Kathleen Hartnett White, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 23, 2006

TO: Persons on the attached mailing list

RE: City of Weston
TPDES Permit No. WQ0014602001

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** Unless a timely request for contested case hearing or reconsideration is received (see below), the TCEQ executive director will act on the application and issue the permit.

Enclosed with this letter is a copy of the Executive Director's Response to Comments. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Weston City Hall, 301 Main Street, Weston, Texas.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. A brief description of the procedures for these two requests follows.

How To Request a Contested Case Hearing.

It is important that your request include all the information that supports your right to a contested case hearing. You must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

(1) Your name, address, daytime telephone number, and, if possible, a fax number.

(2) If the request is made by a group or association, the request must identify:
   (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group; and
   (B) one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.

(3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.

(4) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."

Your request must demonstrate that you are an **"affected person."** An affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application. The request must be based on issues that were raised during the comment period. The request cannot be based solely on issues raised in comments that have been withdrawn. The enclosed Response to Comments will allow you to determine the issues that were raised during the comment period and whether all comments raising an issue have been withdrawn. The public comments filed for this application are available for review and copying at the Chief Clerk's office at the address below.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.

How To Request Reconsideration of the Executive Director's Decision.

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be in writing and must be **received by** the Chief Clerk's office no later than **30 calendar days** after the date of this letter: You should submit your request to the following address:

LaDonna Castañuela, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Processing of Requests.

Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the alternative dispute resolution director and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

How to Obtain Additional Information.

If you have any questions or need additional information about the procedures described in this letter, please call the Office of Public Assistance, Toll Free, at 1-800-687-4040.

Sincerely,

LaDonna Castañuela

LaDonna Castañuela
Chief Clerk

LDC/spb

Enclosures

MAILING LIST
for
City of Weston
TPDES Permit No. WQ0014602001

FOR THE APPLICANT:

The Honorable Patti Harrington
Mayor, City of Weston
P.O. Box 248
Weston, Texas 75097

Michael James, P.E.
James Engineering, LLC
8120 Jetstar Drive, Suite 150
Irving, Texas 75063

PROTESTANTS/INTERESTED PERSONS:

Thomas and Susie Crossland
7006 Wellington Point Road
McKinney, Texas 75070

John K. Dowell
5901 County Road 170
Celina, Texas 75009

Eleanor Searcy McKee
5065 County Road 170
Celina, Texas 75009

FOR THE EXECUTIVE DIRECTOR:

Scott Ramsey Shoemaker, Staff Attorney
Texas Commission on Environmental Quality
Environmental Law Division MC-173
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Austin, Texas 78711-3087

Julian Centeno, Technical Staff
Texas Commission on Environmental Quality
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FOR OFFICE OF PUBLIC ASSISTANCE:

Jodena Henneke, Director
Texas Commission on Environmental Quality
Office of Public Assistance MC-108
P.O. Box 13087
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL:

Blas J. Coy, Jr., Attorney
Texas Commission on Environmental Quality
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P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK:

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

PROPOSED TCEQ PERMIT NO. WQ0014602001

APPLICATION BY CITY OF WESTON	§ § §	BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHIEF CLERKS OFFICE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the City of Weston's application and Executive Director's Preliminary Decision. As required by 30 Texas Administrative Code (TAC) Section 55.156, before a permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk timely received comment letters from the following individuals: Mr. Thomas Blackwell Crossland, Sr., Ms. Susie Dell Crossland, and Ms. Eleanor Searcy McKee. The Office of the Chief Clerk also received a second comment letter from Ms. McKee twenty-four days after the end of the public comment period. Because the comment letter was untimely, the comments within the second letter will not be addressed in this Response. This Response addresses all timely public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about TCEQ can be found at our website at www.tceq.state.tx.us.

BACKGROUND

Facility Description

The City of Weston has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit that would authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 300,000 gallons per day in the interim phase, and a daily average flow not to exceed 600,000 gallons per day in the final phase via surface irrigation of 118 acres of municipal park and golf course. The draft permit would authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 300,000 gallons per day in the interim phase, and a daily average flow not to exceed 350,000 gallons per day in the final phase via surface irrigation of 118 acres of municipal park and golf course. The draft permit will not authorize a discharge of pollutants into waters in the State.

The Honey Creek Ranch Wastewater Treatment Facility consists of an activated sludge process plant using membrane bioreactor technology. Treatment units in the interim and final phases will include a fine screen with backup manual bar screen, flow equalization, anaerobic tank, anoxic tank, aeration basin, membrane bioreactor, aerobic sludge digester, membrane thickener, and chlorine contact chamber. The facility includes three storage ponds with a total surface area of 14

acres and total capacity of 280 acre-feet for storage of treated effluent prior to irrigation.

The facility and disposal site will be located approximately 1.6 miles east of the intersection of Farm-to-Market Road 2478 and Farm-to-Market Road 170, at the intersection of Farm-to-Market Road 170 and Honey Creek in Collin County, Texas.

Procedural Background

The application for a new permit was received on February 11, 2005 and declared administratively complete on March 31, 2005. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on April 12, 2005 in the *McKinney Courier-Gazette*. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on August 11, 2005 in the *McKinney Courier-Gazette*. The public comment period ended on September 12, 2005. Since this application was administratively complete after September 1, 1999, it is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

COMMENTS AND RESPONSES

COMMENT 1:

Mr. Thomas Blackwell Crossland, Sr. And Ms. Susie Dell Crossland (The Crosslands) comment that the notice and the map attached to the letter mailed to them purposely omitted giving the location of the proposed sewage treatment plant. The Crosslands comment that the map does not show the proposed location of the treatment site or the 140-acre irrigation site, and that it incorrectly shows part of the Crossland ranch on the west side of Honey Creek as being part of Area 1 Master Planned Community. The Crosslands comment that on February 3, 2005, the City of Weston "notified property owners of filing an area encompassing proposed sewer system (no mention of location of sewage disposal plant) and attaching incorrect vague map-but establishing a deadline for any protest with this sketchy information being 30 days after notice."

RESPONSE 1:

Applications for a CCN and for a Water Quality Land Application Permit (WQLAP) are considered separately and have different notice requirements, generally. A CCN application is processed by the TCEQ Utilities and Districts Section of the Water Supply Division, while a WQLAP application is processed by the TCEQ Wastewater Permitting Section of the Water Quality Division.

The notice and map attached to the Crosslands' comment letter was the Notice of Intent for Certificate of Convenience and Necessity (CCN) to Provide Sewer Utility Service in Collin County. According to 30 TAC § 291.106 and the TCEQ application instructions, the Applicant is not

required to include proposed wastewater treatment plant locations in the notice of application for a CCN. The map referred to by the Crosslands was submitted with the City of Weston's application for a sewer service CCN and is not required to show the proposed wastewater treatment plant site or the irrigation site. A landowners map was included in the application for WQLAP submitted to the TCEQ. The permit application is available for viewing at the Weston City Hall, 301 Main Street, Weston, Texas.

The WQLAP application initiating the process of review for preparing the draft TCEQ Permit No. WQ0014602001 for the City of Weston, is the subject of this Response. As required by 30 TAC § 39.411(b) and (d), the NORI and NAPD for this application both include a brief description of the proposed facility location. The information on the location of the proposed wastewater treatment plant and the irrigation area is included with the application.

The application for a new permit (for the facility and not a CCN) was declared administratively complete on March 31, 2005, after the Notice of Intent for the CCN, and no notice for the application had been sent out before that date. The NORI for the application for a new permit was published in the *McKinney Courier-Gazette* on April 12, 2005, and the end of the comment period for this application was September 12, 2005. The location of the proposed wastewater treatment facility can be found in the permit application by the City of Weston for water quality land application permit, which, according to an affidavit of publication supplied by the Applicant, is available for viewing at the Weston City Hall, 301 Main Street, Weston, Texas, in Collin County. Brief descriptions of the proposed facility location were also included in the NORI and NAPD.

According to the notices and draft permit, the wastewater treatment facilities and disposal site will be located approximately 1.6 miles east of the intersection of Farm-to-Market Road 2478 and Farm-to-Market Road 170, at the intersection of Farm-to-Market Road 170 and Honey Creek in Collin County, Texas.

COMMENT 2:

The Crosslands comment that the City of Weston is located in an area above and draining to the east fork of the Trinity River much closer than Honey Creek is to Weston.

RESPONSE 2:

The Applicant states that only a portion of the City of Weston's Extraterritorial Jurisdiction (ETJ) drains to the Trinity River. Texas Water Code Section 26.121 authorizes discharges into water in the state. TCEQ is tasked with protecting the quality of water in the state. To implement this statutory mandate, TCEQ issues permits which must be consistent with applicable law. TCEQ requires that a discharge meet criteria designed to protect water quality, but cannot require an applicant to seek an alternative facility location if it is otherwise in accordance with applicable law. Nonetheless, the applicant indicated in a letter dated May 27, 2005 to TCEQ that future plans may

include locating a plant in the Trinity River Basin as growth merits.

COMMENT 3:

The Crosslands comment that the proposed wastewater treatment facility is for the benefit of developers and the City of Weston probably will not tie into the system.

RESPONSE 3:

In a letter submitted to TCEQ by the Applicant's representative (signed by Michael James, PE) dated May 27, 2005, the Applicant indicated that the plant would serve the current citizens of Weston as well as several developers that are planning activity in the area. The Applicant has further indicated in its application materials that the City of Weston is expected to be first-served by the facility, as the development construction of Honey Creek Ranch begins. The Applicant also indicates that the downtown area of the City will connect to the system, and the plant and transmission lines to convey downtown generated wastewater will be provided as part of the construction. The Applicant further states in the letter that other homeowners and businesses will also have access to sewer lines.

COMMENT 4:

The Crosslands comment that the City of Weston does not have the water for the sewer system.

RESPONSE 4:

In a letter submitted to TCEQ dated May 27,2005, the Applicant states that the city of Weston is currently being supplied water by three water supply corporations and that the city is planning a connection to the North Texas Municipal Water District (NTMWD) for future water supply to insure the quality and quantity of its water supply.

COMMENT 5:

The Crosslands comment that the City of Weston does not have the need for a sewer system, and in the alternative ask why a sewer system is needed.

RESPONSE 5:

Based upon information in the application materials, the Executive Director has determined that the Applicant has demonstrated the need for consideration for a permit for a WQLAP. The

Applicant indicates that the City of Weston currently has no wastewater collection or treatment facilities, there is significant real estate development activity within the city limits and Extraterritorial Jurisdiction (ETJ), and that in order to accommodate development of land tracts less than one acre in size, the City plans to construct and operate a new wastewater collection and treatment system.

In its permit application, the City of Weston is proposing to collect and treat wastewater generated by a residential population of approximately 3,000 in a centralized wastewater treatment facility treating to a level of 5 mg/l five-day carbonaceous biochemical oxygen demand ($CBOD_5$), 5 mg/l total suspended solids (TSS), 2 mg/l ammonia-nitrogen (NH_3-N) and 1 mg/l total phosphorus. The proposed wastewater treatment plant will be operated by a Class C operator licensed in the State of Texas, constructed and operated under the conditions of the draft permit. These levels of effluent quality, construction, operation and maintenance specifications cannot be achieved by septic tank systems.

COMMENT 6:

The Crosslands comment that the City of Weston does not have the money or tax base to build or maintain a sewage treatment plant.

RESPONSE 6:

Generally, the financial ability of the Applicant is not evaluated in evaluating an application for a water quality discharge. TCEQ is tasked by the Legislature with protecting the quality of water in the state, and to implement this statutory mandate, TCEQ issues permits which must be consistent with applicable law. Texas Water Code Chapter 26 and applicable wastewater regulations require TCEQ to consider the quality of the discharge and the effect of the discharge on the quality of the receiving waters.

The Applicant states in a letter submitted to TCEQ that funds for building the required facilities and later operation will be generated from impact fees and sales of water and the associated wastewater treatment that provide properly treated effluent. The applicant further states that once the city of Weston obtains control over the water distribution system, water and wastewater rates would be calculated and collected from system customers.

COMMENT 7:

The Crosslands comment that the effluent for irrigation would quickly saturate the black soil creating a health hazard and mosquito breeding ground, and would seep back into the shallow water table and the spring-fed ponds in the area. The Crosslands also ask what would happen during periods of heavy rain or freezing weather and ice storms.

RESPONSE 7:

The draft permit contains requirements to help ensure the soil where effluent is applied does not become saturated to the extent that it becomes a health concern. For example, according to the draft permit, the Applicant would not be able to apply more than a rate of 2.85 acre-feet per year per acre irrigated in the interim phase and 3.32 acre-feet per year per acre irrigated in the final phase. The draft permit contains Special Provision No. 4 on page 23, which requires that irrigation practices must be designed and managed so as to prevent ponding of effluent or contamination of ground and surface waters and to prevent the occurrence of nuisance conditions in the area. Also, the draft permit contains Special Provision No. 5 on page 23 that states, "wastewater shall not be applied for irrigation during rainfall events or when the ground is frozen or saturated."

The draft permit does not authorize discharge of pollutants into water in the State. Although the draft permit would authorize the Applicant to dispose of treated domestic wastewater effluent via surface irrigation, discharges to groundwater or surface water would constitute a permit violation and are subject to TCEQ enforcement action. To further address health concerns, the treated effluent is proposed to be disinfected by means of chlorination before storage. According to Sprecial Provision No. 12 on page 24 of the draft permit, the effluent will be re-chlorinated prior to being delivered into the irrigation system and a trace chlorine residual shall be maintained in the effluent at the point of irrigation application.

The Applicant submitted water balance and storage calculations, which were reviewed, evaluated and revised by the TCEQ Wastewater Permitting Section in the Water Quality Division and became the basis for setting the effluent application rates and storage requirement in the draft permit. The water balance calculations take into consideration the rainfall, the infiltrated rainfall depending on the hydrologic condition of the soil, the crop evapotranspiration, the evaporation on the pond surface, leaching requirements of the crop, irrigation efficiency, and then calculate a maximum hydraulic (effluent) application rate. The proposed effluent application rate does not exceed this maximum.

The storage calculations take into consideration effluent application rate, the net of the maximum rainfall in 25 years and the lowest evaporation in 25 years, and the total water needs of the crop to be irrigated. The storage calculations show periods when effluent should not be used for irrigation and instead be stored to be used later when rainfall is scarce, insufficient, or when there is no rainfall at all. As a result, when the ground is already saturated no irrigation may occur and the effluent must be directed to the proposed ponds for storage. The proposed ponds are designed to

store up to 260 days of effluent discharging at a daily average flow of 350,000 gallons per day, which would be the maximum final phase flow of the draft permit.

COMMENT 8:

The Crosslands ask who the sewer plant will serve, the type of development the sewer plant will serve, the size, structure and number of houses per acre, building restrictions, pricing range of the homes and who currently owns the Weston water wells and water meters.

RESPONSE 8:

The Applicant indicates that the proposed wastewater treatment facility will serve the City of Weston and the developments within the Land Advisors, Ltd.'s tracts. The Applicant also indicates in a letter to TCEQ dated May 27, 2005 that the proposed wastewater treatment facility will serve residential homes and downtown business. The size, structure, number of houses per acre, pricing range, building restrictions unrelated to water quality, and ownership of the City of Weston water wells and water meters are not addressed or evaluated by TCEQ in an application for WQLAP.

In a letter dated May 27, 2005 to TCEQ, the Applicant stated that structure sizes, number of houses per acre, and pricing ranges of homes will vary. The Applicant also states that Weston Water Supply Corporation, North Collin Water Supply, and Gunter Water Supply own the Weston water wells and meters. Further information related to these comments may be obtained from the City of Weston or its authorized representative for this permit application, Mr. Michael James, P.E., James Engineering, LLC, at telephone number 972-621-6303.

COMMENT 9:

The Crosslands comment that the area now has white rock roads creating a severe dust problem and cannot handle additional traffic. The Crosslands further comment that the smell would adversely affect the desirability and the existing and future value of their land and would be offensive to all existing houses adjoining the site.

RESPONSE 9:

The permitting process is limited to controlling the discharge of pollutants into state waters and protecting the water quality of the State's rivers, lakes, and coastal waters. TCEQ cannot address traffic risks and associated traffic impacts, or property value considerations in the wastewater permitting process. Although Texas Water Code Chapter 26 and applicable wastewater regulations do not require an applicant to address traffic issues to obtain a wastewater discharge permit, the Applicant in a letter to TCEQ dated May 27, 2005 stated that new roads are planned throughout the area for the city.

The proposed facility meets the buffer zone requirements to help abate and control a nuisance of odor by providing the required 150-foot distance from the proposed wastewater treatment facility to the Applicant's property line. The Applicant indicates that all structures are planned to be covered and the plant will utilize biofiltration for odor control. According to the draft permit, sludge processing and disposal is neither planned nor authorized for the site. The draft permit would also require the Applicant to maintain a 50-foot buffer from Honey Creek and its tributaries where no effluent is to be applied.

The draft permit does not limit the ability of a nearby landowner to seek relief from a court in response to activities that may or do interfere with the use and enjoyment of their property. If the Applicant's activities create a nuisance condition, the TCEQ may be contacted to investigate whether a permit violation has occurred. Potential permit violations may be reported to TCEQ Region 4 Office in Dallas at (817) 588-5800, or by calling the state-wide toll-free number at 1-888-777-3186. Citizen complaints may also be filed online at the following website: **http://www.tceq.state.tx.us/enforcement/complaints/index.html.**

COMMENT 10:

The Crosslands comment that the proposed development is approximately 3 miles southwest of the City of Weston.

RESPONSE 10:

According to the site map submitted with the permit application, the service area of the proposed wastewater treatment facility is the City of Weston and the areas south and southwest of the city.

COMMENT 11:

The Crosslands suggest to locate the proposed wastewater treatment facility on the east fork of the Trinity River so that it can benefit the City of Weston.

RESPONSE 11:

The Applicant states in the permit application that the proposed facility will serve the City of Weston and the developments within the Land Advisors, Ltd.'s tracts. The Applicant also indicates in a letter to TCEQ dated May 27, 2005 that the proposed wastewater treatment facility will serve residential homes and downtown business. In a letter to TCEQ dated May 27, 2005, the Applicant indicates that the downtown area of the City will connect to the system, and the plant and transmission lines to convey downtown generated wastewater will be provided as part of the construction. The Applicant further states in the letter that other homeowners and businesses will

also have access to sewer lines.

Under the Texas Water Code, TCEQ is tasked with protecting the quality of water in the state. To implement this statutory mandate, TCEQ issues permits which must be consistent with applicable law. Under this authority, TCEQ requires that a discharge must meet criteria designed to protect water quality, but cannot require an applicant to consider an alternate facility location if the proposed location is otherwise consistent with applicable law.

In a letter to TCEQ dated May 27, 2005, the Applicant states that a wastewater treatment facility may be located in the Trinity River Basin in the future, and that the City of Anna might own and operate the facility. The City of Weston further states that it has conducted preliminary discussions with the City of Anna regarding a future plant.

COMMENT 12:

The Crosslands comment that on November 17, 2004, the City of Weston filed application # 34705-C to provide a sewer service.

RESPONSE 12:

The commentors are correct; the City of Weston filed an application for a CCN with TCEQ on November 17, 2004.

COMMENT 13:

The Crosslands refer to an "April 7, 2005 TCEQ letter proposal permit No. WQ0014602001 Waste Water Disposal Site Location." The Crosslands further comment that "the permit was submitted on February 11th after the mailing of Weston's letter of February 3, 2005. The Crosslands referred to their letter of April 27, 2005 providing comments and requesting a public hearing on City of Weston's application for TCEQ Permit No. WQ0014602001. The Crosslands comment that the permit request was submitted on February 11, 2005, "only eight days after the City of Weston's February 3, 2005 First Notice to Property Owners. The Crosslands also comment that all of the information on the request submitted on February 11, 2005 must have been available on February 3, 2005. The Crosslands also ask why weren't the property owners so advised.

RESPONSE 13:

The Crosslands are referring to the Notice of Application and Intent to Obtain a Water Quality Permit. This notice states that the City of Weston applied for a WQLAP, Permit No. WQ0014602001 to authorize the disposal of treated wastewater at a volume not to exceed a daily

average flow of 600,000 gallons per day via irrigation of 140 acres. The application to provide sewer service (Application No. 34705-C) and the application for TCEQ Permit No. WQ0014602001 are two separate applications with different application and noticing requirements and deadlines for submitting comments and requests for a public hearing.

The February 3, 2005 notice referred to is the notice attached to the letter of the Crosslands dated April 27, 2005 and is the Notice of Intent for Certificate of Convenience and Necessity (CCN) to Provide Sewer Utility Service by the City of Weston in Collin County. The permit application submitted on February 11, 2005 is an application that requests authorization to dispose of treated wastewater via irrigation; it is not an application to provide sewer service, i.e., a CCN application.

The Notice of Application and Preliminary Decision for Water Quality Land Application Permit of Municipal Wastewater for proposed TCEQ Permit No. WQ0014602001 was published in the *McKinney Courier-Gazette* on August 11, 2005. The public comment period ended on September 12, 2005.

COMMENT 14:

The Crosslands comment that they received a letter from TCEQ describing the sewage plant and location 30 days after the City of Weston's deadline, thereby eliminating all property owners from being notified that did not register an objection or protest prior to Weston's deadline.

RESPONSE 14:

For the application for a WQLAP, the Applicant has submitted affidavits of publication to TCEQ indicating that the NORI was published in the *McKinney Courier-Gazette* on April 12, 2005, and that the NAPD was published in the *McKinney Courier-Gazette* on August 11, 2005. Also, the Applicant submitted an Application Availability Verification Form where the Applicant certifies that a copy of the complete application (including any subsequent revisions to the application), draft permit, and the Executive Director's preliminary decision were made available for review and copying at the Weston, Texas City Hall, in Collin County.

COMMENT 15:

The Crosslands indicated that they received a letter from TCEQ on May 10, 2005 acknowledging receipt of the Crosslands letter of April 27, 2005 and advising them that they would be added to the mailing list, but claimed that they had not. They also acknowledge receiving a June 30, 2005 TCEQ Letter "stating that a new Permit WQ0014602001 is at City Hall in Weston for viewing." The Crosslands requested to be placed to the list to be notified of the future meetings regarding the waste permit for the City of Weston, Texas.

RESPONSE 15:

The Crosslands letter of April 27, 2005 expresses concern regarding the City of Weston's application for proposed TCEQ Permit No. WQ0014602001 and this was acknowledged by the TCEQ letter dated May 3, 2005. The letter also indicated that the Crosslands will be added to the mailing list. Because the Crosslands were added to the mailing list, they received the NAPD for Water Quality Land Application Permit of Municipal Wastewater for Proposed TCEQ Permit No. WQ0014602001 mailed on June 30, 2005. According to the Office of the Chief Clerk, the Crosslands were added to the mailing list on September 26, 2004.

COMMENT 16:

Ms. Eleanor Searcy McKee comments that the only notification she received was by word of mouth. Ms. McKee wants to be informed about any meeting on the application by the City of Weston. She further states that her family is opposed to the permit application.

RESPONSE 16:

The Applicant has submitted affidavits of publication to TCEQ indicating that the NORI was published in the *McKinney Courier-Gazette* on April 12, 2005, and that the NAPD was published in the *McKinney Courier-Gazette* on August 11, 2005. Also, the Applicant submitted an Application Availability Verification Form where the Applicant certifies that a copy of the complete application (including any subsequent revisions to the application), draft permit, and the Executive Director's preliminary decision were made available for review and copying at the Weston, Texas City Hall, in Collin County.

In a letter dated April 27, 2005, the TCEQ Office of Public Assistance informed Ms. McKee that she will receive a copy of the formal written response to all timely filed comments (this document) and her request to be placed on the mailing list for the permit has been received by the Office of the Chief Clerk for processing. Ms. McKee is on the TCEQ Office of the Chief Clerk mailing list.

The draft permit is designed to help ensure that the environment, water quality, and human health are protected. For example, the draft permit for this application does not authorize discharge of pollutants into water in the State, either ground or surface water. The draft permit contains additional safeguards designed to help minimize risks to nearby water sources. For example, Special Provision No.5 on Page 23 of the draft permit provides that land application may not take place when the ground is frozen or saturated, which helps minimize the risk of effluent leaving the application area. The wastewater would be applied at an agronomic rate, which is a rate designed to provide nutrients to enhance soil productivity, provide needed nutrients for optimum health and growth, and to minimize the amount of nitrogen in the wastewater that passes below the root zone of the crop or vegetation grown on the land to the groundwater. Before application, the draft permit requires that effluent undergo disinfection via chlorination in a chlorine contact chamber to a residual of 1.0 mg/L (milligrams per liter) with a minimum detention time of twenty minutes.

COMMENT 17:

The Crosslands comment that in consideration of the manner in which information was withheld from the property owners, and the deadline established by the City of Weston's first letter to discourage comments or protest, they request all progress be halted on this application until all property owners can protest or comment, having all the facts as they exist at this time instead of the March 3rd deadline.

RESPONSE 17:

TCEQ's rules provide a number of opportunities for public involvement in wastewater permitting. When an application is administratively complete, the Applicant is required to place a copy of the application in a public place for review and copying in the county where the facility is located. Tthe Applicant submitted an Application Availability Verification Form where the Applicant certifies that a copy of the complete application (including any subsequent revisions to the application), draft permit, and the Executive Director's preliminary decision were made available for review and copying at the Weston, Texas City Hall, in Collin County.

The Applicant submitted an affidavit of publication to TCEQ indicating that the NORI was published in the *McKinney Courier-Gazette* on April 12, 2005. This notice is intended to inform the public about the application and provides that an interested person may file comments on the application or request a contested case hearing or public meeting.

Once the draft permit was written, the NAPD was mailed and published. The Applicant submitted an affidavit of publication to TCEQ indicating that the NAPD was published in the *McKinney Courier-Gazette* on August 11, 2005. The end of the public comment period is set in the NAPD as thirty (30) days from the date of publication. Those who submitted timely, relevant and material, or significant public comments on the application or draft permit were also added to the mailing list for this application.

After the public comment period ends, the Executive Director prepares a response to all timely received, relevant and material, or significant public comments on the application or draft permit raised during the public comment period (this document). This Response, along with the Executive Director's decision on the application, is then mailed to persons who submitted public comments or who requested to be on the mailing list for this application. The letter transmitting the Response specifies the deadline by which interested persons must seek a contested case hearing or request reconsideration.

COMMENT 18:

The Crosslands comment that the proposed site is in a floodplain.

RESPONSE 18:

The Applicant indicates in a letter submitted to TCEQ dated May 27, 2005 that the facility would be located outside the 100-year flood plain, and further states that all irrigation water would be stored outside the 100-year flood plain prior to pumping for irrigation at a golf course and/or other areas. To further address this concern, Special Provision No. 22, page 25 of the draft permit, requires the Applicant to provide facilities for the protection of the proposed wastewater treatment facility from a 100-year flood.

The draft permit also requires that holding ponds conform to TCEQ design criteria for sewerage systems requirements for stabilization ponds with regard to construction and levee design, and a minimum of two feet of freeboard must be maintained. Also, the draft permit requires, if the effluent is to be transferred to a holding pond or tank, re-chlorination prior to the effluent being delivered into the irrigation system, and requires that a trace chlorine residual be maintained at the point of irrigation application. Also, the draft permit indicates that it does not authorize the draining of the cattle pond. Under the draft permit, the Applicant would be prohibited from applying wastewater during rainfall events or when the ground is frozen or saturated.

Discharge into waters of the state, including Honey Creek, would not be authorized by the draft permit. The draft permit requires that the Applicant's irrigation practices be designed and managed so as to prevent ponding of effluent or contamination of ground and surface water and to prevent nuisance conditions in the area. For example, the draft permit would require the Applicant to maintain a 50-foot buffer from Honey Creek and its tributaries where no effluent may be applied. Also, the draft permit does not limit the ability of a nearby landowner to seek relief from a court in response to activities that may or do interfere with the use and enjoyment of their property. If the Applicant's activities create a nuisance condition, the TCEQ may be contacted to investigate whether a permit violation has occurred. Potential permit violations may be reported to TCEQ Region 11 Office in Austin at (512)339-2929, or by calling the state-wide toll-free number at 1-888-777-3186. Citizen complaints may also be filed online at the following website: **http://www.tceq.state.tx.us/enforcement/complaints/index.html.**

The Applicant submitted water balance and storage calculations, which were reviewed, evaluated and revised by the TCEQ Wastewater Permitting Section of the Water Quality Division and became the basis for setting the effluent application rates and storage requirement in the draft permit. The water balance calculations take into consideration the rainfall, the infiltrated rainfall depending on the hydrologic condition of the soil, the crop evapotranspiration, the evaporation on the pond surface, leaching requirements of the crop, irrigation efficiency, and then calculate a maximum hydraulic (effluent) application rate. The proposed effluent application rate **does not** exceed this maximum.

The storage calculations take into consideration effluent application rate, the net of the maximum rainfall in 25 years and the lowest evaporation in 25 years, and the total water needs of the crop to be irrigated. The storage calculations show periods when effluent should not be used for irrigation and instead be stored to be used later when rainfall is scarce, insufficient, or when there is no rainfall at all. As a result, when the ground is already saturated no irrigation may occur and the effluent must be directed to the proposed ponds for storage. The proposed ponds are designed to store up to 260 days of effluent discharging at a daily average flow of 350,000 gallons per day, which would be the maximum final phase flow of the draft permit.

THE FOLLOWING CHANGES WERE MADE TO THE DRAFT PERMIT IN RESPONSE TO PUBLIC COMMENT:

- *Special Provision No. 22 on page 25 of the draft permit has been added. This provision requires the protection of the proposed wastewater treatment facility from a 100-year flood.*

Respectfully submitted,

Texas Commission on Environmental Quality

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Executive Director

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