

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 9, 2015

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

Re: Executive Director's Response to Hearing Requests for Tenaska Roans Prairie
Partners, LLC; Permit No. WQ0005111000; Docket No. 2014-1674-IWD

Dear Ms. Bohac:

Enclosed for filing are the original and seven copies of the "Executive Director's Response to Hearing Requests." If you have any questions or comments, please call me at (512) 239-5692.

Sincerely,

A handwritten signature in cursive script that reads "Celia Castro".

Celia Castro
Staff Attorney
Environmental Law Division

Enclosure

cc: Mailing List

DOCKET NUMBER 2014-1674-IWD

APPLICATION BY	§	BEFORE THE
TENASKA ROANS	§	
PRAIRIE PARTNERS, LLC	§	TEXAS COMMISSION
FOR	§	ON
PERMIT NO. WQ0005111000	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

I. Introduction

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to Hearing Requests (Response) on the application by Tenaska Roans Prairie Partners, LLC (Applicant) for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0005111000. Timely hearing requests were received from Roy Hoffart and Jackie E. and Patrick S. Phillips. Mr. Hoffart withdrew his hearing request on December 12, 2014.

Attached for Commission consideration are the following:

Attachment A	Statement of Basis/Technical Summary and Executive Director's Preliminary Decision
Attachment B	Draft Permit
Attachment C	Compliance History
Attachment D	Executive Director's Response to Public Comments (RTC)
Attachment E	Executive Director's Satellite Map
Attachment F	Applicant's Adjacent Landowner Map & Legend

Copies of the documents were provided to all parties. The Office of the Chief Clerk previously mailed the RTC to all persons on the mailing list.

II. Facility Description

The Applicant applied for a new permit to authorize the discharge of evaporative cooler blowdown; previously monitored effluents (low volume waste sources, metal cleaning wastes, chemical metal cleaning wastes, water treatment wastes, and stormwater from internal Outfall 101); and uncontaminated air conditioner and compressor condensate at a daily average flow not to exceed 105,000 gallons per day (gpd) from external Outfall 001. The facility, Tenaska Roan's Prairie Generating Station,

is a 694-megawatt natural-gas fired, electrical generation station that will be operated as a peaking plant. The plant site is located on the south side of State Highway 30, approximately 2.5 miles southwest of the City of Shiro and approximately 1.1 miles east of the intersection of State Highway 30 and State Highway 90, Grimes County, Texas.

The effluent is to be discharged to an unnamed tributary; then to Flagtail Creek; then to Lake Creek in Segment No. 1015 of the San Jacinto River Basin. The unclassified receiving waters have minimal aquatic life use for the unnamed tributary and Flagtail Creek. The designated uses for Segment No. 1015 are high aquatic life use, primary contact recreation, and public water supply. 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 revisions. The 2012 Clean Water Act Section 303(d) list, the State's inventory of impaired and threatened waters, does not currently list Segment No. 1015.

TCEQ staff performed an antidegradation review of the receiving waters in accordance with 30 TAC §307.5 and the June 2010 TCEQ implementation procedures (IPs) for the Texas Surface Water Quality Standards (TSWQS). A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life use are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life use downstream, and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

III. Procedural Background

The TCEQ received the application on December 18, 2013 and declared it administratively complete on March 18, 2014. ED staff completed the technical review of the application on April 29, 2014, and prepared a draft permit. The Applicant published the Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (NORI) on April 9, 2014 and the Notice of Application and Preliminary Decision (NAPD) on July 2, 2014 in the *Navasota Examiner*. The public comment period ended on August 1, 2014. The ED filed the RTC on September 30, 2014, the ED's Final Decision Letter was mailed on October 6, 2014, and the period for requesting reconsideration or a contested case hearing ended on November 5, 2014. The 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. For those applications declared administratively complete on or after September 1, 1999, it established new procedures for providing public notice and public comment, and for the Commission's consideration of hearing requests. The application was declared administratively complete on January 26, 2007 and therefore is subject to the HB 801 requirements. The Commission implemented HB 801 by adopting procedural rules in 30 Texas Administrative Code (30 TAC) Chapters 39, 50, and 55. The regulations governing requests for contested case hearings are found at 30 TAC, Chapter 55.

A. Responses to Requests

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

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.

30 TAC § 55.209(e).

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.

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.

30 TAC § 55.201(c).

A hearing request must substantially comply with the following:

- 1) give the time, 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.

30 TAC § 55.201(d).

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.

- a) 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.
- b) Governmental entities, including local governments and public agencies with authority under state law over issues raised by the application may be considered affected persons.
- c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:

- 1) whether the interest claimed is one protected by the law under which the application will be considered;
- 2) distance restrictions or other limitations imposed by law on the affected interest;
- 3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- 4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
- 5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
- 6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC § 55.203.

D. Referral 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(b).

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.

30 TAC § 50.115(c).

V. Analysis of the Requests

A. Analysis of the Hearing Requests

1. Whether the Requestors Complied With 30 TAC §§ 55.201(c) and (d)

Jackie and Patrick Phillips submitted timely written hearing requests that included relevant contact information and raised disputed issues.

The ED recommends the Commission find that the hearing requests of Jackie and Patrick Phillips substantially comply with the requirements of 30 TAC § 55.201(c) & (d).

2. *Whether the Requestors Met the Requirements of an Affected Person*

Jackie and Patrick Phillips -

The ED's satellite map (Attachment E) shows that the Phillips own property within one mile of the proposed discharge point. In addition, the Applicant's landowner map (Attachment F) lists the Phillips as adjacent landowners. They own property that is adjacent to both sides of the discharge route. The Phillips are alleging that because of their proximity to the proposed facility, any potential contaminated discharges would not have time to dilute with fresh water. Therefore, any discharge traversing their property could potentially harm livestock and wildlife that use the unnamed tributary as a water source, and subsequently have an impact on human consumption of those animals. The Phillips believe that the proposed Tenaska discharge could wash out their right-of-way road and road culverts including a culvert crossing in the creek, causing damage and eliminating access to their lake, cattle pens, barn, and electricity. They commented that their property would lose its value due to inaccessibility. The Phillips commented that Tenaska's existing plant has discharged water over their property, filling creeks and their lake and that the water tested high for iron, arsenic, mercury, and selenium. This led them to believe that these substances were causing birth defects in calves born during those times. Based on the location of their property to the proposed facility, they have demonstrated that the discharge may affect health, safety, or use of the property or natural resources. The Phillips have standing to request a hearing. 30 TAC § 55.203(c). The requestors have raised personal justiciable interests and their interests are not common to that of the general public. The ED concludes that the Phillips are affected persons.

The ED recommends the Commission find that the Phillips are affected persons under the requirements of 30 TAC § 55.203.

B. *Whether the Issues Raised are Referable to SOAH for a Contested Case Hearing*

The ED has analyzed issues raised in accordance with the regulatory criteria. The issues discussed were raised during the public comment period and addressed in the RTC. None of the issues were withdrawn. The issues raised for this application and the ED's analysis and recommendations follow.

1. *Whether the proposed draft permit is protective of the water quality in the unnamed tributary? (RTC #1)*

Jackie and Patrick Phillips raised this issue. This issue is within TCEQ's jurisdiction, involves a question of fact, was raised during the public comment period, and was not withdrawn. The proposed permit was drafted in accordance with 30 TAC, Chapter 307, and the June 2010 TCEQ IPs for the TSWQS, and should be protective of

aquatic life and human health in the receiving stream when the Applicant operates and maintains the facility according to TCEQ rules and the draft permit requirements. This issue is relevant and material to a decision on the permit application.

If the Commission finds that Jackie and Patrick Phillips have standing, the ED recommends referral of this issue to SOAH.

2. Whether the proposed discharge will impair attainable uses of the receiving waters, including the unnamed tributary? (RTC #1)

Jackie and Patrick Phillips raised this issue. This issue is within TCEQ's jurisdiction, involves a question of fact, was raised during the public comment period, and was not withdrawn. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action, and numerical and narrative criteria to protect existing uses will be maintained. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses will be maintained and protected. This issue is relevant and material to a decision on the permit application.

If the Commission finds that Jackie and Patrick Phillips have standing, the ED recommends referring this issue to SOAH.

3. Whether the proposed discharge will have any detrimental effect on wildlife and cattle and subsequent human consumption of those animals? (RTC #2)

Jackie and Patrick Phillips raised this issue. This issue is within TCEQ's jurisdiction, involves a question of fact, was raised during the public comment period, and was not withdrawn. The Texas Surface Water Quality Standards (TSWQS) in 30 TAC § 307.6(b)(4) specifically states that "Water in the state shall be maintained to preclude adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals, resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three." The effluent limitations and conditions in the draft permit comply with the TSWQS, 30 TAC §§ 307.1 - 307.10. While Chapter 307 and the IPs do not specifically designate criteria for the protection of livestock, they do designate criteria for the protection of aquatic life and human health that should preclude impacts to the health and performance of livestock. This issue is relevant and material to a decision on the permit application.

If the Commission finds that Jackie and Patrick Phillips have standing, the ED recommends referring this issue to SOAH.

4. Whether the proposed discharge would eliminate access to portions of the Protestants' property? (RTC #3)

Jackie and Patrick Phillips raised this issue. This issue involves a question of fact, was raised during the public comment period, and was not withdrawn. However, this issue is not assessed during the wastewater permitting issue. Water quantity, water rights, volume and supply are not part of a wastewater discharge permit evaluation. The proposed permit was prepared to protect water in the state from potential pollutants in the proposed discharge. This issue is not relevant and material to a decision on the permit application.

If the Commission finds that Jackie and Patrick Phillips have standing, the ED recommends not referring this issue to SOAH.

5. Whether the inability to access these areas would lead to a decrease in the Protestants' property value? (RTC #4)

Jackie and Patrick Phillips raised this issue. This issue involves a question of fact, was raised during the public comment period, and was not withdrawn. However, this issue is not assessed during the wastewater permitting process. The TCEQ has no jurisdiction to address property value impact issues in the wastewater permitting process. The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. This issue is not relevant and material to a decision on the permit application.

The ED recommends not referring this issue to SOAH.

6. Whether the existing Tenaska plant (regulated under TPDES Permit No. WQ00039960000) has caused birth defects in calves in the past? (RTC #7)

Jackie and Patrick Phillips raised this issue. This issue is not considered in the wastewater permitting process for the proposed permit. The discharge from an existing plant is not the subject of this permit. Therefore, this issue is not relevant and material to a decision on the permit application.

The ED recommends not referring this issue to SOAH.

VI. Duration of the Contested Case Hearing

The ED recommends a nine month duration for a contested case hearing on this matter, should there be one, between preliminary hearing and the presentation of a proposal for decision.

VII. Executive Director's Recommendation

The ED recommends the following actions by the Commission:

1. The ED recommends the Commission grant the hearing requests of Jackie and Patrick Phillips.
2. If the Commission finds that Jackie and Patrick Phillips are affected persons and grants the hearing requests, the ED recommends that the following issues be referred to SOAH for a proceeding of nine months duration:

Issue 1. Whether the proposed discharge is protective of the water quality in the unnamed tributary?

Issue 2. Whether the proposed discharge will impair attainable uses of the receiving waters, including the unnamed tributary?

Issue 3. Whether the proposed discharge will have any detrimental effect on wildlife and cattle and subsequent human consumption of those animals?

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY
Richard A. Hyde, P.E.
Executive Director

Robert Martinez, Director
Environmental Law Division

By 
Celia Castro, Staff Attorney
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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on March 9, 2015, the original and seven copies of the "Executive Director's Response to Hearing Requests" for Tenaska Roans Prairie Partners, LLC, TPDES Permit No. WQ0005111000, were filed with the TCEQ's Office of the Chief Clerk and a complete copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, electronic transmission, inter-agency mail, or by deposit in the U.S. Mail.


Celia Castro, Staff Attorney
Environmental Law Division
State Bar No. 03997350

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TENASKA ROAN'S PRAIRIE PARTNERS, LLC
DOCKET NO. 2014-1674-IWD; PERMIT NO. WQ0005111000

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REQUESTER(S)

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WITHDRAW OF REQUEST(S)

Roy Hoffart
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Shiro, Texas 77876-0250

INTERESTED PERSON(S)

Patrick S. Phillips
7406 FM 2562 Road
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Neal Sutton
1000 Polo Club Drive
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ATTACHMENT A

STATEMENT OF BASIS/TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

DESCRIPTION OF APPLICATION

Applicant: Tenaska Roan's Prairie Partners, LLC; Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0005111000 (TX0135071)

Regulated Activity: Industrial Wastewater Permit

Type of Application: New Permit

Request: New Permit to authorize the discharge of evaporative cooler blowdown, previously monitored effluents (low volume waste sources, metal cleaning wastes, chemical metal cleaning wastes, water treatment wastes, stormwater) and uncontaminated air conditioner and compressor condensate at a volume not to exceed a daily average of 105,000 gallons per day.

Authority: Federal Clean Water Act §402; Texas Water Code §26.027; 30 Texas Administrative Code (TAC) Chapter 305, Subchapters C-F, Chapters 307 and 319; Commission Policies; and Environmental Protection Agency (EPA) Guidelines

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, 2017, 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 new permit to authorize the discharge of evaporative cooler blowdown, previously monitored effluents (low volume waste sources, metal cleaning wastes, chemical metal cleaning wastes, water treatment wastes, and stormwater from internal Outfall 101) and uncontaminated air conditioner and compressor condensate at a volume not to exceed a daily average of 105,000 gallons per day.

PROJECT DESCRIPTION AND LOCATION

The applicant proposes to operate Tenaska Roan's Prairie Generating Station, a 694-megawatt natural-gas fired, electrical generation station that will be operated as a peaking plant.

Roan's Prairie proposes to use clarified non-potable water from Lake Livingston as make-up water for the facility. The source water will be supplied to the plant via pipeline. The facility does not propose to own or operate its own water intake structure on Lake Livingston. The facility does not propose the use of chlorination of any water at the facility.

The majority of the wastewaters to be generated will be non-process waste streams, including blowdown from evaporative coolers and water treatment wastes. Process wastewater will be collected in a series of drains and routed to an oil/water separator. Process wastewater will include low volume waste sources, plant service water, wash water, neutralized effluent from ion exchange treatment, chemical storage drains, spill cleanup wastes, and stormwater that accumulates within containment

STATEMENT OF BASIS / TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION
TPDES Permit No. WQ0005111000

areas; these waste streams will be managed through Outfall 101. Adjustment of pH will be applied to all plant discharges, which will be through Outfall 001. Domestic wastewater will be routed to an onsite septic tank and drainfield.

The compressor section of the combustion turbines will accumulate particulate from the ambient air as it passes through the turbines. Compressor wash water (a mixture of demineralized water and detergent) will clean this particulate from the compressor and will then be captured and hauled off site.

The plant site is located on the south side of State Highway 30, approximately 2.5 miles southwest of the City of Shiro and approximately 1.1 miles east of the intersection of State Highway 30 and State Highway 90, Grimes County, Texas.

The effluent is discharged to an unnamed tributary; thence to Flagtail Creek; thence to Lake Creek in Segment No. 1015 of the San Jacinto River Basin. The unclassified receiving waters have minimal aquatic life use for the unnamed tributary and Flagtail Creek. The designated uses for Segment No. 1015 are high aquatic life use, primary contact recreation, and public water supply. 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 revisions.

In accordance with 30 TAC §307.5 and the TCEQ implementation procedures (June 2010) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life use are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life use downstream, and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

The discharge from this permit is not expected to have an effect on any federal endangered or threatened aquatic or aquatic-dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System (TPDES; September 14, 1998; October 21, 1998 update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic-dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species.

Segment No. 1015 is not currently listed on the State's inventory of impaired and threatened waters (the 2012 Clean Water Act Section 303(d) list).

SUMMARY OF EFFLUENT DATA

Self-reporting data is not available because the facility has not yet been constructed.

STATEMENT OF BASIS / TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION
TPDES Permit No. WQ0005111000

DRAFT PERMIT CONDITIONS

The draft permit authorizes the discharge of evaporative cooler blowdown, previously monitored effluents (low volume waste sources, metal cleaning wastes, chemical metal cleaning wastes, water treatment wastes, and stormwater from internal Outfall 101) and uncontaminated air conditioner and compressor condensate at a volume not to exceed a daily average of 0.105 million gallons per day (MGD) via Outfall 001.

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

Outfall	Pollutant	Daily Average mg/L	Daily Maximum mg/L
001	Flow	0.105 MGD	0.150 MGD
	Total Suspended Solids (TSS)	30	100
	Temperature	N/A	Report, °F
	Oil and Grease	15	20
	pH, standard units (s.u.)	6.0 minimum	9.0 maximum
101	Flow	Report	Report
	TSS	30	100
	Oil and Grease	15	20

Regulations promulgated in Title 40 of the Code of Federal Regulations (40 CFR) require technology-based limitations to be placed in wastewater discharge permits based on effluent limitations guidelines, where applicable, or on best professional judgment (BPJ) in the absence of guidelines. The proposed facility will be using gas turbines for electric power generation, i.e., steam will not be used to generate the electricity. Thus, the steam electric power generating point source category effluent limitations of 40 CFR Part 423 are not applicable.

However, based on BPJ, the requirements of 40 CFR 423 for TSS and oil and grease are appropriate and are included in the draft permit, along with pH limitations. Because the permittee is not chlorinating, no chlorine limitations are included in the draft permit.

Calculations of water quality-based effluent limitations for the protection of aquatic life and human health are presented in Appendix A. Aquatic life criteria established in Table 1 of 30 TAC Chapter 307 are incorporated into the calculations, as are recommendations in the Water Quality Assessment Team memorandum dated April 1, 2014. TCEQ practice for determining significant potential is to compare the reported analytical data from the facility against percentages of the calculated daily average water quality-based effluent limitation. Permit limitations are required when analytical data reported in the application exceeds 85 percent of the calculated daily average water quality-based effluent limitation. Monitoring and reporting is required when analytical data reported in the application exceeds 70 percent of the calculated daily average water quality-based effluent limitation. Because this is a new facility there is no analytical data reported in the application, so no effluent limitations result from this evaluation. Other Requirement No. 7 has been included in the draft permit; it requires the facility to sample and analyze effluent for the parameters listed in the permit application within 90 days of commencing discharge.

Biomonitoring requirements are not included in the draft permit.

STATEMENT OF BASIS / TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION
TPDES Permit No. WQ0005111000

SUMMARY OF CHANGES FROM APPLICATION

No changes were made from the application.

BASIS FOR DRAFT PERMIT

The following items were considered in developing the draft permit:

1. Application received on December 18, 2013, and additional information received on January 21, 2014, February 3, 2014, and April 15, 2014.
2. Existing permits: N/A.
3. TCEQ Rules.
4. Texas Surface Water Quality Standards – 30 TAC §§307.1-307.10, effective July 22, 2010, as approved by EPA Region 6.
5. Texas Surface Water Quality Standards - 30 TAC §§307.1-307.10, effective August 17, 2000, and Appendix E, effective February 27, 2002, for portions of the 2010 Standards not approved by EPA Region 6.
6. *Procedures to Implement the Texas Surface Water Quality Standards (IP)*, Texas Commission on Environmental Quality, June 2010, as approved by EPA Region 6.
7. *Procedures to Implement the Texas Surface Water Quality Standards*, Texas Commission on Environmental Quality, January 2003, for portions of the 2010 IP not approved by EPA Region 6.
8. Memos from the Water Quality Standards Implementation Team and the Water Quality Assessment Team of the Water Quality Assessment Section of the TCEQ.
9. "Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits," TCEQ Document No. 98-001.000-OWR-WQ, May 1998.
10. EPA Effluent Guidelines: N/A
11. 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 reviewing 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, the 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.

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

STATEMENT OF BASIS / TECHNICAL SUMMARY AND
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public comment period. The Chief Clerk then mails the Executive Director's response to comments 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 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.

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 Charles Faulds, P.E. at (512) 239-4649.

Charles Faulds
Charles Faulds, P.E.

April 24, 2014
Date

**STATEMENT OF BASIS / TECHNICAL SUMMARY AND
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**Appendix A
Calculated Water Quality-Based Effluent Limits**

TEXTTOX MENU #1 - INTERMITTENT STREAM	
The water quality-based effluent limitations developed below are calculated using:	
Table 1, 2010 Texas Surface Water Quality Standards (30 TAC 307) for Freshwater Aquatic Life	
"Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, June 2010	
PERMIT INFORMATION	
TPDES Permit No:	WQ0005111000
Permittee Name:	Tenaska Ranch's Prairie Generating Station
Outfall No:	001
Prepared By:	Charles Eaulds
Date:	April 10, 2014
DISCHARGE INFORMATION	
Intermittent Receiving Waterbody:	Unnamed Tributary
Segment No:	1015
TSS (mg/L):	10
pH (Standard Units):	6.6
Hardness (mg/L as CaCO ₃):	40
Chloride (mg/L):	43
Effluent Flow for Aquatic Life (MGD):	0.105
Critical Low Flow [7Q2] (cfs):	0
Percent Effluent for Acute Aquatic Life:	100

CALCULATE DISSOLVED FRACTION (AND ENTER WATER EFFECT RATIO IF APPLICABLE):							
<i>Stream/River Metal</i>	<i>Intercept (b)</i>	<i>Slope (m)</i>	<i>Partition Coefficient (Kp)</i>	<i>Dissolved Fraction (Cd/Ct)</i>		<i>Water Effect Ratio (WER)</i>	
Aluminum	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Arsenic	5.68	-0.73	89125	0.53		1	Assumed
Cadmium	6.60	-1.13	295121	0.25		1	Assumed
Chromium (Total)	6.52	-0.93	389045	0.20		1	Assumed
Chromium (+3)	6.52	-0.93	389045	0.20		1	Assumed
Chromium (+6)	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Copper	6.02	-0.74	190546	0.34		1	Assumed
Lead	6.45	-0.80	446684	0.18		1	Assumed
Mercury	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Nickel	5.69	-0.57	131826	0.43		1	Assumed
Selenium	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Silver	6.38	-1.03	223872	0.31		1	Assumed
Zinc	6.10	-0.70	251189	0.28		1	Assumed

AQUATIC LIFE					
CALCULATE DAILY AVERAGE AND DAILY MAXIMUM EFFLUENT LIMITATIONS:					
<i>Parameter</i>	<i>FW Acute Criterion (ug/L)</i>	<i>WLAa</i>	<i>LTAa</i>	<i>Daily Avg. (ug/L)</i>	<i>Daily Max. (ug/L)</i>
Aldrin	3.00	3.00	1.72	2.53	5.35
Aluminum	991	991	568	835	1766
Arsenic	340	643	368	542	1146

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AQUATIC LIFE					
CALCULATE DAILY AVERAGE AND DAILY MAXIMUM EFFLUENT LIMITATIONS:					
Parameter	FW Acute Criterion (ug/L)	WLAa	LTAa	Daily Avg. (ug/L)	Daily Max. (ug/L)
Cadmium	3.52	13.9	7.97	11.7	24.8
Carbaryl	2.00	2.00	1.15	1.68	3.56
Chlordane	2.40	2.40	1.38	2.02	4.28
Chlorpyrifos	0.083	0.083	0.048	0.070	0.148
Chromium (+3)	269	1316	754	1108	2344
Chromium (+6)	15.7	15.7	9.00	13.2	28.0
Copper	6.0	17.4	9.97	14.7	31.0
Cyanide	45.8	45.8	26.2	38.6	81.6
4,4'-DDT	1.10	1.10	0.630	0.927	1.96
Demeton	N/A	N/A	N/A	N/A	N/A
Diazinon	0.170	0.170	0.097	0.143	0.303
Dicofol	59.3	59.3	34.0	49.9	106
Dieldrin	0.240	0.240	0.138	0.202	0.428
Diuron	210	210	120	177	374
Endosulfan I (alpha)	0.220	0.220	0.126	0.185	0.392
Endosulfan II (beta)	0.220	0.220	0.126	0.185	0.392
Endosulfan sulfate	0.220	0.220	0.126	0.185	0.392
Endrin	0.086	0.086	0.049	0.072	0.153
Guthion	N/A	N/A	N/A	N/A	N/A
Heptachlor	0.52	0.52	0.298	0.438	0.927
Hexachlorocyclohexane (Lindane)	1.13	1.13	0.645	0.948	2.01
Lead	23.5	129	73.6	108	229
Malathion	N/A	N/A	N/A	N/A	N/A
Mercury	2.40	2.40	1.38	2.02	4.28
Methoxychlor	N/A	N/A	N/A	N/A	N/A
Mirex	N/A	N/A	N/A	N/A	N/A
Nickel	216	500	286	421	891
Nonylphenol	28.0	28.0	16.0	23.6	49.9
Parathion (ethyl)	0.065	0.065	0.037	0.055	0.116
Pentachlorophenol	5.84	5.84	3.34	4.92	10.4
Phenanthrene	30	30	17.2	25.3	53.5
Polychlorinated Biphenyls (PCBs)	2	2	1.15	1.68	3.56
Selenium	20	20	11.5	16.8	35.6
Silver	0.8	9.90	5.67	8.34	17.6
Toxaphene	0.78	0.78	0.447	0.657	1.39
Tributyltin (TBT)	0.13	0.13	0.074	0.110	0.232
2,4,5 Trichlorophenol	136	136	77.9	115	242
Zinc	53.9	189	108	159	337

Aquatic Life		
Parameter	70%	85%
Aldrin	1.77	2.15
Aluminum	584	710
Arsenic	379	460
Cadmium	8.20	9.95
Carbaryl	1.18	1.43
Chlordane	1.42	1.72
Chlorpyrifos	0.049	0.059
Chromium (+3)	776	942

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Aquatic Life		
Parameter	70%	85%
Chromium (+6)	9.3	11.2
Copper	10.3	12.5
Cyanide	27.0	32.8
4,4'-DDT	0.649	0.788
Demeton	N/A	N/A
Diazinon	0.100	0.122
Dicofol	35.0	42.5
Dieldrin	0.142	0.172
Diuron	124	150
Endosulfan I (alpha)	0.130	0.158
Endosulfan II (beta)	0.130	0.158
Endosulfan sulfate	0.130	0.158
Endrin	0.051	0.062
Guthion	N/A	N/A
Heptachlor	0.307	0.372
Hexachlorocyclohexane (Lindane)	0.664	0.806
Lead	75.8	92.0
Malathion	N/A	N/A
Mercury	1.42	1.72
Methoxychlor	N/A	N/A
Mirex	N/A	N/A
Nickel	295	358
Nonylphenol	16.5	20.0
Parathion (ethyl)	0.038	0.047
Pentachlorophenol	3.44	4.18
Phenanthrene	17.7	21.5
Polychlorinated Biphenyls (PCBs)	1.18	1.43
Selenium	11.8	14.3
Silver	5.83	7.08
Toxaphene	0.460	0.558
Tributyltin (TBT)	0.077	0.093
2,4,5 Trichlorophenol	80.2	97.4
Zinc	112	136

ATTACHMENT B



TPDES PERMIT NO. WQ0005111000
[For TCEQ office use only -
EPA I.D. No. TX0135071]

TEXAS COMMISSION ON ENVIRONMENTAL
QUALITY

P.O Box 13087
Austin, Texas 78711-3087

PERMIT TO DISCHARGE WASTES

under provisions of
Section 402 of the Clean Water Act
and Chapter 26 of the Texas Water Code

Tenaska Roan's Prairie Partners, LLC

whose mailing address is

14302 FNB Parkway
Omaha, Nebraska 68154

is authorized to treat and discharge wastes from Tenaska Roan's Prairie Generating Station (SIC 4911)

located on the south side of State Highway 30, approximately 2.5 miles southwest of the City of Shiro and approximately 1.1 miles east of the intersection of State Highway 30 and State Highway 90, Grimes County, Texas 77876

to an unnamed tributary; thence to Flagtail Creek; thence to Lake Creek in Segment No. 1015 of the San Jacinto 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, 2017.

ISSUED DATE:

For the Commission

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the date of permit issuance and lasting through the date of permit expiration, the permittee is authorized to discharge evaporative cooler blowdown, previously monitored effluents (low volume waste sources, metal cleaning wastes, chemical metal cleaning wastes, water treatment wastes, and stormwater from internal Outfall 101), and uncontaminated air conditioner and compressor condensate subject to the following limitations:

The daily average flow of effluent shall not exceed 0.105 million gallons per day (MGD). The daily maximum flow shall not exceed 0.150 MGD.

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	0.105 MGD	0.150 MGD	N/A	Continuous (*1)	Estimate
Total Suspended Solids	30	100	100	1/week (*1)	Grab
Temperature	N/A	Report, °F	N/A	1/week (*1)	In Situ
Oil and Grease	15	20	20	1/week (*1)	Grab

- (*1) When discharge occurs. Samples shall be obtained during periods of active electricity generation.
2. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored 1/week (*1) by grab sample.
3. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
4. Effluent monitoring samples shall be taken at the following location: at the sampling port located on the pipeline leading to Outfall 001.

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 101

1. During the period beginning upon the date of permit issuance and lasting through the date of permit expiration, the permittee is authorized to discharge low volume waste sources, metal cleaning wastes, chemical metal cleaning wastes, water treatment wastes, and stormwater subject to the following effluent limitations:

Volume: Intermittent and flow variable.

Effluent Characteristics	Discharge Limitations		Minimum Self-Monitoring Requirements		
	Daily Average mg/L Report	Daily Maximum mg/L Report	Single Grab mg/L N/A	Report Daily Average and Daily Maximum Measurement Frequency Continuous (*1) 1/week (*1) 1/week (*1)	Sample Type Estimate Grab Grab
Flow	30	100			
TSS	15	20	100	1/week (*1)	Grab
Oil and Grease			20	1/week (*1)	Grab

- (*1) When discharge occurs. Samples shall be obtained during periods of active electricity generation.
2. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
3. Effluent monitoring samples shall be taken at the following location: at Outfall 101, after the oil/water separator, prior to comingling with other wastewaters.

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, and those sections of 40 Code of Federal Regulations (CFR) Part 122 adopted by reference by the Commission. 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 n th 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 made in a calendar month. For any measurement of bacteria equaling zero, a substitute value of one shall be 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 $(\text{Flow, MGD} \times \text{Concentration, mg/L} \times 8.34)$.
- 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(c).
- 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 Clean Water Act; 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 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 TPDES 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 TPDES 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 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; or
 - 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.
- f. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under CWA §307(a) for a toxic pollutant that is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition. The permittee shall comply with effluent standards or prohibitions established under CWA §307(a) for toxic pollutants

within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

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 Municipal Permits 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 TPDES 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.

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OTHER REQUIREMENTS

1. At least 60 days prior to any discharge of treated wastewater under this permit, the permittee shall submit to the Executive Director (1) documentation showing it is the owner of the land where the treatment facility is to be located; or (2) a copy of a recorded easement from the owner of the land where the treatment facility will be located granting the permittee sufficient rights to the land for the purpose of operation of the facility. If the permittee fails to furnish the documentation, the permittee will be required to file an application to transfer the permit to include the owner of the land as a co-permittee on the permit.
2. There shall be no discharge of polychlorinated biphenyl compounds such as those commonly used for transformer fluid.

3. DEFINITIONS:

- A. The flow weighted average temperature (FWAT) must be computed and recorded on a daily basis. FWAT must be computed at equal time intervals not greater than two hours. The method of calculating FWAT is as follows:

$$\text{FWAT} = \frac{\text{SUMMATION (INSTANTANEOUS FLOW} \times \text{INSTANTANEOUS TEMPERATURE)}}{\text{SUMMATION (INSTANTANEOUS FLOW)}}$$

The "daily average temperature" must be the arithmetic average of all FWATs calculated during the calendar month.

- B. The term "low volume waste sources" means, taken collectively as if from one source, wastewater from all sources except those for which specific limitation are otherwise established in 40 CFR Part 423. Low volume waste sources include, but are not limited to, wastewaters from: wet scrubber air pollution control systems, ion exchange water treatment systems, water treatment evaporator blowdown, laboratory and sampling streams, boiler blowdown, floor drains, cooling tower basin cleaning wastes, and recirculating house service water systems. Sanitary and air conditioning wastes are not included.
 - C. The term "metal cleaning waste" means any wastewater resulting from cleaning (with or without chemical compounds) any metal process equipment including, but not limited to, boiler tube cleaning, boiler fireside cleaning, and air preheater cleaning
 - D. The term "chemical metal cleaning waste" means any wastewater resulting from cleaning of any metal process equipment with chemical compounds, including, but not limited to, boiler tube cleaning.
4. There is no mixing zone established for this discharge to an intermittent stream. Acute toxic criteria apply at the point of discharge.
5. This permit does not authorize the discharge of domestic wastewater. All domestic wastewater must be disposed of in an approved manner such as routing to an approved on-site septic tank and drainfield system or to an authorized third party for treatment and disposal.
6. Reporting requirements according to 30 TAC Sections 319.1-319.12 and any additional effluent reporting requirements contained in the permit are suspended from the effective date of the permit until plant startup or discharge, whichever occurs first, from the facility described by this permit. The permittee shall provide written notice to the TCEQ Region 9 Office and the Applications Review and Processing Team (MC-148) of the Water Quality Division at least forty-

five (45) days prior to plant startup or anticipated discharge, whichever occurs first, on Notification of Completion Form 20007.

7. Attachment A (Tables 1, 2, and 3) shall be completed with the analytical results for Outfall 001 and sent to the TCEQ, Wastewater Permitting Section (MC-148), within 90 days following first discharge. Based on a technical review of the submitted analytical results, an amendment may be initiated by TCEQ staff to include additional effluent limitations, monitoring requirements, or both.

8. PERMIT EXPIRATION AND APPLICATION FOR RENEWAL

Except as provided in item B below, the expiration of this permit occurs at midnight between November 30, 2017 and December 1, 2017.

- A. In accordance with 30 TAC § 305.65, the permittee shall submit an application for permit renewal a minimum of 180 days before the expiration date specified on the cover page of this permit, except when written permission for a later date has been granted by the Executive Director. Under no circumstances will an initial application for renewal be accepted on or after December 1, 2017.
 - B. In accordance with 30 TAC §305.65, if renewal procedures have been initiated before the permit expiration date (i.e., on or before November 30, 2017), the existing permit will remain in full force and effect and will not expire until Commission action on the application for renewal is final.
9. This permit does not authorize the discharge of compressor washwater. All compressor washwater must be collected and shipped to an approved offsite facility.

Attachment A

Table 1

Outfall No.:	<input type="checkbox"/> C <input type="checkbox"/> G ¹	Effluent Concentration (mg/L)				
		Samp.	Samp.	Samp.	Samp.	Average
Pollutants						
BOD (5-day)						
CBOD (5-day)						
Chemical Oxygen Demand						
Total Organic Carbon						
Dissolved Oxygen						
Ammonia Nitrogen						
Total Suspended Solids						
Nitrate Nitrogen						
Total Organic Nitrogen						
Total Phosphorus						
Oil and Grease						
Total Residual Chlorine						
Total Dissolved Solids						
Sulfate						
Chloride						
Fluoride						
Temperature (°F)						
Total Alkalinity (mg/L as CaCO ₃)						
pH (Standard Units; min/max)						

	Effluent Concentration (µg/L)					MAL ¹ (µg/L)
Total Aluminum						30
Total Antimony						60
Total Arsenic						10
Total Barium						10
Total Beryllium						5
Total Cadmium						1
Total Chromium						10
Trivalent Chromium						N/A
Hexavalent Chromium						10
Total Copper						10
Cyanide						20
Total Lead						5
Total Mercury						0.2
Total Nickel						10
Total Selenium						10
Total Silver						2
Total Thallium						10
Total Zinc						5

¹ MAL -Minimum Analytical Level, C-Composite, G-Grab

Attachment A

Table 2

Outfall No.:	<input type="checkbox"/> C <input type="checkbox"/> G	Samp. 1 (µg/L)*	Samp. 2 (µg/L)*	Samp. 3 (µg/L)*	Samp. 4 (µg/L)*	Avg. (µg/L)*	MAL (µg/L)
Pollutant							
Acrylonitrile							50
Anthracene							10
Benzene							10
Benzidine							50
Benzo(a)anthracene							10
Benzo(a)pyrene							10
Bis(2-chloroethyl)ether							10
Bis(2-ethylhexyl)phthalate							10
Bromodichloromethane							10
Bromoform							10
Carbon Tetrachloride							10
Chlorobenzene							10
Chlorodibromomethane							10
Chloroform							10
Chrysene							10
Cresols							10
1,2-Dibromoethane							10
m-Dichlorobenzene							10
o-Dichlorobenzene							10
p-Dichlorobenzene							10
3,3'-Dichlorobenzidine							10
1,2-Dichloroethane							10
1,1-Dichloroethylene							10
Dichloromethane							20
1,2-Dichloropropane							10
2,4-Dimethylphenol							10
Di-n-Butyl Phthalate							10
Ethylbenzene							10
Fluoride							500
Hexachlorobenzene							10
Hexachlorobutadiene							10
Hexachlorocyclopentadiene							10
Hexachloroethane							20
Methyl Ethyl Ketone							50
Nitrobenzene							10
N-Nitrosodiethylamine							20
N-Nitroso-di-n-Butylamine							20
Nonylphenol							333
Pentachlorobenzene							20
Pentachlorophenol							50
Phenanthrene							10

Outfall No.:	<input type="checkbox"/> C <input type="checkbox"/> G	Samp. 1 (µg/L)*	Samp. 2 (µg/L)*	Samp. 3 (µg/L)*	Samp. 4 (µg/L)*	Avg. (µg/L)*	MAL (µg/L)
Pollutant							
Polychlorinated Biphenyls (PCBs) (**)							1.0
Pyridine							20
1,2,4,5-Tetrachlorobenzene							20
1,1,2,2-Tetrachloroethane							10
Tetrachloroethylene							10
Toluene							10
1,1,1-Trichloroethane							10
1,1,2-Trichloroethane							10
Trichloroethylene							10
2,4,5-Trichlorophenol							50
TTHM (Total Trihalomethanes)							10
Vinyl Chloride							10

(*) Indicate units if different from µg/L.

(**) Total PCB-1242, PCB-1254, PCB-1221, PCB-1232, PCB-1248, PCB-1260, PCB-1016

Attachment A

Table 3

Outfall No.:	<input type="checkbox"/> C <input type="checkbox"/> G	Believed Present	Believed Absent	Effluent Concentration (mg/L)		No. of Samples
				Average	Maximum	
Pollutants						
Bromide						
Color (PCU)						
Nitrate-Nitrite (as N)						
Sulfide (as S)						
Sulfite (as SO ₃)						
Surfactants						
Total Antimony						
Total Beryllium						
Total Boron						
Total Cobalt						
Total Iron						
Total Magnesium						
Total Molybdenum						
Total Manganese						
Total Thallium						
Total Tin						
Total Titanium						

ATTACHMENT C

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN604396259, RN106955545, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator:	CN604396259, Tenaska Roan's Prairie Partners, LLC	Classification: UNCLASSIFIED	Rating: -----
Regulated Entity:	RN106955545, TENASKA ROANS PRAIRIE GENERATING STATION	Classification: UNCLASSIFIED	Rating: -----
Complexity Points:	12	Repeat Violator:	NO
CH Group:	06 - Electric Power Generation		
Location:	FROM COLLEGE STATION HEAD NE ON FM RD 60 UNIVERSITY DR TOWARD JANE ST TURN R ONTO TX 6 FRONTAGE S TURN L ONTO HARVEY RD SLIGHT R ONTO TX 10 E SITE IS 22.4 MI DOWN TX 30 E ON R SIDE GRIMES, TX, GRIMES COUNTY		
TCEQ Region:	REGION 09 - WACO		

ID Number(s):			
AIR NEW SOURCE PERMITS PERMIT 114698		AIR NEW SOURCE PERMITS EPA PERMIT GHGPSDTX51	
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1378		WASTEWATER PERMIT WQ0005111000	

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: January 23, 2015

Agency Decision Requiring Compliance History: Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.

Component Period Selected: January 01, 2010 to December 31, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Karen Holligan

Phone: (512) 239-4589

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
N/A

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

ATTACHMENT D

PROPOSED TPDES PERMIT NO. WQ0005111000

APPLICATION BY
TENASKA ROAN'S
PRAIRIE PARTNERS, LLC.

§
§
§
§

BEFORE THE TEXAS
COMMISSION ON
ENVIRONMENTAL
QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2014 SEP 30 AM 11:19
OFFICE OF THE CHIEF CLERK

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the application by Tenaska Roan's Prairie Partners, LLC (Applicant or Tenaska) for a new Texas Pollutant Discharge Elimination System (TPDES) permit, No. WQ0005111000, and on the ED's preliminary decision. As required by 30 Texas Administrative Code (TAC) § 55.156, before an application is approved, the ED prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk at TCEQ received timely comment letters from the following persons: Patrick S. Phillips, Jackie E. Phillips, Roy Hoffart, and Neal Sutton. This Response addresses all timely 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

Description of Facility

The Applicant applied for a new permit to authorize the discharge of evaporative cooler blowdown; previously monitored effluents (low volume waste sources, metal cleaning wastes, chemical metal cleaning wastes, water treatment wastes, and stormwater from internal Outfall 101); and uncontaminated air conditioner and compressor condensate at a daily average flow not to exceed 105,000 gallons per day (gpd) from external Outfall 001. The facility, Tenaska Roan's Prairie Generating Station, is a 694-megawatt natural-gas fired, electrical generation station that will be operated as a peaking plant. The plant site is located on the south side of State Highway 30, approximately 2.5 miles southwest of the City of Shiro and approximately 1.1 miles east of the intersection of State Highway 30 and State Highway 90, Grimes County, Texas.

The Applicant proposes to use clarified non-potable water from Lake Livingston as make-up water for the facility. The source water will be supplied to the plant via a pipeline. The Applicant does not propose to own or operate its own water intake structure on Lake Livingston. The Applicant does not propose the use of chlorination of any water at the facility. The majority of the wastewaters to be generated will be non-process waste streams, including blowdown from evaporative coolers and water treatment wastes. Process wastewater will be collected in a series of drains and routed to an oil/water separator. It will include low volume waste sources, plant service water, wash water, neutralized effluent from ion exchange treatment, chemical storage drains, spill cleanup wastes, and stormwater that accumulates within containment areas. These

waste streams will be managed through Outfall 101, an internal outfall. Domestic wastewater will be routed to an onsite septic tank and drainfield. The compressor section of the combustion turbines will accumulate particulate from the ambient air as it passes through the turbines. Compressor wash water (a mixture of demineralized water and detergent) will clean this particulate from the compressor and will then be captured and hauled off site.

The effluent limits for both Outfall 101, the internal outfall, and Outfall 001, the external outfall, are a daily average concentration of 30 mg/L of Total Suspended Solids (TSS); 15 mg/L of Oil and Grease; and a range of 6.0 to 9.0 standard units for pH. In addition, the daily average flow from Outfall 001 must not exceed a daily average of 105,000 gpd. The proposed facility will be using gas turbines for electric power generation, i.e., steam will not be used to generate the electricity. Thus, the steam electric power generating point source category effluent limitations of 40 Code of Federal Regulations (CFR) Part 423 are not applicable. Because the Applicant is not chlorinating, no chlorine limitations are included in the draft permit.

The effluent is to be discharged to an unnamed tributary; then to Flagtail Creek; then to Lake Creek in Segment No. 1015 of the San Jacinto River Basin. The unclassified receiving waters have minimal aquatic life use for the unnamed tributary and Flagtail Creek. The designated uses for Segment No. 1015 are high aquatic life use, primary contact recreation, and public water supply. 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 revisions. The 2012 Clean Water Act Section 303(d) list,

the State's inventory of impaired and threatened waters, does not currently list Segment No. 1015.

TCEQ staff performed an antidegradation review of the receiving waters in accordance with 30 TAC §307.5 and the June 2010 TCEQ implementation procedures (IPs) for the Texas Surface Water Quality Standards (TSWQS). A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life use are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life use downstream, and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

The discharge from this permit is not expected to have an effect on any federal endangered or threatened aquatic or aquatic-dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System. To make this determination for TPDES permits, TCEQ and the Environmental Protection Agency (EPA) only considered aquatic or aquatic-dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject

to reevaluation due to subsequent updates or amendments to the biological opinion. This permit does not require EPA review with respect to the presence of endangered or threatened species.

Procedural Background

TCEQ received the application on December 18, 2013 and declared it administratively complete on March 18, 2014. ED staff completed the technical review of the application on April 29, 2014, and prepared a draft permit. The Applicant published the Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (NORI) on April 9, 2014 and the Notice of Application and Preliminary Decision (NAPD) on July 2, 2014 in the *Navasota Examiner*. The public comment period ended on August 1, 2014. The application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

Access to Rules, Law, and Records

The following websites may be useful:

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

Commission records for this facility are available for viewing and copying at the TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of the Chief Clerk, for the current application until final action is taken). The application for this facility has been available for viewing and copying at the Navasota Public Library, 1411 East Washington Avenue, Navasota, Texas, since publication of the NORI. The draft permit, the Statement of Basis/Technical Summary, and the ED's preliminary decision have been available for viewing and copying at the same location since publication of the NAPD.

COMMENTS AND RESPONSES

COMMENT 1:

Patrick S. and Jackie E. Phillips commented that because they are adjacent to the plant, the discharged contaminants will not have time to dilute with fresh water and will be heavy with iron, arsenic, mercury, and selenium. **Patrick S. Phillips** further commented that the ditch and creek where Tenaska proposes to discharge the water will likely contaminate a lake on his property. He believed the discharge will contain unacceptable levels of arsenic, mercury, selenium and other metals. **Neal Sutton** commented that there is nothing in the application that indicates what the wastewater will contain and the level to which it will be treated. He is concerned that the proposed waste and stormwater will be immediately discharged into a public waterway.

RESPONSE 1:

The mission of the TCEQ is to protect our state's human and natural resources consistent with sustainable economic development. Our goal is clean air, clean water,

and the safe management of waste. To accomplish the mission, the 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) ensures meaningful public participation in the decision-making process; and 6) promotes and fosters voluntary compliance with environmental laws and provides 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 which have been developed and are implemented to be protective of human health and the environment.

The proposed permit was drafted in accordance with 30 TAC, Chapter 307, and the June 2010 TCEQ IPs for the TSWQS, and should be protective of aquatic life and human health in the receiving stream when the Applicant operates and maintains the facility according to TCEQ rules and the draft permit requirements. Chapter 307 states that surface waters cannot be made toxic to aquatic or terrestrial organisms and "will not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life." The methodology outlined in the IPs is designed to ensure that no source will be allowed to discharge any wastewater which: (1) results in instream aquatic toxicity; (2) causes a violation of an applicable narrative or numerical state water quality standard; (3) results in the endangerment of a drinking water supply; or (4) results in aquatic bioaccumulation which threatens human health. If the effluent data shows pollutants that have the potential to exceed the

calculated water quality-based limitations necessary to protect aquatic life, a permit amendment will be initiated by TCEQ staff and additional monitoring, effluent limits, and/or other controls may be added to the permit.

The ED's technical review of the permit application begins with a review by the Water Quality Assessment (WQA) Section. This section determines the designated uses of the segment or water body that would receive the proposed discharge, the critical conditions for the water body (i.e., low flow) when it is most susceptible to adverse effects, and the limitations to ensure that the dissolved oxygen criteria are met. Upon completion of the review, the WQA Section provides recommendations that are used to develop requirements in the draft permit. In addition, a Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action, and numerical and narrative criteria to protect existing uses will be maintained. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses will be maintained and protected.

Because this is a proposed facility that has not been constructed, no effluent data could be submitted with the application that represents the wastewater that will be produced at the proposed facility. Therefore, Other Requirement No. 7 in the proposed permit requires that the initial discharges be sampled and analyzed for a series of pollutants (including iron, arsenic, mercury, and selenium) to be screened against the concentrations necessary to protect the water quality criteria. If the permit is issued, the wastewater from the facility will be screened against the TSWQS once the facility is in

operation. This is to ensure further protection of aquatic life in the unnamed tributary, Flagtail Creek, and Lake Creek and to protect the designated uses of Lake Creek. The ED has preliminarily determined that the existing uses of the receiving waters should be protected if the facility is operated and maintained as required by the proposed draft permit and regulations. This preliminary determination can be reexamined and may be modified if new information is received.

COMMENT 2:

Patrick S. and Jackie E. Phillips are concerned about the effect on cattle drinking the discharge water. **Patrick S. Phillips** further commented that the water in his lake will be unfit for cattle and wildlife to drink because it could contain unacceptable levels of arsenic, mercury, selenium and other metals. He stated that this would adversely affect the environment of fish as well as cattle and wildlife raised and sold, which could then impact human consumption of these animals.

RESPONSE 2:

30 TAC § 307.4(d) states that surface waters cannot be made toxic to aquatic or terrestrial organisms and “will not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life.” The Texas Surface Water Quality Standards (TSWQS) in 30 TAC § 307.6(b)(4) specifically states that “Water in the state shall be maintained to preclude adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals, resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three.” The effluent limitations and conditions in the draft permit comply with the

TSWQS, 30 TAC §§ 307.1 - 307.10. While Chapter 307 and the IPs do not specifically designate criteria for the protection of livestock, they do designate criteria for the protection of aquatic life and human health that should preclude impacts to the health and performance of livestock. If the Applicant operates the facility in accordance with the TCEQ rules and the provisions of the proposed permit, aquatic life, livestock and the environment will be protected.

A guidance document provided by the Texas Agricultural Extension Service entitled "Water Quality: Its Relationship to Livestock" (Doc. No. L2374)¹ states that the most common water quality problems affecting livestock production are high mineral concentrations (excess salinity), high nitrogen, bacteria contamination, heavy growths of blue-green algae, petroleum, pesticide, and fertilizer spills. With the exception of total dissolved solids (TDS), the constituents of concern mentioned in the document are generally not associated with the waste streams generated from this facility and should not affect livestock. The document states that TDS in the range between 1,000 and 3,000 milligrams per liter (mg/L) should not affect livestock.

COMMENT 3:

Roy Hoffart commented that Flagtail Creek runs through the center of his ranch. A low water crossing on the ranch is his only way to gain access to the other side. It is a natural rain runoff for the surrounding land and is not intended for a private business to dump their unwanted resources. The creek stays full of water year round and allowing a new daily flow of water into Flagtail Creek will instantly cause water

¹ Available at: <http://lubbock.tamu.edu/files/2011/10/2074410-L2374.pdf>

levels to rise above a non-crossing stage. This potential flooding would affect his cattle, the deer population, his livelihood, erosion of the creek, and constant repairing of the concrete levy. **Patrick S. and Jackie E. Phillips** have commented that the creeks are currently dry creeks and there is no water flow unless several inches of rain occurs for a long period of time. They believe the Tenaska discharge will change this and could wash out their right-of-way road, road culverts including a culvert crossing in the creek, and gravel. They believe the discharge will eliminate access to their lake, cattle pens, and barn in addition to damaging this area. **Neal Sutton** commented that Flagtail Creek is filled in many places with natural debris and fallen trees. The creek runs very close to and below a pond on his property. He is very concerned that the level of proposed discharge will cause potentially severe flooding and erosion of the creek bank.

RESPONSE 3:

The TCEQ does not address erosion or hydraulic loading issues in the wastewater permitting process. The Texas Water Code (TWC), TCEQ regulations, and the TPDES permitting process restricts the scope of the technical review of the draft permit to the quality of the effluent as it relates to the uses of the receiving waters. Water quantity, water rights, volume and supply are not part of a wastewater discharge permit evaluation. The proposed permit was prepared to protect water in the state from potential pollutants in the proposed discharge. The proposed permit limits the maximum volumes of treated effluent that the Applicant can discharge via Outfall 001 on a daily average and a daily maximum basis and still be protective of the receiving water quality.

TPDES permits establish terms and conditions that are intended to provide water quality pollution control. Therefore, the TCEQ's review of an application for a TPDES permit focuses on controlling the discharge of pollutants into water in the state. The TCEQ does not have jurisdiction to address flooding in the wastewater permitting process, unless there is an associated water quality concern. According to information provided in the application, the facility will be located above the 100-year flood plain. Additionally, the Federal Emergency Management Agency (FEMA) has programs that are designed to mitigate damage caused by flooding. You can contact your local floodplain administrator if you have additional flooding concerns.

However, the issuance of this permit does not grant the Applicant 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 Applicant to acquire property rights as may be necessary to use the discharge route.

Furthermore, the proposed permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effect on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

COMMENT 4:

Roy Hoffart stated that not having access to his private property will lower his land value. **Patrick S. and Jackie E. Phillips** commented that the value of their right-of-way road, barn, cattle pens, lake, and electricity access would be lost. **Neal Sutton** commented that flooding and erosion would damage his property and potentially undercut and adversely affect his pond.

RESPONSE 4:

The TCEQ has no jurisdiction to address property value impact issues in the wastewater permitting process. The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. However, the proposed permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effect on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

COMMENT 5:

Neal Sutton asked about the procedure and opportunities for public comment should the Applicant decide to apply to increase the amount of discharge. He wondered if granting of the proposed application would allow the Applicant to increase the discharge to some level set by statute or regulation without going through a permitting public comment period.

RESPONSE 5:

TCEQ rules require the chief clerk to mail the Notice of Receipt of Application and Intent to Obtain Permit (NORI) and the Notice of Application and Preliminary Decision (NAPD) to the "landowners named on the application map or supplemental map, or the sheet attached to the application map or supplemental map."² The Chief Clerk also mails the NORI and NAPD to owners of tracts of land adjacent to the discharge route within one mile downstream of the point of discharge as identified in an application for a new permit or a major amendment. An application for a new permit or a major amendment³ to an existing permit to discharge wastewater "into or adjacent to a watercourse, shall contain information showing the ownership of the tracts of land adjacent to the treatment facility and for a reasonable distance along the watercourse from the proposed point of discharge. The applicant shall list on a map, or in a separate sheet attached to a map, the names and addresses of the owners of such tracts of land as can be determined from the current county tax rolls or other reliable sources."⁴ Historically, the Commission has interpreted a reasonable distance from the point of discharge to mean one mile downstream from the point of discharge. Because an application for a renewal requests continuation of the same requirements and conditions of the expiring permit, 30 TAC §§ 39.551(b)(2)(A) and (c)(5)(A) do not require mailed notice of the NORI and NAPD to adjacent or downstream landowners.

² See 30 TAC §§ 39.413(1), 39.418(b)(2), and 39.419(c).

³ See 30 TAC § 305.62(e)(1) that defines a major amendment as an amendment that changes a substantive term, provision, requirement, or a limiting parameter of a permit.

⁴ 30 TAC § 305.48(a)(2).

The TCEQ also follows the Basin Permitting rule found in 30 TAC Chapter 305.71 when determining expiration dates for permits, which are on a 5 year renewal schedule. Unless there are extenuating circumstances, this rule is typically applied to TPDES discharge permits. During the permitting process, notices are published in newspapers circulated in the area, in both English and Spanish versions, if necessary. Additionally, a copy of the permit application is placed in a public location for viewing; permits applications submitted for major amendments also include a list of adjacent landowners, who are notified by the TCEQ of the Applicant's request.

COMMENT 6:

Neal Sutton commented that the Applicant would operate the proposed plant at whatever capacity was needed, including full capacity, to meet that need. In such a case, the effect on downstream landowners from wastewater and stormwater discharge would be significantly and adversely affected relative to operating at times of peak power needs.

RESPONSE 6:

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, outside of water quality issues, the TCEQ does not have jurisdiction to consider hours of operation when determining whether to approve or deny an industrial wastewater permit application.

COMMENT 7:

Patrick S. and Jackie E. Phillips have commented that Tenaska's existing plant has discharged water over their property, filling creeks and their lake. They had

the water tested and stated that it was abnormally high in iron, arsenic, mercury, and selenium. They also stated that during that time, cows were having abnormal calves on that property.

RESPONSE 7:

Because no data was submitted with the comment and that discharge is not the subject of this permit, TCEQ cannot respond. Any observance of nuisance conditions caused by the discharges from any facility in the Shiro area can be reported to the TCEQ Region 9 Office in Waco at 254-751-0335, or by using the statewide toll-free number at 1-888-777-3186. Calls to the statewide toll-free number from are automatically routed to the regional office. Citizen complaints may also be filed on-line at <http://www2.tceq.texas.gov/oce/complaints/index.cfm>. If the facility is found to be out of compliance with the terms or conditions of its permit or with TCEQ regulations, it is subject to enforcement.

In addition, the proposed permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effect on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

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

Respectfully submitted,

Texas Commission on Environmental Quality

Richard A. Hyde, P.E.
Executive Director

Robert Martinez, Director
Environmental Law Division

Celia Castro

Celia Castro, Staff Attorney
Environmental Law Division
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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on September 30, 2014, the Executive Director's Response to Public Comment for Permit No. WQ0005111000 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.

Celia Castro

Celia Castro, Staff Attorney
Environmental Law Division
State Bar No. 03997350

ATTACHMENT E

Tenaska Roan's Prairie Partners, LLC

WQ0005111000

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
Date: 2/26/2015



Proposed Facility



Applicant's Property



Requestor

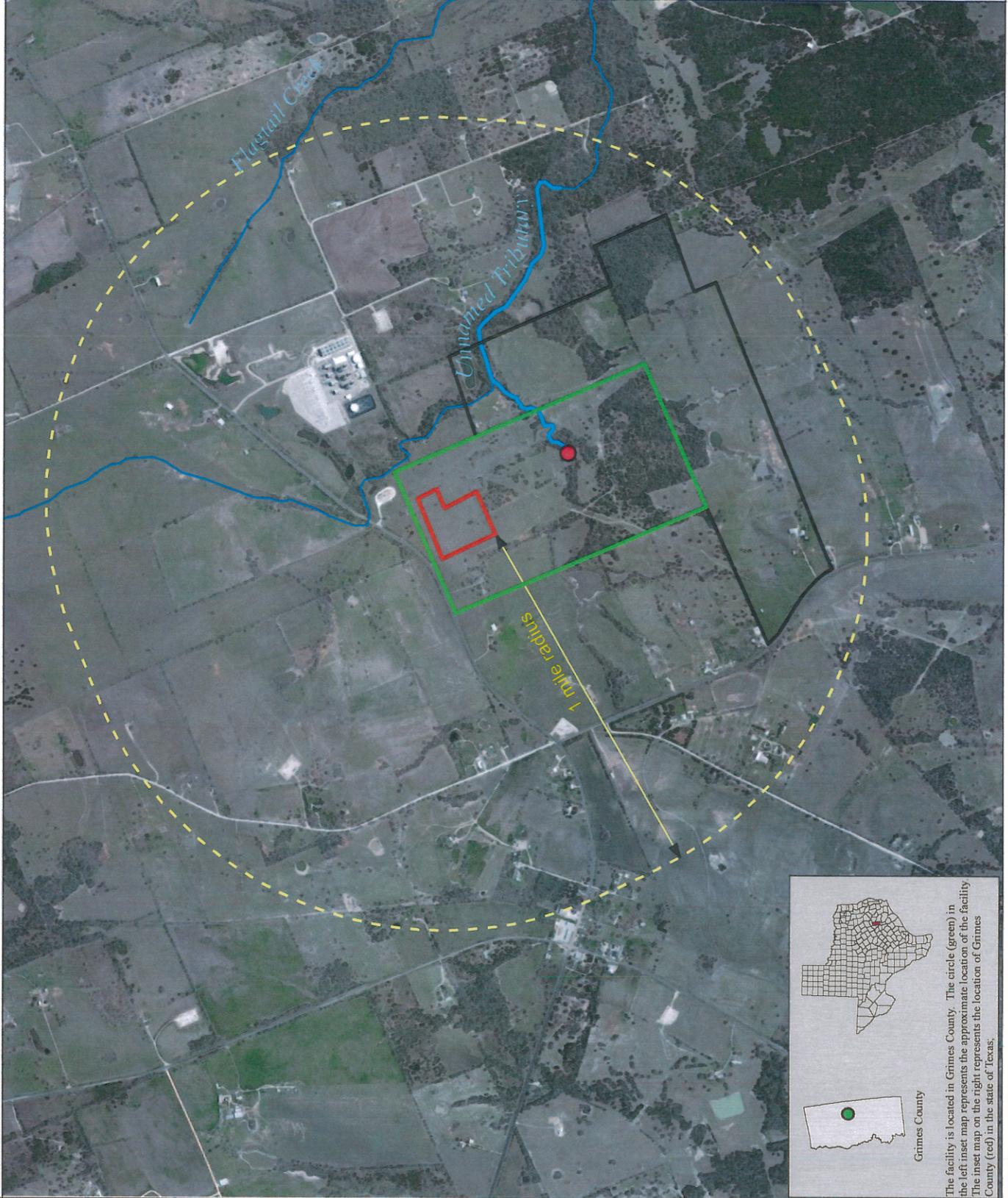


**1. Patrick S. &
Jackie E. Phillips**

Outfall 001



**Discharge Route
(1 mi)**



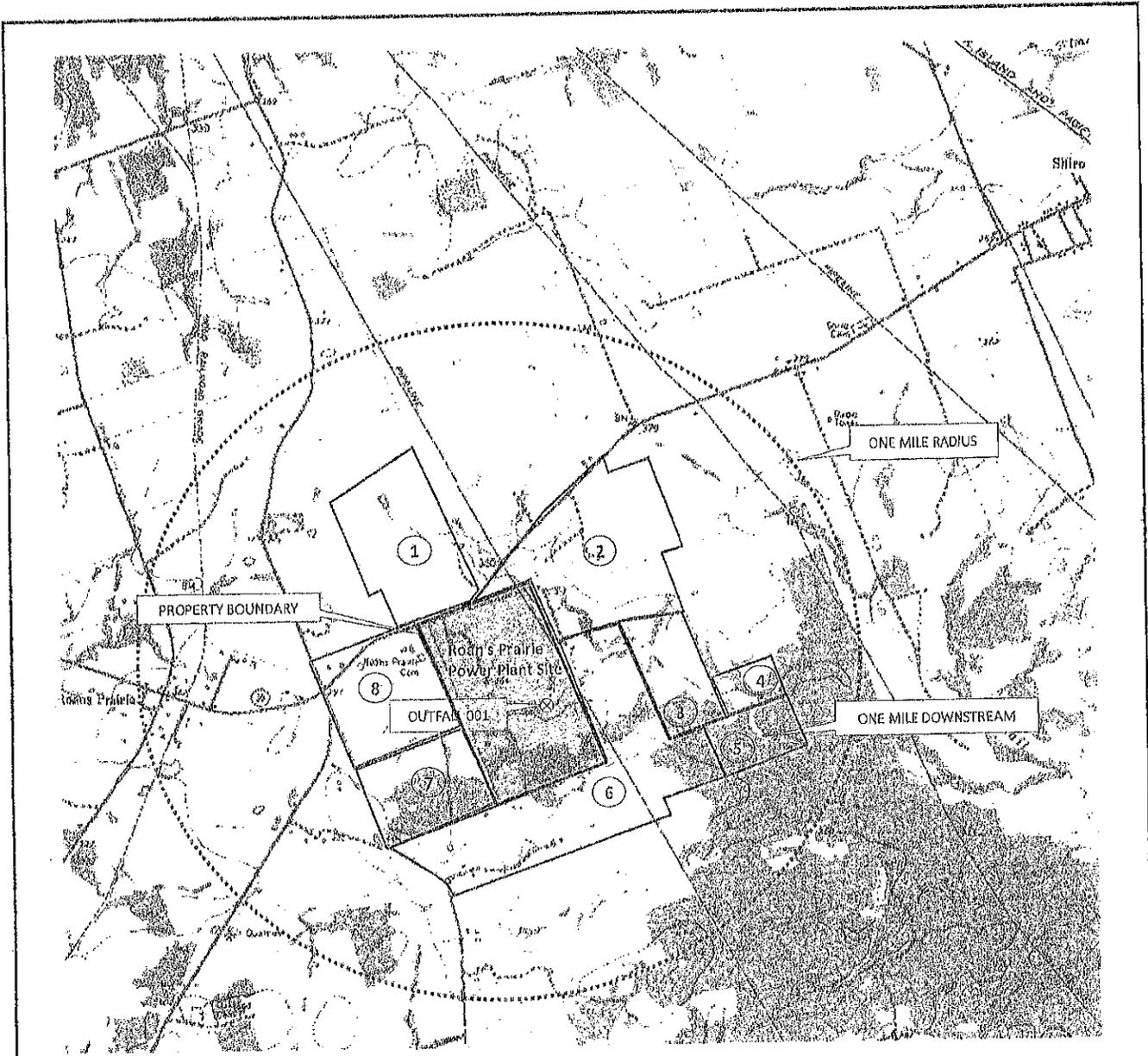
Grimes County

The facility is located in Grimes County. The circle (green) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of Grimes County (red) in the state of Texas.

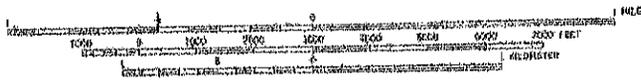
Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor. The background imagery of this map is from the current Environmental Systems Research Institute (ESRI) map service, as of the date of this map.

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.

ATTACHMENT F



Source: USGS Map Roan's Prairie Grimes County Texas



Attachment D Landowner Map	
Tenaska Roan's Prairie Partners, LLC Grimes County, Shiro, Texas	
	411 North Sam Houston Parkway E, Suite 400 Houston, TX 77080

Attachment D
Adjacent Landowner List

1	BETTY JANE REED 1569 ASHLEY GARDEN BLVD CHARLESTON, SC 29414-9218
2	TENASKA FRONTIER PARTNERS, LTD 1044 N. 115th St. Ste 400 Omaha NE 68154
3	ROY & MELANIE HOFFART P O BOX 250 SHIRO, TX 77876
4	KATHLEEN HOCHMUTH 5611 PINE HOUSTON, TX 77081
5	NEAL S SUTTON 1000 POLO CLUB DR AUSTIN, TX 78737-2635
6	PATRICK PHILLIPS ETUX 2835 THORN CREEK HOUSTON, TX 77073-3425
7	MARION KLAWINSKY 7822 FM 2562 RICHARDS, TX 77873-7060
8	JIMMY MC GLENDON 3738 HWY 21 E BRYAN, TX 77808-0935