

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

October 24, 2016

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

Re: Texas Department of Transportation; TPDES Permit No. WQ0005011000;  
Docket No. 2016-1703-IWD

Dear Ms. Bohac:

Attached for filing please find an original and seven copies of the Executive Director's Response to Hearing Requests in the above referenced matter. Please feel free to contact me at [robert.brush@tceq.texas.gov](mailto:robert.brush@tceq.texas.gov) or (512) 239-5600 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Robert Brush".

Robert Brush  
Attorney  
Environmental Law Division

Enclosure

cc: Mailing List

**TPDES Permit No. WQ0005011000**

<b>APPLICATION BY TEXAS DEPARTMENT OF TRANSPORTATION FOR TPDES PERMIT NO. WQ0005011000</b>	<b>§ § §</b>	<b>BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY</b>
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**EXECUTIVE DIRECTOR’S RESPONSE TO HEARING REQUESTS**

The Executive Director (ED) of the Texas Commission on Environmental Quality (Commission or TCEQ) files this Response to Hearing Requests on the Texas Department of Transportation (TXDOT) application for a new Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0005011000. **Hearing requests were filed by: Galveston Baykeeper (GBK), Galveston Bay Foundation (GBF), Environment Texas (ET), Turtle Island Restoration Network (TIRN), and Save our Springs Alliance (SOSA), collectively (Requestors).**

Attached for Commission consideration are the following:

- Attachment A - Map Showing Areas Covered by the Permit<sup>1</sup>
- Attachment B - U.S. Environmental Protection Agency (EPA) 2/24/16 Withdrawal of Interim Objection Letter

**I. Description of Permit**

TXDOT operates municipal separate storm sewer systems (MS4s) located in TXDOT right-of-ways (ROWs) throughout the state. This statewide permit authorizes the discharge of stormwater from the TXDOT ROWs located within Phase I MS4 areas based on the 1990 U.S. Census data for cities and for small (Phase II) MS4s located in “urbanized areas” as established by the 2000 and 2010 U.S. Censuses. These Phase I and Phase II areas contain the TXDOT regulated MS4s within the state. *See Attachment A.* An MS4 is a conveyance or system of conveyances that are:

- Owned by a state, city, town, village, or other public entity that discharges stormwater to water in the state; and
- Designed or used to collect or convey stormwater (e.g. ditches, culverts, storm drains, etc.).

An MS4 is not part of a sewage treatment plant or publicly owned treatment works. However, regulated MS4s are required to obtain TPDES permits. The Phase I MS4 permits are individual permits and Phase II MS4s may be covered by the Small MS4 General Permit, TXR040000. Each regulated MS4 is required to develop a stormwater management program (SWMP). A SWMP outlines the control practices that will be used to minimize the discharge of pollutants from each MS4. The TXDOT SWMP consists of the following components or minimum control measures (MCMs):

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<sup>1</sup> This general map of the regulated TXDOT MS4 areas in throughout the state was submitted by TXDOT with their permit application. TXDOT also submitted detailed MS4 maps for each regulated TXDOT MS4 covered by the permit.

- 1) Public education, outreach, and involvement;
- 2) Illicit discharge detection and elimination;
- 3) Construction site runoff control;
- 4) Post-construction stormwater management in areas of new development and redevelopment; and
- 5) Pollution prevention and good housekeeping for transportation operations.

The permit also includes requirements for the SWMP to address impaired water bodies, total maximum daily loads (TMDLs), and the areas subject to the Edwards Aquifer rules.

TXDOT has selected various best management practices (BMPs) to address each component in their SWMP. Neither the applicable rules nor TCEQ prescribe exactly what BMPs must be chosen. A summary of those selected BMPs can be found in the Fact Sheet.

Due to the nature of MS4 permitting, TXDOT determined that a consolidated permit for all regulated MS4 areas in the state would create enhanced efficiencies due to consolidated reporting and decrease in program redundancy. Therefore, at the request of TXDOT, ED staff met with TXDOT representatives on September 21, 2012. At that meeting it was agreed that TCEQ would draft a statewide individual permit covering all regulated TXDOT MS4s. This includes both Phase I (TXDOT MS4s located within cities with a population greater than 100,000 based on the 1990 U.S. Census) and Phase II (urbanized areas) previously covered or newly regulated under Phase I individual permits (usually in partnership with Phase I cities e.g. Houston, Austin, etc.) or authorized under the Small MS4 General Permit, TXR040000.

Following that meeting, TXDOT and TCEQ met with the U.S. Environmental Protection Agency (EPA) Region 6 on November 29, 2012. EPA agreed that the individual statewide permit concept for TXDOT's MS4s was workable, so it was agreed to proceed on that basis. The draft permit was submitted to EPA. EPA initially submitted an interim objection to the draft permit, but after revisions to the draft permit were made to update language on the illicit discharge MCM pertaining to coordination with U.S. Fish & Wildlife, EPA withdrew their objection to the draft permit. *See Attachment B.*

## **II. Procedural Background**

The TCEQ received the application on March 18, 2013; the application was declared administratively complete on April 18, 2013, and technically complete on December 4, 2014. The Applicant published seventeen separate combined Notices of Receipt of Application and Intent to Obtain Water Quality Permit Amendment (NORI)/ Notices of Application and Preliminary Decision for Water Quality TPDES Permit Amendment and Renewal (NAPD) across the state in English in the *Abilene Reporter - News*, *Amarillo Globe - News*, *Texarkana Gazette*, *Dallas Morning News*, *Austin American Statesman*, *Houston Chronicle*, *Corpus Christi Caller Times*, *El Paso Times*, *Laredo Morning News*, *Lubbock Avalanche Journal*, *Midland Reporter Telegram*, *The Monitor*, *San Angelo Standard-Times*, *San Antonio Express-News*, *Wichita Falls Times Record News*, and *Victoria Advocate* between April 7, 2016, and April 15, 2016.

An alternative language combined NORI/NAPD was published in Spanish in *La Voz Hispana*, *La Opinion*, *Al Día*, *Ahora Si*, *La Voz*, *El Paso Y Mas*, *El Editor*, *El Nuevo Herald*, *Conexion*, *Tiempo*, and *Revista De Victoria* between April 7, 2016, and April

15, 2016. The public comment period ended on May 16, 2016, and the Response to Comment (RTC) was filed on August 10, 2016. This application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

### **III. Evaluation Process for Hearing Requests**

House Bill (HB) 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 Commission implemented HB 801 by adopting procedural rules in 30 Texas Administrative Code (TAC) Chapters 39, 50, and 55.

#### **A. Responses to Requests**

"The executive director, the public interest counsel, and the applicant may submit written responses to the [hearing] requests . . . ."<sup>2</sup>

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

- 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 ED's RTC;
- 6) whether the issues are relevant and material to the decision on the application; and
- 7) a maximum expected duration for the contested case hearing.

#### **B. Hearing Request Requirements**

For the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements. As noted in 30 TAC § 55.201(c), "A request for a contested case hearing by an affected person must be in writing, must be filed with the chief clerk within the time provided . . . and may not be based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the ED's RTC."

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

- 1) Give the name, address, daytime telephone number, and where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;

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<sup>2</sup> 30 TEX. ADMIN. CODE section 55.209(d) (West 2012).

- 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 ED's responses to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law or policy; and
- 5) Provide any other information specified in the public notice of application.

### **C. Requirement that Requestor Be an Affected Person**

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

- 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.

A group or association may also request a contested case hearing. In order for a group or association to request a contested case hearing, the group or association must show that it meets the following requirements:

- a) One or more members of the group or association would otherwise have standing to request a hearing in their own right;
- b) The interests the group or association seeks to protect are germane to the organization's purpose; and

- c) Neither the claim asserted nor the relief requested requires the participation of the individual members in the case.

30 TAC § 55.205(a). In addition the Executive Director, Public Interest Counsel, or the Applicant may request that a group or association provide an explanation of how the group or association meets the above requirements. 30 TAC § 55.205(b).

#### **D. Referral to the State Office of Administrative Hearings**

30 TAC § 50.115(b) details how the Commission refers a matter to the State Office of Administrative Hearings (SOAH): “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.” Section 50.115(c) further states, “The commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue: (1) involves a disputed question of fact; (2) was raised during the public comment period; and (3) is relevant and material to the decision on the application.”

### **IV. ANALYSIS OF HEARING REQUESTS**

#### **A. Whether the Requestor Complied with 30 TAC §§ 55.201(c) and (d)**

The five hearing requests were submitted in two single timely written hearing requests that included relevant contact information and raised disputed issues. One request was filed during the public comment period (requesting hearings on behalf of GBK, GBF, ET, and SOSA) and the second received during the request period subsequent to filing of the Response to Comments (requesting hearings on behalf of all five Requestors).

The ED recommends finding the hearing requests fail to satisfy 30 TAC § 55.201(d)(2), which requires the requestors include 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. The requestors, in this instance, are groups or associations, who to establish affected person status, must include this information on a member or members of their groups or organizations whom they are relying on to have standing to request a hearing in this matter.

Both hearing requests fail to provide any detail with regards to the standing of their named members. Both requests repeat the following statement in regards to the member they are naming as their representative for associational standing purposes:

Each member or staff listed below is directly affected through their recreational, scientific, educational, or vocational activities related to these waters across the state and are identified specifically for this purpose.

This is not sufficient detail for the ED to make a recommendation whether any of the named individuals have a personal justiciable interest not common to the general public. **The ED concludes that the joint hearing requests do not substantially comply with 30 TAC §§ 55.201(c) and (d).**

## **B. Whether the Requestors Meet the Affected Person Requirements**

### **GBK, GBF, ET, TIRN, and SOSA.**

The hearing requests were all made within the comment letters/hearing requests submitted by GBK. As stated in the second hearing request, all five Requestors have dedicated resources and advocacy efforts for decades to improve surface water quality in Texas. Therefore, the ED would recommend finding that the interests the groups or associations seek to protect are germane to each organization's purpose and therefore, eligible to be referred to SOAH in this matter as a party.

The groups named the following individuals as their member who had affected person status in their own right:

GBK	-	Jen Powis
GBF	-	Scott Jones
ET	-	Luke Metzger
SOSA	-	Kelly Davis
TIRN	-	Joanie Steinhaus

However, as discussed above, based on the information submitted, the ED cannot conclude that the Requestors have met the associational standing requirement for being granted affected person status. The Requestors have not provided sufficient information about their named member for the ED to recommend that each individual is an affected person in their own right and whose participation in the hearing as an individual is not necessary.

First, the address given for each member is either the contact address of the organization or a commercial address, not the physical address of the member's residence. The addresses given for ET and SOSA are the same as found online at their respective websites. The other three addresses were not found on those group's websites, but the ED determined that all three addresses were commercial addresses (office building, office park) and not residential addresses.

Secondly, the request does not provide any specific information for their named member's location relative to the regulated area of the permit or permitted outfalls so that the ED can make a recommendation regarding whether that relationship is or is not common to the general public. Lastly, no information was provided regarding the potential impact of the regulated activity on the health and safety of the named member, the impact on the use of property of the named member, or the potential impact on the use of an impacted natural resource by the named person.

For the above stated reasons, the hearing requests for the Requestors fail to establish that any individual member is an affected person in their own right. **Based on the information provided, the ED recommends finding the Requestors are not affected persons in this matter.**

## **C. Whether Issues Raised Are Referable to SOAH for a Contested Case Hearing**

In the event this matter is ultimately referred to SOAH, the ED analyzed the issues raised in the hearing requests in accordance with the regulatory criteria and provides the following recommendations regarding which issues should be referred to SOAH.

All issues were raised during the public comment period, were not withdrawn, and are considered disputed.

**1. Whether the permit requirements comply with Texas Surface Water Quality Standards in 30 TAC Sections 307.1-307.10.<sup>3</sup>**

This is an issue of fact. If it can be shown that the permit does not comply with the surface water standards in 30 TAC Chapter 307, then that information would be relevant and material to a decision on the application. **The ED recommends referring this issue to SOAH.**

**2. Whether the draft permit covers all regulated Phase I and Phase II TXDOT MS4s in the state.**

As raised by the Requestors, this is a mixed issue of fact and law. Under current federal law and state law,<sup>4</sup> MS4 are only regulated as point sources if they are located in a city with a population in excess of 100,000 (Phase I) or are located in an “urbanized area” according to the 2000 or 2010 U.S. Census (Phase II). The Requestors state that the TXDOT permit should cover all TXDOT MS4s in the entire state.

If there are regulated TXDOT MS4 areas that are not covered by this draft permit, that is a question of fact, and if it can be shown that regulated MS4s operated by TXDOT are not covered by that draft permit, that information would be relevant and material to a decision on the application. However, the question of whether the permit should cover all TXDOT MS4s in the state whether regulated or not is a question of law not referable to SOAH. The ED would recommend this issue to SOAH for the limited purpose of showing that it includes all regulated TXDOT MS4s. **The ED recommends referring this issue to SOAH.**

**3. Whether the permit excludes portions of the Edwards Aquifer previously covered under the City of Austin MS4 permit.**

This is an issue of fact. The requestors pointed out in their initial hearing request that the permit language was unclear whether the same portions of the Edwards Aquifer were covered by the draft permit as were covered by the City of Austin Phase I individual permit. In response to the comment, language was added to page one of the draft permit to clarify that all areas previously covered by TXDOT under Phase I permits are covered by the draft permit. Therefore, the ED considers this issue moot. **The ED recommends not referring this issue to SOAH.**

**4. Whether the permit includes the explicit timeframes, benchmarks, and best management practices applicable to those areas that are within the Edwards Aquifer Region.**

This is a mixed issue of fact and law. However, as a matter of law, TXDOT is required to meet all the requirement of 30 TAC Chapter 213 - Edwards Aquifer rules whether

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<sup>3</sup> The ED considers this issue to include the Requestors’ issues with the potential exceedances of surface water quality standards for heavy metals and whether the proper classification criteria was used for water bodies.

<sup>4</sup> See 40 CFR Part 122.26 and 122.30-37, adopted by reference in 30 TAC Sections 281.25(a) and (b), excluding guidance in Sections 122.33 and 122.34.

those requirements are explicitly stated in the permit or not. The draft permit requires TXDOT meet all the applicable Edwards Aquifer rule requirements, where applicable, in addition to the provisions and requirements of the permit. Therefore, as a matter of law, TXDOT is subject to all of the applicable Edwards Rules. **The ED recommends not referring this issue to SOAH.**

**5. Whether the draft permit properly lists all endangered species occurring within the regulated area.**

This is an issue of fact. However, as noted in the Response to Comment Response #9, TXDOT must meet the minimum SWMP requirements, regardless of whether or not stormwater discharges to a receiving water that serves as habitat for a listed species. The permit requires compliance with water quality standards that were approved by EPA for all areas of the state. These water quality standards are established in accordance with 30 TAC Chapter 307 to protect both aquatic and aquatic dependent species. Water quality standards approved by EPA are reviewed and analyzed by U.S. Fish and Wildlife Service (FWS) for consistency with Endangered Species Act mandates. Therefore, whether these species are explicitly listed in permit or not is not relevant and material to a decision on the application. **The ED recommends not referring this issue to SOAH.**

**6. Whether the draft permit should include implementation schedules for projects to prevent spills from entering the Edwards Aquifer as required by the 2008 City of Austin MS4 permit.**

This is a mixed question of fact and law. However, as noted in the ED's RTC, Response #12, this requirement was completed under the TXDOT Austin MS4 permit in December 2008 and was discussed in the August 28, 2009 TXDOT Austin annual report. Therefore, it is not included in this permit. The response also noted that the requirement to coordinate with FWS to determine areas of concern for endangered kart invertebrates was continued and revised to require TXDOT to report any coordination of projects with FWS in TXDOT's annual report. **The ED recommends not referring this issue to SOAH.**

**7. Whether the permit should include a cumulative effect analysis in each watershed or require more mitigation for redevelopment areas.**

As a matter of law, the applicable rules and regulations for MS4 stormwater permitting do not require a cumulative effect analysis in each watershed covered by the permit or mitigation for redevelopment areas. Each regulated MS4 is required to develop a SWMP, which outlines the control practices that will be used to minimize the discharge of pollutants from each MS4. **The ED recommends not referring this issue to SOAH.**

**8. Whether the draft permit should require wet weather testing or numeric effluent limitations.**

As a matter of law, the applicable rules and regulations for MS4 stormwater permitting do not require wet weather testing or numeric effluent limitations. Each regulated MS4 is required to develop a SWMP, which outlines the control practices that will be used to minimize the discharge of pollutants from each MS4 and do not require wet weather testing. The management practices chosen for use in the SWMP are specifically authorized by the federal rules as a substitute for numeric effluent limitations for

stormwater discharges.<sup>5</sup> **The ED recommends not referring this issue to SOAH.**

- 9. Whether the permit should include language that requires a program to actually reduce the discharge rate of floatables by utilizing source controls or structural controls.**

As a matter of law, the applicable rules and regulations for MS4 stormwater permitting do not require a program that requires an MS4 to reduce the rate of floatables by utilizing source controls or structural controls. Each regulated MS4 is required to develop a SWMP, which outlines the control practices that will be used to minimize the discharge of pollutants from each MS4. **The ED recommends not referring this issue to SOAH.**

#### V. DURATION OF THE CONTESTED CASE HEARING

Should there be a contested case hearing on this application, the ED recommends a hearing duration of nine months from the preliminary hearing to the presentation of a proposal for decision to the Commission.

#### VI. CONCLUSION

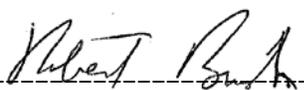
- Deny the hearing requests of GBK, GBF, ET, SOSA, and TIRN because they have not met the associational standing requirements for affected person status.
- If the matter is ultimately referred to SOAH, refer issues #1-2 to SOAH for a hearing of nine months duration from the preliminary hearing date.

Respectfully submitted,

TEXAS COMMISSION ON ENVIRONMENTAL  
QUALITY

Richard A. Hyde, P.E., Executive Director

Robert Martinez, Director  
Environmental Law Division

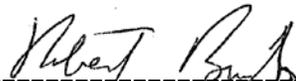
By:   
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<sup>5</sup> See 40 Code of Federal Regulations § 122.44(k)(2).

## CERTIFICATE OF SERVICE

I hereby certify that on October 24, 2016, the original and seven true and correct copies of the Executive Director's Response to Hearing Requests relating to the application of Texas Department of Transportation. for TPDES Permit No. WQ0005011000 were filed with the Chief Clerk of the TCEQ and a copy was served to all persons listed on the attached mailing list via electronic mail, facsimile transmission, or by deposit in the U.S. Mail.



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

**MAILING LIST**  
**TEXAS DEPARTMENT OF TRANSPORTATION**  
**DOCKET NO. 2016-1703-IWD; TPDES PERMIT NO. WQ0005011000**

**FOR THE APPLICANT:**

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**FOR THE EXECUTIVE DIRECTOR**

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**FOR ALTERNATIVE DISPUTE RESOLUTION**

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**FOR THE CHIEF CLERK**

via electronic filing:

Bridget Bohac  
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P.O. Box 13087  
Austin, Texas 78711-3087

**FOR THE REQUESTORS**

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Kelly Davis  
Save Our Springs Alliance  
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Austin, Texas 78704

Joanie Steinhaus  
Turtle Island Restoration Network  
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Galveston, Texas 77550

# ATTACHMENT A

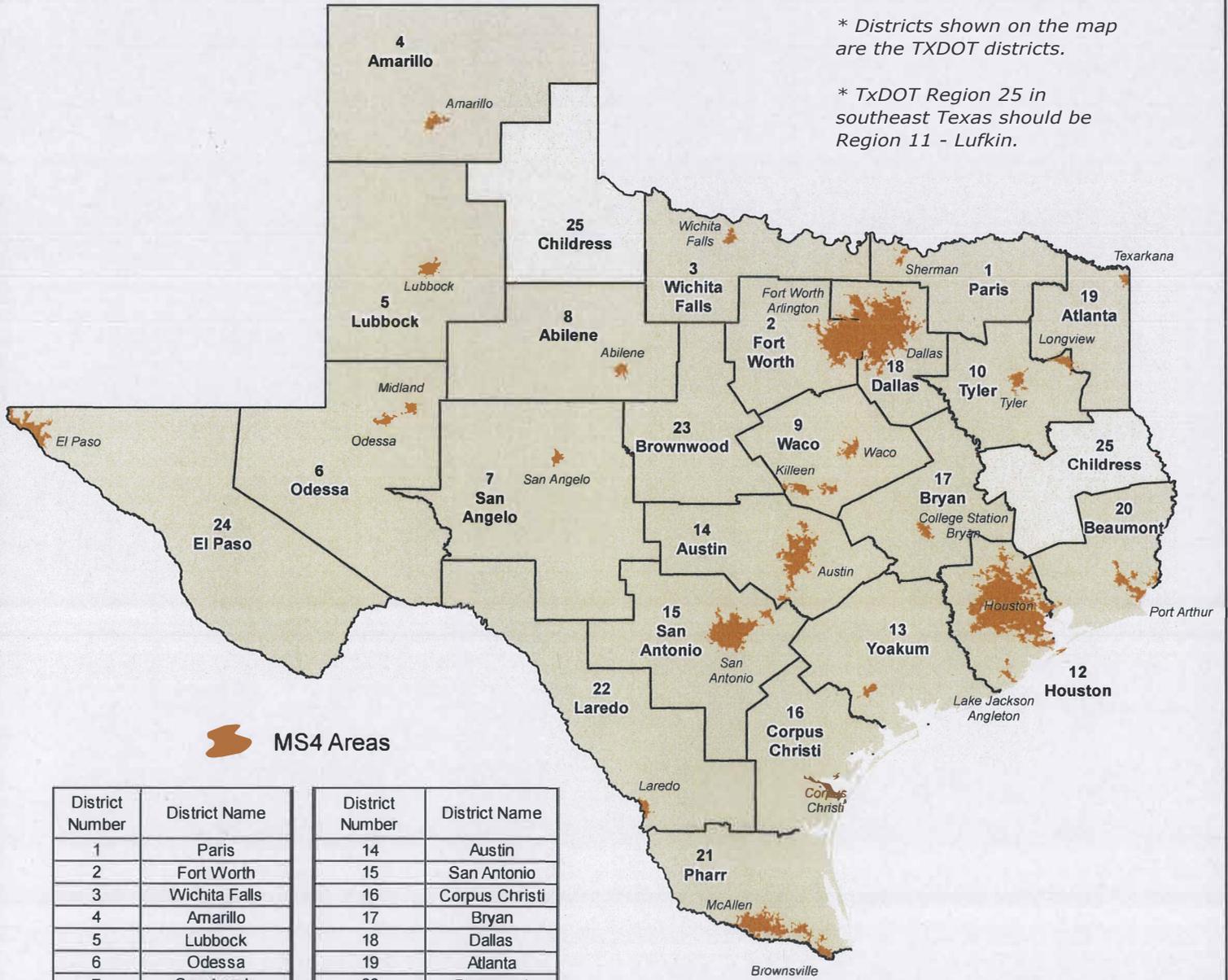
# TxDOT Stormwater MS4 Outfall Index

TCEQ Notes on TxDOT Map:

\* Shaded MS4 areas are the areas covered by WQ0005011.

\* Districts shown on the map are the TXDOT districts.

\* TxDOT Region 25 in southeast Texas should be Region 11 - Lufkin.



 MS4 Areas

District Number	District Name
1	Paris
2	Fort Worth
3	Wichita Falls
4	Amarillo
5	Lubbock
6	Odessa
7	San Angelo
8	Abilene
9	Waco
10	Tyler
11	Lufkin*
12	Houston
13	Yoakum

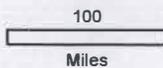
District Number	District Name
14	Austin
15	San Antonio
16	Corpus Christi
17	Bryan
18	Dallas
19	Atlanta
20	Beaumont
21	Pharr
22	Laredo
23	Brownwood
24	El Paso
25	Childress*



**DISCLAIMER:**

This map is the product of the Texas Department of Transportation. It was produced with the intent that it be used for the review of the referenced data at the original plotted scale. There are no warranties made as to the fitness of this map for any unlisted purpose or reproduction at any other scale.

\* Childress and Lufkin do not contain any MS4 Areas



## ATTACHMENT B



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6  
1445 ROSS AVENUE  
DALLAS, TEXAS 75202-2733

FEB 4 2016

CERTIFIED MAIL: RETURN RECEIPT REQUESTED (7014 2120 0003 8146 9111)

Mr. Chris Linendoll, E.I.T., Section Manager  
Wastewater Permitting Section (MC-148)  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087



Re: Withdrawal of Interim Objection  
TPDES Permit No. TXS002101 (WQ0005011000)  
Texas Department of Transportation – Statewide MS4 Phase I and II

Dear Mr. Linendoll:

Thank you for responding to the concerns raised in EPA's July 31, 2015, Interim Objection letter regarding the above referenced facility.

Revised permit language was discussed during a conference call on Monday, February 1, 2016, and submitted, via email, Tuesday, February 9, 2016. EPA approved the proposed language, via email, also on Tuesday, February 9, 2016. The revisions include updated language on the Illicit Discharge MCM (Part III.B.2) pertaining to coordination with the U.S. Fish & Wildlife Service. Based on the revised discussed above, EPA withdraws its objection to the issuance of TPDES Permit No. TXS002101 (WQ0005011000).

Thank you for your cooperation in resolving the above issue. Should you have any questions concerning these comments, please contact me at (214) 665-7170, or have your staff contact Greg Valentine at (214) 665-3111, or by email at [valentine.greg@epa.gov](mailto:valentine.greg@epa.gov).

Sincerely,

Stacey B. Dwyer, P.E.  
Associate Director  
NPDES Permits and TMDLs Branch

cc (electronic): Rebecca Villalba, Stormwater and Pretreatment Team Leader (MC-148)  
Wastewater Permitting Section Division, TCEQ