protective of human health and the environment.

TCEQ's rules require some public notices to be published in an alternative language if certain conditions are met.¹ However, the wastewater permitting rules do not require any other correspondence from the TCEQ relating to a permit application to be in an alternative language.

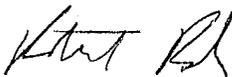
No changes were made to the draft permit in response to comments.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P. G.
Executive Director

Robert Martinez, Director
Environmental Law Division

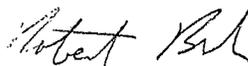
By: 
Robert Brush, Staff Attorney
Environmental Law Division
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
(512) 239-5600

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

¹ See 30 TAC § 39.405(h)

CERTIFICATE OF SERVICE

I hereby certify that on this October 11, 2011, the original of the "Executive Director's Response to Comments" on United States Department of Energy and BWXT Pantex, L.L.C., application for TCEQ Permit No. WQ0002296000 was filed with the Chief Clerk, Texas Commission on Environmental Quality, Austin, Texas.



Robert Brush, Staff Attorney
Environmental Law Division
Texas Commission on Environmental Quality

ATTACHMENT E

4. If Yes, who was/were the prior owner(s)/operator(s)?

OWN	Babcock & Wilcox Technical Services Pantex, L.L.C
OPR	BWXT PANTEX
OWNOPR	Site Services, Inc.

5. When did the change(s) in owner or operator occur?

02/14/2007	OWNOPR	Site Services, Inc.
01/28/2008	OPR	BWXT PANTEX
02/08/2010	OWN	Babcock & Wilcox Technical Services Pantex

6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

.....

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	09/19/2006	(527625)
2	04/27/2007	(543027)
3	10/20/2006	(551307)
4	11/20/2006	(551308)
5	12/18/2006	(551309)
6	07/31/2007	(565448)
7	08/01/2007	(569882)
8	08/27/2007	(572905)
9	02/14/2007	(588017)
10	03/20/2007	(588018)
11	04/20/2007	(588020)
12	05/17/2007	(588021)
13	06/13/2007	(588022)
14	01/18/2007	(588023)
15	10/09/2007	(594613)
16	11/14/2007	(594637)
17	07/18/2007	(605298)
18	08/20/2007	(605299)
19	09/20/2007	(605300)
20	10/19/2007	(629071)
21	11/15/2007	(629072)
22	12/19/2007	(629073)
23	07/28/2008	(671708)
24	02/19/2008	(676601)
25	01/11/2008	(676602)
26	07/11/2008	(684089)
27	03/12/2008	(695130)
28	04/16/2008	(695131)
29	05/15/2008	(695132)
30	11/03/2008	(702987)

31 06/17/2008 (716616)
 32 07/17/2008 (716617)
 33 04/08/2009 (741490)
 34 08/13/2009 (749844)
 35 07/29/2009 (763557)
 36 05/28/2010 (825033)
 37 07/27/2010 (829378)
 38 08/04/2010 (841309)
 39 08/04/2010 (841481)
 40 08/05/2010 (843364)
 41 11/30/2010 (878163)
 42 04/20/2011 (905375)
 43 04/20/2011 (913422)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 11/14/2007 (594637) CN600125009
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 III., General Description, pg. 1 PERMIT
 TWC Chapter 26 26.121
 TWC Chapter 26 26.121(a)
 TWC Chapter 26 26.121(a)(1)
 TWC Chapter 26 26.121(a)(2)
 TWC Chapter 26 26.121(a)(3)
 TWC Chapter 26 26.121(b)
 TWC Chapter 26 26.121(c)
 TWC Chapter 26 26.121(d)
 TWC Chapter 26 26.121(e)

Description: Failure to prevent unauthorized discharges from the wastewater collection system.

Date: 08/03/2010 (841481) CN600125009
 Self Report? NO Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 2D TWC Chapter 26, SubChapter A 26.121(a)(3)
 2D TWC Chapter 26, SubChapter A 26.121(b)
 2D TWC Chapter 26, SubChapter A 26.121(c)
 2D TWC Chapter 26, SubChapter A 26.121(d)
 2D TWC Chapter 26, SubChapter A 26.121(e)
 30 TAC Chapter 305, SubChapter F 305.125(4)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 III., General Description PERMIT
 TWC Chapter 26 26.121
 TWC Chapter 26 26.121(a)(2)

Description: Failure to prevent unauthorized discharges from the wastewater collection system. The facility self reported three unauthorized wastewater discharges since the previous investigation conducted on September 19, 2007. These discharges occurred at different locations within the system and were caused by various reasons. Two of the discharges were less than 100 gallons and one was less than 5,000 gallons.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

09/27/2010 12/31/2013 ENVIRONMENTAL MANAGEMENT SYSTEM 30 TAC CERTIFIED

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

J. Early compliance.

N/A

Sites Outside of Texas

N/A