

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



Vic McWherter, Public Interest Counsel

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 8, 2015

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

**RE: CLEAR LAKE CITY WATER AUTHORITY
TCEQ DOCKET NO. 2015-0563-MWD**

Dear Ms. Bohac:

Enclosed for filing is the Office of Public Interest Counsel's Response to Requests for Reconsideration and Requests for Hearing in the above-entitled matter.

Sincerely,

A handwritten signature in cursive script that reads "Eli Martinez".

Eli Martinez, Attorney
Assistant Public Interest Counsel

cc: Mailing List

Enclosure

TCEQ DOCKET NO. 2015-0563-MWD

**IN THE MATTER OF
THE APPLICATION OF
CLEAR LAKE CITY
WATER AUTHORITY,
PERMIT NO.
WQ0010539001**

§
§
§
§
§
§

**BEFORE THE TEXAS
COMMISSION ON
ENVIRONMENTAL
QUALITY**

**THE OFFICE OF PUBLIC INTEREST COUNSEL'S
RESPONSE TO REQUESTS FOR RECONSIDERATION AND REQUESTS FOR
HEARING**

TO THE HONORABLE MEMBERS OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY:

COMES NOW, the Office of Public Interest Counsel (OPIC) of the Texas
Commission on Environmental Quality (the Commission or TCEQ) and files this
Response to Requests for Reconsideration and Requests for Hearing in the above-
referenced matter.

I. INTRODUCTION

A. Background of Facility

Clear Lake City Water Authority (CLCWA or the "Applicant") has applied for a
major amendment to Permit No. WQ0010539001 to authorize the establishment of two
additional outfalls. The current permit authorizes the disposal of treated domestic
wastewater at a daily average flow not to exceed 10.0 million gallons per day (MGD)
from Outfall 001. The proposed permit would authorize the discharge of treated domestic
wastewater from Outfall 001 at an annual average flow not to exceed 10.0 MGD; from

Outfall 002 at an annual average flow not to exceed 1.08 MGD; and from Outfall 003 at an annual average flow not to exceed 1.08 MGD. The proposed permit authorizes a combined annual average flow not to exceed 10.0 MGD from Outfalls 001, 002, and 003. The existing wastewater treatment facility serves the Clear Lake City service area.

The effluent limitations for Outfall 001, based on a 30-day average, are 5 mg/l Biochemical Oxygen Demand (BOD5), 12 mg/l total suspended solids (TSS), 2 mg/l ammonia nitrogen (NH3-N), 0.02 mg/l total copper, 0.08 mg/l total zinc, 4.0 mg/l dissolved oxygen (DO), and 35 CFU or MPN/100 ml Enterococci. The effluent limitations for Outfalls 002 and 003, based on a 30-day average, are 5 mg/l BOD5, 12 mg/l total suspended solids TSS, 2 mg/l NH3-N, 0.02 mg/l total copper, 0.08 mg/l total zinc, 4.0 mg/l DO, and 126 CFU or MPN/100 ml *E. coli*.

The permittee will utilize an Ultraviolet Light (UV) system for disinfection. During shut-down of the UV disinfection system for occasional maintenance or during periods of stormwater flow that exceed the 2-hour peak flow, the effluent shall be routed to the chlorine contact chamber and shall contain a chlorine residual of at least 1.0 mg/l after a detention time of at least 20 minutes (based on peak flow) and shall be monitored daily by grab sample. The permittee shall dechlorinate the chlorinated effluent to less than 0.1 mg/l chlorine residual and shall monitor chlorine residual daily by grab sample after the dechlorination process. An equivalent method of disinfection may be substituted only with prior approval by the Executive Director. The treated effluent is discharged via Outfall 001 to Horsepen Bayou, then to Armand Bayou Tidal.

Under the proposed permit, the treated effluent would also be discharged via Outfall 002 to a pond on the west side of El Dorado Boulevard, then to Harris County

Flood Control District (HCFCD) ditch B104-03-00, then to Horsepen Bayou, then to Armand Bayou Tidal; and from Outfall 003 to a series of ponds on the east side of El Dorado Boulevard, then to HCFCD ditch B104-02-00, then to Horsepen Bayou, then to Armand Bayou Tidal in Segment No. 1113 of the San Jacinto-Brazos Coastal Basin.

The unclassified receiving water uses are high aquatic life use for Horsepen Bayou (tidal), HCFCD ditch B104-03-00 (tidal), and HCFCD ditch B104-02-00 (tidal); intermediate aquatic life use for a pond on the west side and a series of ponds on the east side of El Dorado Boulevard; and limited aquatic life use for HCFCD ditch B104-02-00 (above tidal). The designated uses for Segment No. 1113 are primary contact recreation and high aquatic life use.

The plant site is located at 14210 Middlebrook Drive in Houston, approximately one mile northeast of the intersection of Bay Area Boulevard and Space Center Boulevard, southeast of Horsepen Bayou and adjacent to the northernmost part of Lyndon B. Johnson Space Center in Harris County, Texas.

B. Procedural Background

The application was received on February 26, 2013, and declared administratively complete on April 29, 2013. The Notice of Receipt of Application and Intent to Obtain Permit (NORI) was published on May 24, 2013 in the *Houston Chronicle*, and in Spanish on May 24, 2013 in *Rumbo*, Harris County, Texas. The Executive Director completed the technical review of the application on November 5, 2013, and prepared a draft permit.

The combined Notice of Public Meeting and Notice of Application and Preliminary Decision (combined PM/NAPD) was published on April 17, 2014 in the *Houston Chronicle*, and in Spanish on April 27, 2014 in *La Voz de Houston*, in Harris

County, Texas. The combined PM/NAPD was also published on April 24, 2014 in the *Bay Area Citizen* in Harris County, Texas. A public meeting was held on May 29, 2014 at the Clear Lake Recreation Center in Houston, Texas.

In order to provide mailed notice and an opportunity to comment to additional landowners who were identified after the close of the original comment period, the Chief Clerk mailed a combined NORI/NAPD to the individuals on the updated adjacent landowners list on September 8, 2014 and the Executive Director extended the comment period for this application to October 8, 2014. The Executive Director's ("ED") Response to Comments ("RTC") was mailed on March 6, 2015, and the time period for filing hearing requests ended on April 6, 2015.

TCEQ received timely requests for reconsideration from Carole Henning, Steven Baxter, Anita Cooper, Charles E. Howard, Zhan X Peng, and Kenneth Proctor. As discussed below, OPIC recommends that each of the requests for reconsideration be denied.

TCEQ also received timely hearing requests from 146 requestors. As discussed below, OPIC recommends granting the hearing requests of Charles Howard, Zhan X. Peng, Tom Reed, Raymond Halyard, Kenneth Proctor, and Anita Cooper, and referring the matter to the State Office of Administrative Hearings (SOAH) for a contested case hearing. Although OPIC cannot recommend referring the hearing request of the Friends of the Old Golf Course (FOGC) to hearing at the present time, if an explanation of the purpose of the group is provided by the reply deadline of June 22, 2015, OPIC may reconsider its recommendation.

II. REQUESTS FOR RECONSIDERATION

A. Requirements of Applicable Law

The application was declared administratively complete after September 1, 1999 and is subject to the requirements of Texas Water Code Chapter 5, Subchapter M, Environmental Permitting Procedures, §§5.551 to 5.556, added by Acts 1999, 76th Leg., ch 1350 (commonly known as "House Bill 801"). House Bill 801 created the request for reconsideration as a procedural mechanism which allows the Commission to review and reconsider the Executive Director's decision on an application without a contested case hearing. Following the Executive Director's technical review and issuance of the Executive Director's decision and response to comments, a person may file a request for reconsideration or a request for contested case hearing, or both. TEXAS WATER CODE §5.556; 30 TEXAS ADMINISTRATIVE CODE ("TAC") §55.201(e).

Any person may file a request for reconsideration of the executive director's decision. 30 TAC 55.201(e). The request for reconsideration must state the reasons why the Executive Director's decision should be reconsidered. 30 TAC 55.201(e). Responses to requests for reconsideration should address the issues raised in the request. 30 TAC §55.209(f).

B. Discussion

The Commission received timely requests for reconsideration from Kenneth Proctor, Steven Baxter, Anita Cooper, Charles E. Howard, Zhan X Peng, and Carole Henning, on behalf of Friends of the Old Golf Course. These requests for reconsideration contend that the Executive Director erred in not requiring the applicant to utilize uniform

bacteria limits, discharge volume and rates, and require all outfalls to be inaccessible to the public. The requestors also claim the proposed permit does not properly test for Legionella and Legionella pneumophila, and that the permit should require waste streams to contain no more of these bacteria than exist in the natural environment. Additionally, the requestors contend that the permit should be denied because it does not contemplate the possibility of increased homeowner insurance costs potentially incurred by nearby residents due to reclassification of property as near a water body due to the permitted activities, or provide financial compensation to residents who are assessed increased premiums or forced to find other, more costly, insurance due to the same.

In addition to these concerns, the request for reconsideration submitted by Mr. Howard asserts that the Commission generally only allows effluent to be added to existing, flowing bodies of water, and limits the volume of permitted discharge such that only 30% or less of the total stream flow is made up of effluent. In contrast, the Executive Director erred in allowing the proposed effluent to be discharged into a dry stream bed, such that the permitted effluent will make up the entire flow in the proposed discharge route aside from surface runoff. This error takes on additional significance due to the fact that the outflows to be constructed by the Applicant will lie below the water table, and therefore threaten drinking water supplies.

Furthermore, the proposed permit would foster super bacteria such as CRE that are resistant to the proposed chlorine and UV treatment contemplated by the Applicant, nuisance conditions such as noise and dust, and vectors such as mosquitos. Property values will be negatively impacted by the permitted activities and taxes will increase to

cover a new bond to cover the cost of the as-yet unfunded project. Furthermore, the Executive Director's antidegradation review was deficient by design due to the fact that there are no current receiving waters to analyze, nor by necessity any aquatic life or recreational uses to be maintained in the as-yet nonexistent ponds referenced in the permit.

While OPIC is sympathetic to the issues raised in the requests for reconsideration and concludes that many of these concerns should be referred to SOAH for a contested case hearing, we cannot conclude that the permit should be denied without further developing the record and allowing a full and fair hearing after consideration of all relevant facts and legal requirements. OPIC therefore recommends that the Commission deny each of the requests for reconsideration.

III. REQUESTS FOR CONTESTED CASE HEARING

A. Requirements of Applicable Law

This application was declared administratively complete after September 1, 1999, and is subject to the requirements of Texas Water Code (TWC) § 5.556 added by Acts 1999, 76th Leg., ch 1350 (commonly known as "House Bill 801"). Under 30 Texas Administrative Code ("TAC") § 55.201(d), a hearing request must substantially comply with the following:

- (1) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request;
- (2) identify the requestor's personal justiciable interest affected by the application showing why the requestor is an "affected person" who may 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 comment period 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.

Under 30 TAC § 55.203(a), 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." This justiciable interest does not include an interest common to the general public. 30 TAC § 55.203(c) also provides relevant factors that will be considered in determining whether a person is affected. These factors include:

- (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, safety, and 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.

This standard does not require the requester to show that they will ultimately prevail on the merits, only that they “show that they will potentially suffer harm or have a justiciable interest that will be affected.” *United Copper Industries v. Grissom*, 17 S.W.3d 797, 803 (Tex. App.—Austin 2000, pet. dismissed) (citing *Heat Energy Advanced Tech., Inc. v. West Dallas Coalition for Env'tl. Justice*, 962 S.W.2d 288, 289 (Tex. App.—Austin 1998, pet. denied)).

The Commission shall grant an affected person's timely filed hearing request if:

- (1) the request is made pursuant to a right to hearing authorized by law; and (2) the request raises disputed issues of fact that were raised during the comment period and that are relevant and material to the commission's decision on the application. 30 TAC §55.211(c).

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

- (1) whether the requestor is an affected person;
- (2) which issues raised in the hearing request are disputed;
- (3) whether the dispute involves questions of fact or 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;
- (7) a maximum expected duration for the contested case hearing.

A group or association may request a contested case hearing only if the group or association meets all of the following requirements:

- (1) one or more members of the group or association would otherwise have standing to request a hearing in their own right;
- (2) the interests the group or association seeks to protect are germane to the organization's purpose; and
- (3) neither the claim asserted nor the relief requested requires the participation of the individual members in the case.¹

B. Determination of Affected Person Status

i. Reasonable Relationship to the Permitted Activity

The Commission received 146 hearing requests related to the proposed permit by way of five petitions and numerous individual requests. OPIC preliminarily reviewed each of these requests to determine whether the requestor resided in sufficient proximity, and downstream, from the proposed outfalls to support a finding of affectedness under the law. OPIC concluded from this analysis that 49 requestors reside sufficiently close to the proposed regulated activity to support a finding that a reasonable relationship exists between any material and relevant issues expressed and the proposed regulated activity. Specifically, these requestors are: Signe Hawley, James Alvarez, Lori Alvarez, Peggy A. Epps, Ronald C. Epps, Logan Jack, Vonetta Berry Jenkins, Virginia King, Tom Reed, Lisa Roth, Jose Carlos Alvarez, Ray Banks, Mary Melissa Daggett, Timothy M. Daggett,

¹ 30 TAC § 55.205(a).

Doyle Del Bosque, Vivian R. Estey, K.S. Gregg, Ron Gyorfi, Robert C. Stites, Scott Askew, Cynthia Jean Bandemer, Ann L. Cook, Kent Cook, John D. Dotter, Nancy Hiner, Steve Hiner, Denise Mais, Jeff Mais, Kenneth Proctor, John D. Rau, Charles Sterling, Stacie Burci, Robert Burrows, Gulmira Butler, Herschel Butler, Anita J. Cooper, Brice Hawley, Patty Hoffman, Mary Howard, Patti Mikulan, James Mitchell, Lori O'Brin, Patricia Kay Powell, David Smith, Ruby Smith, Raymond Halyard, Charles E. Howard, Zhan X. Peng, and Friends of the Old Golf Course. OPIC proceeds to determine whether these requests otherwise satisfy requirements for showing a personal justiciable interest below.

As to the remaining requests, OPIC finds that a reasonable relationship does not exist between any interests claimed and the regulated activity because either the proposed discharge runs in the opposite direction of the requestor's property, or the distance between the requestor's residence and the proposed outfalls renders potential impacts to health, safety, or use of property unlikely. OPIC therefore recommends that these remaining requests be denied by the Commission.

ii. Interests Raised in Requests

Many of the 49 requestors OPIC has determined reside within a reasonable distance from the proposed permitted activity submitted their request on one of five petitions received by the Commission. The signatories of a petition received by the Commission on March 31, 2014, include requestor Signe Hawley. The signatories of a petition received by the Commission on February 28, 2014, include requestors James Alvarez, Lori Alvarez, Peggy A. Epps, Ronald C. Epps, Logan Jack, Vonetta Berry

Jenkins, Virginia King, Tom Reed, and Lisa Roth. The signatories of a petition received by the Commission on August 19, 2013, include requestors Jose Carlos Alvarez, Ray Banks, Mary Melissa Daggett, Timothy M. Daggett, Doyle Del Bosque, Vivian R. Estey, K.S. Gregg, Ron Gyorfi, and Robert C. Stites. The signatories of a petition received by the Commission on July 26, 2013, include requestors Scott Askew, Cynthia Jean Bandemer, Ann L. Cook, Kent Cook, John D. Dotter, Nancy Hiner, Steve Hiner, Denise Mais, Jeff Mais, Kenneth Proctor, John D. Rau, and Charles Sterling. The signatories of a petition received by the Commission on July 12, 2013, include requestors Stacie Burci, Robert Burrows, Gulmira Butler, Herschel Butler, Anita J. Cooper, Brice Hawley, Patty Hoffman, Mary Howard, Patti Mikulan, James Mitchell, Lori O'Brin, Patricia Kay Powell, and David & Ruby Smith.

Each of these petitions identically requests a public meeting and a "contested case history for the CLC Old Golf Course residents prior to consideration of approval." OPIC interprets this language as a request for a contested case hearing, but cannot determine that any material and relevant, legally protected issues with the proposed permit have been identified for referral as required by 30 TAC §55.201(d)(4). OPIC therefore recommends that these requests be denied by the Commission.

A timely request for a contested case hearing was submitted by Tom Reed to the Commission on March 21, 2015 and March 25, 2015. Mr. Reed raises the concerns that the proposed effluent may not be protective of human health, and that the proposed discharge will result in the spread of pathogens and foster vectors such as mosquitos. Furthermore, Mr. Reed is concerned the proposed facility will result in reclassification of his property for insurance purposes, therefore raising his homeowner insurance premiums

and lowering property values. Mr. Reed is also concerned that is property taxes will increase because the project is unfunded and new bonds will have to be issued by the district.

Timely requests for a contested case hearing were submitted to by Raymond Halyard to the Commission on May 24, 2014, May 27, 2014, May 29, 2014, June 28, 2014, and June 17, 2014. Mr. Halyard raises the concerns that the permitted facility will create dust in the air and on the streets, result in vectors such as mosquitos, create nuisance conditions such as noxious odors, promote algal blooms, and degrade water quality.

A timely request for a contested case hearing was submitted by Zhan X. Peng to the Commission on April 6, 2015. Mr. Peng is concerned with potential health and economic impacts that may result from the proposed permit.

A timely request for a contested case hearing was submitted by Kenneth Proctor to the Commission on April 2, 2015. A substantively identical request for a contested case hearing was submitted by Anita Cooper to the Commission on April 5, 2015. These requests raise the concerns that the proposed permit does not enforce protective bacteria limits, nor require adequate testing of the effluent to protect human health. Furthermore, requestors contend that all outfalls should have uniform limits on bacteria counts, accessibility by the public, and permitted volume of discharge. Lastly, the requestors are concerned that financial compensation will not be provided to residents whose insurance premiums are raised due to property reclassification.

Timely requests for a contested case hearing were submitted by Charles E. Howard to the Commission on June 12, 2014, June 17, 2014, June 22, 2014, June 29,

2014, June 30, 2014, September 24, 2014, March 21, 2015, March 23, 2015, and March 27, 2015. Mr. Howard asserts that proper notice was not given to downstream landowners and that the application contains no justification for the creation of two new outfalls. Because the ponds referenced in the proposed permit have not yet been built, Mr. Howard asserts that a proper antidegradation review analyzing recreational uses and aquatic life did not take place and that the application is premature because the Applicant does not own all of the property or otherwise have rights to excavate in all of the property necessary to complete the proposed project. Mr. Howard is concerned that the addition of effluent to the discharge route could result in erosion and flooding and that the proposed permit does not enforce protective bacteria limits, nor require adequate testing of the effluent to protect human health, or protect groundwater resources. Mr. Howard is concerned the proposed facility will create dust in the air and mud on the streets, result in vectors such as mosquitos, and create nuisance conditions such as excessive noise and noxious odors. Mr. Howard is also concerned the proposed facility will result in reclassification of his property for insurance purposes, thereby raising his homeowner insurance premiums and lowering property values. Because the excavation project contemplated by the application is currently unfunded and new bonds will therefore have to be issued by the district, Mr. Howard is also concerned that is property taxes will increase.

A timely request for a contested case hearing was submitted by Carole Henning on behalf of Friends of the Old Golf Course (FOGC) on April 2, 2015. This request raises the concerns that the proposed permit does not enforce protective bacteria limits, nor require adequate testing of the effluent to protect human health. Furthermore, all

outfalls should have uniform limits on bacteria counts, accessibility by the public, and permitted volume of discharge. The hearing requests submitted by Kenneth Proctor on April 2, 2015, and Anita Cooper on April 5, 2015, also purport to request a hearing on behalf of FOGC on the same basis as the request submitted by Ms. Henning. In addition to those concerns, the hearing requests submitted by Mr. Proctor and Ms. Cooper on behalf of FOGC also raise the concerns that financial compensation will not be provided to residents whose insurance premiums are raised due to property reclassification.

As stated *supra*, a hearing request submitted on behalf of a group or organization must identify a member of the group that is entitled to a hearing in their own right. The hearing request submitted by Ms. Henning identifies members of FOGC that are entitled to a hearing in their own right as Charles Howard, Kenneth Proctor, and Anita Cooper. While OPIC agrees that each of the identified members are entitled to a hearing, we cannot determine whether the interests the group or association seeks to protect are germane to the organization's purpose in satisfaction of the requirement of 30 TAC §55.205(a)(2) and therefore cannot recommend a hearing at this time. However, 30 TAC §55.205(b) authorizes OPIC to request an explanation of how a group or association meets the requirements of subsection §55.205(a). If FOGC provides such an explanation of the purpose of the group by the reply deadline of June 22, 2015, OPIC may reconsider its recommendation.

Based on the foregoing analysis, OPIC finds that Charles Howard, Zhan X. Peng, Tom Reed, Raymond Halyard, Kenneth Proctor, and Anita Cooper are affected persons.

C. Issues raised in Comment Period

All of the issues in the hearing requests were raised during the public comment period.

D. Disputed Issues

There is no agreement on the issues raised in the hearing requests and, therefore, these issues are disputed.

E. Issues of Fact

If the Commission considers an issue to be one of fact, rather than one of law or policy, it is appropriate for referral to hearing if it meets all other applicable requirements. All of the issues raised in the hearing requests are issues of fact.

F. Relevant and Material Issues

In order to refer an issue to State Office of Administrative Hearings ("SOAH"), the Commission must find that the issue is relevant and material to the Commission's decision to issue or deny this permit.² Relevant and material issues are those governed by the substantive law under which this permit is to be issued.³

Pursuant to Texas Water Code sections 26.027(a) and 26.003, the Commission may issue permits for wastewater discharges based upon the draft permit's effectiveness in maintaining the water quality of the state. Therefore, protection of groundwater resources, sufficiency of the executive director's antidegradation review, as well as sufficiency of bacteria limits and required testing to protect human health is material and relevant to the Commission's decision on this application. Likewise, the issues of proper notice, vectors, and nuisance conditions are all relevant and material issues properly referred to a contested case hearing.

Conversely, the issues of whether the application contains justification for the creation of two new outfalls, is premature because the Applicant does not own all of the property or otherwise have rights to excavate in all of the property necessary to complete the proposed project, erosion, flooding, excessive noise, dust and mud resulting from

² 30 TAC30 TAC §§ 55.201(d)(4), 55.209(e)(6) and 55.211(c)(2)(A).

³ See *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248-251(1986) (in discussing the standards applicable to reviewing motions for summary judgment the Court stated "[a]s to materiality, the substantive law will identify which facts are material. ... it is the substantive law's identification of which facts are critical and which facts are irrelevant that governs.")

excavation activities, increased insurance premiums, diminution of property values, and property taxes increases all fall outside of the scope of TCEQ jurisdiction to maintain and protect water quality of the state, as implicitly authorized by the Texas Water Code Chapter 26.

G. Issues for Referral

OPIC recommends that the Commission refer the following disputed issues of fact to the State Office of Administrative Hearings for a contested case hearing:

1. Whether the Applicant provided proper notice to landowners
2. Whether the proposed permit sufficiently maintains recreational and aquatic uses
3. Whether the proposed permit contains sufficient bacteria limits to protect human health
4. Whether the proposed permit requires sufficient effluent testing to protect public health
5. Whether the proposed permit adequately protects groundwater resources
6. Whether the proposed permit will result in vectors or other nuisance conditions

IV. MAXIMUM EXPECTED DURATION OF HEARING

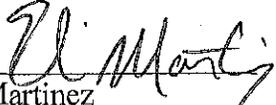
Commission Rule 30 TAC § 55.115(d) requires that any Commission order referring a case to SOAH specify the maximum expected duration of the hearing by stating a date by which the judge is expected to issue a proposal for decision. The rule further provides that no hearing shall be longer than one year from the first day of the preliminary hearing to the date the proposal for decision is issued. To assist the Commission in stating a date by which the judge is expected to issue a proposal for decision, and as required by 30 TAC §55.209(d)(7), OPIC estimates that the maximum expected duration of a hearing on this application would be nine months from the first date of the preliminary hearing until the proposal for decision is issued.

V. CONCLUSION

For the reasons stated above, OPIC recommends granting the hearing requests of Charles Howard, Zhan X. Peng, Tom Reed, Raymond Halyard, Kenneth Proctor, and Anita Cooper, and referring the matter to the State Office of Administrative Hearings (SOAH) for a contested case hearing of no longer than nine months on the issues listed above. Although OPIC cannot recommend referring the hearing request of FOGC to hearing at the present time, if an explanation of the purpose of the group is provided by the reply deadline of June 22, 2015, OPIC may reconsider its recommendation.

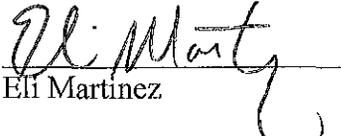
Respectfully submitted,

Vic McWherter
Public Interest Counsel

By: 
Eli Martinez
State Bar No. 24056591
Office of Public Interest Counsel
P.O. Box 13087, MC 103
Austin, Texas 78711-3087
Phone (512) 239-6363
Fax(512) 239-6377

CERTIFICATE OF SERVICE

I hereby certify that on June 8, 2015 the original and seven true and correct copies of the Office of the Public Interest Counsel's Response to Requests for Reconsideration and Requests for Hearing were filed with the Chief Clerk of the TCEQ and a copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, Inter-Agency Mail or by deposit in the U.S. Mail.


Eli Martinez

MAILING LIST
CLEAR LAKE CITY WATER AUTHORITY
TCEQ DOCKET NO. 2015-0563-MWD

FOR THE APPLICANT:

James Byrd
Clear Lake Water Authority
900 Bay Area Boulevard
Houston, Texas 77058-2604

William G. Rosenbaum, P.E.
Manager-Development/District
Engineering
Lockwood Andrews & Newman, Inc.
2925 Briarpark Drive
Houston, Texas 77042-3720
Tel: 713/821-0455 Fax: 713/278-9294

Brian T. Edwards, P.E.
Lockwood Andrews & Newman, Inc.
2925 Briarpark Drive
Houston, Texas 77042-3720
Tel: 713/821-0336 Fax: 713/278-9294

FOR THE EXECUTIVE DIRECTOR

Daniel Ingersoll, Staff Attorney
TCEQ Environmental Law Division
MC-173
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 512/239-0600 Fax: 512/239-0606

John O. Onyenobi, Technical Staff
TCEQ Water Quality Division, MC-148
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 512/239-6707 Fax: 512/239-4430

Brian Christian, Director
TCEQ Environmental Assistance
Division, MC-108
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 512/239-4000 Fax: 512/239-5678

FOR ALTERNATIVE DISPUTE
RESOLUTION

Kyle Lucas
TCEQ Alternative Dispute Resolution,
MC-222
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 512/239-4010 Fax: 512/239-4015

FOR THE CHIEF CLERK:

Bridget Bohac
Texas Commission On Environmental
Quality
Office Of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711-3087
Tel: 512/239-3300 Fax: 512/239-3311

REQUESTERS:

See attached.

COURTESY COPY:

Ray Newby
Federal Consistency Coordinator
Texas General Land Office
Coastal Management Program
P.O. Box 12873
Austin, Texas 78711-2873

JAMES W ACKERMAN
1902 MERMAID LN
HOUSTON TX 77062-6104

CYNTHIA JEAN BANDEMER
15147 DIANA LN
HOUSTON TX 77062-2801

HERSCHEL BUTLER
15135 DIANA LN
HOUSTON TX 77062-2801

JAMES ALVAREZ
15607 DIANA LN
HOUSTON TX 77062-4430

RAY BANKS
15019 SEAHORSE DR
HOUSTON TX 77062-2913

A J CALDWELL
15826 SEAHORSE DR
HOUSTON TX 77062-6222

JOSE CARLOS ALVAREZ
15726 TORRY PINES RD
HOUSTON TX 77062-4512

STEVEN BAXTER
2002 FAIRWIND DR
HOUSTON TX 77062-4514

PETER CHADY
2002 SEAKALE LN
HOUSTON TX 77062-6118

LORI ALVAREZ
15607 DIANA LN
HOUSTON TX 77062-4430

CLAYTON BEARD
1818 PEACH BROOK CT
HOUSTON TX 77062-2332

BARBARA CHASE
2007 MERMAID LN
HOUSTON TX 77062-6105

MIRANDA ANDERSON
1926 BONANZA RD
HOUSTON TX 77062-6101

DEBORAH BEARD
1818 PEACH BROOK CT
HOUSTON TX 77062-2332

ANN L COOK
15127 DIANA LN
HOUSTON TX 77062-2801

BECKY ARUNYON
2023 BONANZA RD
HOUSTON TX 77062-6102

MR RAY MICHAEL BERNARD
1639 BEACHCOMBER LN
HOUSTON TX 77062-5408

KENT COOK
15127 DIANA LN
HOUSTON TX 77062-2801

SCOTT ASKEW
15147 DIANA LN
HOUSTON TX 77062-2801

MRS SUZANNE MARIE BERNARD
1639 BEACHCOMBER LN
HOUSTON TX 77062-5408

ANITA J COOPER
15803 DIANA LN
HOUSTON TX 77062-4433

DAVID BACQUE
15603 LA CASA LN
HOUSTON TX 77062-4215

STACIE BURCI
15123 DIANA LN
HOUSTON TX 77062-2801

JENNIFER CRANDELL
1631 WAVECREST LN
HOUSTON TX 77062-5429

B G BAILEY
1906 MERMAID LN
HOUSTON TX 77062-6104

ROBERT BURROWS
16005 DIANA LN
HOUSTON TX 77062-4406

JACK CURTIS
1630 BEACHCOMBER LN
HOUSTON TX 77062-5409

DOROTHY BAILEY
1906 MERMAID LN
HOUSTON TX 77062-6104

GULMIRA BUTLER
15135 DIANA LN
HOUSTON TX 77062-2801

MARY MELISSA DAGGETT
15111 DIANA LN
HOUSTON TX 77062-2801

MELISSA & TIMOTHY DAGGETT
15111 DIANA LN
HOUSTON TX 77062-2801

JOHN D DOTTER
15139 DIANA LN
HOUSTON TX 77062-2801

PATRICIA GOLDSTEIN
1914 SEAKALE LN
HOUSTON TX 77062-6116

TIMOTHY M DAGGETT
15111 DIANA LN
HOUSTON TX 77062-2801

ROBERT D EATON
903 HALEWOOD DR
HOUSTON TX 77062-3304

LONNIE GONZALES
1634 BEACHCOMBER LN
HOUSTON TX 77062-5409

SHARON DAHMS
1626 WAVECREST LN
HOUSTON TX 77062-5430

PEGGY A EPPS
15703 DIANA LN
HOUSTON TX 77062-4431

DAVID GREEN
1609 BEACHCOMBER LN
HOUSTON TX 77062-5408

LAVONNE DAUGHERTY
1837 EL DORADO BLVD
HOUSTON TX 77062-3601

RONALD C EPPS
15703 DIANA LN
HOUSTON TX 77062-4431

MARY GREEN
1609 BEACHCOMBER LN
HOUSTON TX 77062-5408

JULIA DEAN
1903 MERMAID LN
HOUSTON TX 77062-6104

VIVIAN R ESTEY
15119 DIANA LN
HOUSTON TX 77062-2801

K S GREGG
1310 EL DORADO BLVD
HOUSTON TX 77062-3403

ALISON DEEP
15911 DIANA LN
HOUSTON TX 77062-4404

TERRY EVARD
15910 SEAHORSE DR
HOUSTON TX 77062-6224

RON GYORFI
15115 DIANA LN
HOUSTON TX 77062-2801

DOYLE DEL BOSQUE
1302 EL DORADO BLVD
HOUSTON TX 77062-3403

DANIEL FINNEGAN
1910 FAIRWIND DR
HOUSTON TX 77062-5435

RAYMOND HALYARD
16204 DIANA LN APT 318A
HOUSTON TX 77062-5327

THOMAS DORSCH
16112 SEAHORSE DR
HOUSTON TX 77062-6219

DAVID GACE
1614 BEACHCOMBER LN
HOUSTON TX 77062-5409

DARYL HAMPTON
826 LOCHNELL DR
HOUSTON TX 77062-2615

DR. VICTORIA DORSCH
16112 SEAHORSE DR
HOUSTON TX 77062-6219

GERALD GAFF
934 WAVECREST LN
HOUSTON TX 77062-4318

JEFFREY HANSEN
16415 BUCCANEER LN APT 4011D
HOUSTON TX 77062-5703

PEGGY DORSEY
2319 RAMADA DR
HOUSTON TX 77062-6220

MARIA GODOY
16208 SEAHORSE DR
HOUSTON TX 77062-6217

BRICE HAWLEY
15014 TORRY PINES RD
HOUSTON TX 77062-2903

SIGNE HAWLEY
15014 TORRY PINES RD
HOUSTON TX 77062-2903

ASHLEY HOLMES
14931 SAINT CLOUD DR
HOUSTON TX 77062-2823

GUNNER KENNEY
1719 NEPTUNE LN
HOUSTON TX 77062-6107

D KIRK HAYES
822 PRAIRIE BROOK CT
HOUSTON TX 77062-2198

VINCENT HOLMES
14931 SAINT CLOUD DR
HOUSTON TX 77062-2823

JACK KENNEY
1719 NEPTUNE LN
HOUSTON TX 77062-6107

MARY ANN HEARON
1814 PEACH BROOK CT
HOUSTON TX 77062-2332

ROBERT HORNER
2011 RAMADA DR
HOUSTON TX 77062-6112

MIKE KENNEY
1719 NEPTUNE LN
HOUSTON TX 77062-6107

CAROLE L HENNING
15718 TORRY PINES RD
HOUSTON TX 77062-4512

AUSTIN HOWARD
1910 MERMAID LN
HOUSTON TX 77062-6104

VIRGINIA KING
1130 MONTOUR DR
HOUSTON TX 77062-2725

CAROLE HENNING
2006 SEAKALE LN
HOUSTON TX 77062-6118

CHARLES E HOWARD
16003 DIANA LN
HOUSTON TX 77062-4406

OSCAR KOEHLER
1911 SEAKALE LN
HOUSTON TX 77062-6115

DAVID HENNING
2006 SEAKALE LN
HOUSTON TX 77062-6118

MARY HOWARD
16003 DIANA LN
HOUSTON TX 77062-4406

AL LAPIDUS
1810 PEACH BROOK CT
HOUSTON TX 77062-2332

MANDY HESS
1638 BEACHCOMBER LN
HOUSTON TX 77062-5409

LOGAN JACK
15519 DIANA LN
HOUSTON TX 77062-4013

MARLA LEWIS
723 BUOY RD
HOUSTON TX 77062-4205

NANCY HINER
15026 SAINT CLOUD DR
HOUSTON TX 77062-2826

KANDY S JARVIS
1419 SEAGATE LN
HOUSTON TX 77062-4505

EMILY LOUVIERE
1914 FAIRWIND DR
HOUSTON TX 77062-5435

STEVE HINER
15026 SAINT CLOUD DR
HOUSTON TX 77062-2826

VONETTA BERRY JENKINS
15711 DIANA LN
HOUSTON TX 77062-4431

DENISE MAIS
15131 DIANA LN
HOUSTON TX 77062-2801

PATTY HOFFMAN
15910 TORRY PINES RD
HOUSTON TX 77062-5422

EILENE KENNEY
1719 NEPTUNE LN
HOUSTON TX 77062-6107

JEFF MAIS
15131 DIANA LN
HOUSTON TX 77062-2801

BERNARD MARCANTEL
1715 GUNWALE RD
HOUSTON TX 77062-4539

OLGA MIRE
1619 BEACHCOMBER LN
HOUSTON TX 77062-5408

SUSAN PARKER
1702 GUNWALE RD
HOUSTON TX 77062-4540

HELEN K MARCANTEL
1715 GUNWALE RD
HOUSTON TX 77062-4539

ANGELA MITCHELL
2006 FAIRWIND DR
HOUSTON TX 77062-4514

STACEY PAULSON
1837 EL DORADO BLVD
HOUSTON TX 77062-3601

CORINNE MCALPINE
1631 BEACHCOMBER LN
HOUSTON TX 77062-5408

JAMES MITCHELL
15919 DIANA LN
HOUSTON TX 77062-4404

ZHAN X PENG
15519 DIANA LN
HOUSTON TX 77062-4013

GREGORY MCALPINE
1631 BEACHCOMBER LN
HOUSTON TX 77062-5408

BILL MIYOSHI
4403 REGAL PINE TRL
HOUSTON TX 77059-3283

MR ANTHONY JOSEPH PESZKO
1637 BEACHCOMBER LN
HOUSTON TX 77062-5408

DENICE MCCORQUODALE
2019 BONANZA RD
HOUSTON TX 77062-6102

LINDA MIYOSHI
4403 REGAL PINE TRL
HOUSTON TX 77059-3283

JEAN M PESZKO
1637 BEACHCOMBER LN
HOUSTON TX 77062-5408

SASKIA MEADOWS
2010 REDWAY LN
HOUSTON TX 77062-6017

ART MONEY
1622 BEACHCOMBER LN
HOUSTON TX 77062-5409

CINDY PORTERFIELD
1927 SEAKALE LN
HOUSTON TX 77062-6115

RUBEN MENDOZA
16115 SEA LINER DR
HOUSTON TX 77062-5108

KRISTA MOODY
1625 BEACHCOMBER LN
HOUSTON TX 77062-5408

PATRICIA KAY POWELL
1811 RESEDA DR
HOUSTON TX 77062-6018

MICHAEL MERRITT
1638 BEACHCOMBER LN
HOUSTON TX 77062-5409

TRISTAN MOODY
1625 BEACHCOMBER LN
HOUSTON TX 77062-5408

CHERI PRESSLEY
2002 SEAKALE LN
HOUSTON TX 77062-6118

PATTI MIKULAN
15823 DIANA LN
HOUSTON TX 77062-4433

LORI OBRIN
16005 DIANA LN
HOUSTON TX 77062-4406

KENNETH PROCTOR
15718 TORRY PINES RD
HOUSTON TX 77062-4512

JOHN MIRE
1619 BEACHCOMBER LN
HOUSTON TX 77062-5408

ANTHONY PARADISO
715 RESEDA DR
HOUSTON TX 77062-5026

LEE RADER
1907 MERMAID LN
HOUSTON TX 77062-6104

JOHN D RAU
15015 SAINT CLOUD DR
HOUSTON TX 77062-2825

LINDA SARTORIUS
1650 NEPTUNE LN
HOUSTON TX 77062-4516

PAUL WISNOSKI
15908 SEAHORSE DR
HOUSTON TX 77062-6224

TOM REED
15923 DIANA LN
HOUSTON TX 77062-4404

SANDY SARTORIUS
1610 BEACHCOMBER LN
HOUSTON TX 77062-5409

DOROTHY YANCEY
2346 FAIRWIND DR
HOUSTON TX 77062-6228

YOUNG REESE
2018 FAIRWIND DR
HOUSTON TX 77062-4514

JEFF SEAVEY
1823 PEACH BROOK CT
HOUSTON TX 77062-2332

PAT YOKUBAITIS
2333 RAMADA DR
HOUSTON TX 77062-6221

ANNALEE RHOADES
1922 FAIRWIND DR
HOUSTON TX 77062-5435

MELODY SEAVEY
1823 PEACH BROOK CT
HOUSTON TX 77062-2332

CRAIG ZIMMERMAN
1626 BEACHCOMBER LN
HOUSTON TX 77062-5409

LEONARD RICH
1943 RAMADA DR
HOUSTON TX 77062-6111

DAVID & RUBY SMITH
15538 TORRY PINES RD
HOUSTON TX 77062-3420

DEREK ZIMMERMAN
1626 BEACHCOMBER LN
HOUSTON TX 77062-5409

CHRIS ROBERTS
1646 SEAGATE LN
HOUSTON TX 77062-4510

BILL STEPHENS
14715 EVERGREEN RIDGE WAY
HOUSTON TX 77062-2333

DONNALEE ZIMMERMAN
1626 BEACHCOMBER LN
HOUSTON TX 77062-5409

FELICIA ROBERTS
1646 SEAGATE LN
HOUSTON TX 77062-4510

SUE STEPHENS
14715 EVERGREEN RIDGE WAY
HOUSTON TX 77062-2333

VANEE ZIMMERMAN
1626 BEACHCOMBER LN
HOUSTON TX 77062-5409

CONRADO L RODRIGUEZ
15715 DIANA LN
HOUSTON TX 77062-4431

CHARLES STERLING
15803 DIANA LN
HOUSTON TX 77062-4433

ROBERT STITES
1306 EL DORADO
HOUSTON TX 77062

VERONICA RODRIGUEZ
15715 DIANA LN
HOUSTON TX 77062-4431

LISA ROTH
15719 BUCCANEER
HOUSTON TX 77062

BILL THOMPSON
1918 FAIRWIND DR
HOUSTON TX 77062-5435