

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 30, 2010

TO: Persons on the attached mailing list.

RE: City of Rockport
TPDES Permit No. WQ0010054001

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 Rockport Public Works Service Building, 622 East Market Street, Rockport, 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 **received** by the Chief Clerk's office no later than **30 calendar days** after the date of this letter. You may submit your request electronically at <http://www.tceq.state.tx.us/about/comments.html> or by mail 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
Chief Clerk

LDC/er

Enclosures

MAILING LIST
for
City of Rockport
TPDES Permit No. WQ0010054001

FOR THE APPLICANT:

Billy W. Dick
City of Rockport
622 East Market Street
Rockport, Texas 78382

PROTESTANTS/INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

Michael T. Parr II, Staff Attorney
Texas Commission on Environmental Quality
Environmental Law Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087

Bijaya Chalise, Technical Staff
Texas Commission on Environmental Quality
Water Quality Division MC-148
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Austin, Texas 78711-3087

FOR OFFICE OF PUBLIC ASSISTANCE
via electronic mail:

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

FOR PUBLIC INTEREST COUNSEL
via electronic mail:

Blas J. Coy, Jr., Attorney
Texas Commission on Environmental Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK
via electronic mail:

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

ANDERSON , JAMES
2408 LAKEVIEW DR
ROCKPORT TX 78382-3630

ANDREWS , STEVEN
31 BAHAMA ST N
ROCKPORT TX 78382-7688

ARMSTRONG , BETSY
4017 KERR CIR
DALLAS TX 75244-5501

ARNE , ELAYNE
PO BOX 694
ROCKPORT TX 78381-0694

ATKINSON , EVELYN
4670 HWY 35 N
ROCKPORT TX 78382-7684

BAGBY , REBECCA
218 DEAD ENDS DR
ROCKPORT TX 78382-7609

BARNEBEY , KAY
BARNEBEY INKS
1813 BAYWOOD DR
ROCKPORT TX 78382-3501

BARRETT , KEITH
809 WARBLER LN
ROCKPORT TX 78382-6322

BELAIRE , CHARLES
BELAIRE ENVIRONMENTAL, INC.
PO BOX 741
ROCKPORT TX 78381-0741

BIANCHI , RICHARD
2204 LAKEVIEW DR
ROCKPORT TX 78382-3626

BLACKMAN , SHIRLEY
2201 CAPE MCCAN ST
ROCKPORT TX 78382-3612

BLAHA , JOHN
100 EL CID DR
ROCKPORT TX 78382-9676

BLAHA , KAY TEACHER
ROCKPORT FULTON MIDDLE SCHOOL
1701 COLORADO AVE
ROCKPORT TX 78382-3300

BLAIR , PAT
2012 COCHRAN LN
ROCKPORT TX 78382-3414

BLAZEK , THOMAS
CITY OF ROCKPORT
622 E MARKET ST
ROCKPORT TX 78382-2530

BOYD , MICKEY
235 RIDGE HARBOR DR
ROCKPORT TX 78382-9653

BRASHER , ANN
26 SANDPIPER LN
ROCKPORT TX 78382-3739

BRASHER , JAMES
26 SANDPIPER LN
ROCKPORT TX 78382-3739

BRINKERHOFF , V W
6 LUAU LN
ROCKPORT TX 78382-3723

BROWN , JOE
PO BOX 2431
ROCKPORT TX 78381-2431

BROWN , SUSAN
404 FAIRWAY OAKS ST
ROCKPORT TX 78382-6959

BUSKEY , EDWARD
750 CHANNEL VIEW DR
PORT ARANSAS TX 78373-5015

BUTLER , GARY
#11
38 MAZATLAN DR
ROCKPORT TX 78382-3767

BYERS , ROBBY
STE 100
6919 PORTWEST DR
HOUSTON TX 77024-8048

CALLAN , THOMAS
23 FLAMINGO RD
ROCKPORT TX 78382-3717

CORPORA , DEBRA
718 N LIVE OAK ST
ROCKPORT TX 78382-2823

DEFORREST , ANGALEE
PO BOX 1030
ROCKPORT TX 78381-1030

DEPUMA , M
2508 TURKEY NECK CIR
ROCKPORT TX 78382-3530

DEWAR , ROBERT L
PO BOX 1442
FULTON TX 78358-1442

DUGAN , TIM
33 RIVIERA DR
ROCKPORT TX 78382-3730

ELLIS , JANIE
2609 BAY VIS
ROCKPORT TX 78382-2114

ELLIS , JENNIFER
APT D
6316 S PADRE ISLAND DR
CORPUS CHRISTI TX 78412-4049

ELLIS , JIM
2609 BAY VISTA
ROCKPORT TX 78382-2114

EMBREY , TREY
533 LAMONT AVE
SAN ANTONIO TX 78209-3641

FIELDS , BETTY
35 BLUE HERON DR
ROCKPORT TX 78382-3771

FIELDS , BETTY & BYRON
35 BLUE HERON DR
ROCKPORT TX 78382-3771

FISHER , BILL
801 S CHURCH ST
ROCKPORT TX 78382-2415

FOX , JAMES
1004 E CEDAR ST
ROCKPORT TX 78382-2919

FREDERICK , JOHN PAUL
PO BOX 2342
ROCKPORT TX 78381-2342

FREDERICK , LISA
PO BOX 2342
ROCKPORT TX 78381-2342

GAMBILL , SETH
1217 HWY 35 S
ROCKPORT TX 78382-3913

GARCIA , JOSE M
PO BOX 1718
ROCKPORT TX 78381-1718

GARZA , REYNALDO
1104 E 7TH ST
BROWNSVILLE TX 78520-7237

GILL , DAVID
445 DESOTA DR
ROCKPORT TX 78382-9256

GONZALES , RICHARD
NO 51
5403 EVERHART RD
CORPUS CHRISTI TX 78411-4843

GOODALL , KERRY
111 PASO MADERA
ROCKPORT TX 78382-9672

GOULD , J A
118 SANDHILL WOODS
ROCKPORT TX 78382-6938

GREEN , TOM
333 PASEO ENCINAL ST
SAN ANTONIO TX 78212-1709

GUINN , JANE
1681 N FULTON BEACH RD
ROCKPORT TX 78382-7703

GUINN , LEE
1681 N FULTON BEACH RD
ROCKPORT TX 78382-7703

GUINN , TREY
1681 N FULTON BEACH RD
ROCKPORT TX 78382-7703

HARPER , GLENN
ROCKPORT NET
PO BOX 623
ROCKPORT TX 78381-0623

HARRINGTON , DIANA & JOE
802 N LIVEOAK ST
ROCKPORT TX 78382-2929

HEANER , JOHN
PO BOX 35406
DALLAS TX 75235-0406

HERRING , PHILLIP
831 SUNSET DR
ROCKPORT TX 78382-7025

HRDLICKA , CHARLES R
16 BIMINI DR
ROCKPORT TX 78382-3709

HUDGINS , MONICA
1915 MALLARD DR
ROCKPORT TX 78382-6355

HUTCHENS , BRENDA
104 GEORGIAN OAKS
ROCKPORT TX 78382-4338

JACKSON , DON
166 FRONT ST
ROCKPORT TX 78382-7800

JACKSON , NAN
1113 S PAISANO DR
ROCKPORT TX 78382-3219

JACOBS , BRIAN & DREW
324 E CORPUS CHRISTI ST
ROCKPORT TX 78382-3920

JOHNSON , ANNE
N/A
38705 BELOIT ST
FREMONT CA 94536-6803

KIDWELL , JOHN
2207 FM 3036
ROCKPORT TX 78382-7627

KIRKWOOD , RAYMOND
PO BOX 1194
ROCKPORT TX 78381-1194

KIRMSE , SHIRLEY
91/2 WHOOPING CRANE
ROCKPORT TX 78382

KOUTNIK , CAROL
201 HIGHLANDS ST
ROCKPORT TX 78382-6961

KRAMER , AMBER & TOM
1228 S LIVEOAK ST
ROCKPORT TX 78382-2230

KRUM , ANNE
PRIVATE RESIDENT
114
620 S FULTON BEACH RD
ROCKPORT TX 78382-3609

LANOUE , FRED
1751 STATE HIGHWAY 188
ARANSAS PASS TX 78336-6543

LANOUE , LINDA
1751 STATE HIGHWAY 188
ARANSAS PASS TX 78336-6543

LAWTON , BRADFORD
BRADFORDLAWTON LLC
SUITE 100
1020 TOWNSEND AVE
SAN ANTONIO TX 78209-5144

LEE , LYNN
RETIRED
109 OLYMPIC DR
ROCKPORT TX 78382-6811

LEMMONS , LINDA
1703 BAYSHORES
ROCKPORT TX 78382-3408

LIZCANO , MODESTO
13 RIVIERA DR
ROCKPORT TX 78382-3730

LIZCANO , PAT
13 RIVIERA DR
ROCKPORT TX 78382-3730

LUCCI , CHRISTOPHER
WILD RIVER RANCH. LLC
4881 FM 1781
ROCKPORT TX 78382-7618

MARTINEZ , MARIO
1122 COLORADO ST STE 208
AUSTIN TX 78701-2166

MCCALEB , RICHARD
46 CURLEW DR
ROCKPORT TX 78382-3714

MCKELVEY , DORA
1707 BAYSHORES
ROCKPORT TX 78382-3408

MCKELVEY , L PATRICK
1707 BAYSHORES
ROCKPORT TX 78382-3408

MELLA , CHAS A
21 FLAMINGO RD
ROCKPORT TX 78382-3717

MELLA , KAREN
21 FLAMINGO RD
ROCKPORT TX 78382-3717

MINSHEW , BARBARA
7 EDGEWATER LN
ROCKPORT TX 78382-3715

MITCHELL , SALLY
SALLY MITCHELL
107 HERON OAKS
ROCKPORT TX 78382-4332

MIXON , JIM
PO BOX 2107
ROCKPORT TX 78381-2107

MOON , CAROLYN
4902 CALVIN DR
CORPIJS CHRISTI TX 78411-3904

MOOR JR , LESLIE M
4 BIMINI DR
ROCKPORT TX 78382-3709

MOORE , AUSTIN W
44 FLAMINGO RD
ROCKPORT TX 78382-3717

MOORE , DIANE
7605 E 229TH ST
PECULIAR MO 64078-9069

MOORE , RONALD
1924 W TERRACE BLVD
ROCKPORT TX 78382-6252

MOORE, TOMMY
PO BOX 2153
ROCKPORT TX 78381-2153

MOORE, TOMMY & OUTEN, RONALD B
911 NAVIGATION CIR
ROCKPORT TX 78382-2781

MORE, GEORGE
33 SANDPIPER LN
ROCKPORT TX 78382-3739

MORRAN, JOHN
120 SANDHILL WOODS
ROCKPORT TX 78382-6938

MUEHLBERGER, EDIE & ERIC
466 SPILLER LN
WEST LAKE HILLS TX 78746-4437

MURPHY, LATISHA
809 WARBLER LN
ROCKPORT TX 78382-6322

MURRAY, JOHN
13 KINGFISHER LN
ROCKPORT TX 78382-3719

MURRAY, LIZ
13 KINGFISHER LN
ROCKPORT TX 78382-3719

NELSON, JOHN M
1819 BAY SHORE DR
ROCKPORT TX 78382-3755

ONEAL, THOMAS
101 CHAMPIONS DR
ROCKPORT TX 78382-6903

OUTEN, RONALD B
31 FLAMINGO RD
ROCKPORT TX 78382-3717

PAZERA, DONNA
508 LAKEWOOD ST
ROCKPORT TX 78382-6958

PETERSEN, DANE
PETERSEN ROOFING SYSTEMS
527 STEART ST
ROCKPORT TX 78382-5939

PORTER, MOLLY
120 LAKESHORE DR
ROCKPORT TX 78382-9503

PROBST, DIANE
404 BROADWAY ST
ROCKPORT TX 78382-2765

PROBST, MIKE
114 MARION DR
ROCKPORT TX 78382-6804

RADLOFF, PATRICIA
TEXAS PARKS AND WILDLIFE DEPT
4200 SMITH SCHOOL RD
AUSTIN TX 78744-3218

RAINWATER, ED
61 BLUE HERON DR
ROCKPORT TX 78382-3711

RAMOS, SAM
404 MESQUITE
FULTON TX 78358

RAY, MIKE
4200 SMITH SCHOOL RD
AUSTIN TX 78744-3218

REILLY, FRANK
145 LAKEVIEW RD
ROCKPORT TX 78382-9517

REIMER, ANN
158 WHISTLERS COVE RD
ROCKPORT TX 78382-4328

RHODES, ROBERT
2513 TURKEY NECK CIR
ROCKPORT TX 78382-3530

RILEY, TY
15 BAHAMA DR
ROCKPORT TX 78382-3703

ROBERTSON, ANNA
ANCHOR REALTY
3671 HWY 35 S
ROCKPORT TX 78382-7790

ROBERTSON, MARIAN & RICHARD
5401 SHOALWOOD AVE
AUSTIN TX 78756-1619

ROBINSON, JOE
102 FOREST HLS
ROCKPORT TX 78382-6928

ROCK, RICHARD
1635 S WATER ST
ROCKPORT TX 78382-2123

ROWE, TOM
19 BIMINI DR
ROCKPORT TX 78382-3709

RUBSAMEN, ROLLINS S
510 WOODWAY FOREST DR
SAN ANTONIO TX 78216-6310

RUSHING , DIANA
NA
PO BOX 582
FULTON TX 78358-0582

SHAW , RALPH
27 NASSAU DR
ROCKPORT TX 78382-3726

SIKORSKI , MACK
113 MARION DR
ROCKPORT TX 78382-6805

SILVA , BILL
6 FLAMINGO RD
ROCKPORT TX 78382-3717

SMALLENBERGER , JIM
20 BIMINI DR
ROCKPORT TX 78382-3709

SMITH , CHARLES
301 N LIVE OAK ST
ROCKPORT TX 78382-2744

SMITH , MUNSON
36 FLAMINGO RD
ROCKPORT TX 78382-3717

STORY , LAMAR
750 REDWOOD AVE
ROCKPORT TX 78382-5927

SULLIVAN , DAVID
4501 GOLLIHAR RD
CORPUS CHRISTI TX 78411-2909

SWANSON , SANDY
KEY ALLEGRO R/E
1798 BAY SHORE DR
ROCKPORT TX 78382-3410

SWANSON , SANDY
112 LEE CIR
ROCKPORT TX 78382-6983

SWISS , DAVID
132 DONNA LN
ROCKPORT TX 78382-9641

SYMANK , FRANCES
462 AUGUSTA DR
ROCKPORT TX 78382-6945

TATE , JOHN
19 BAHAMA DR
ROCKPORT TX 78382-3703

THOMPSON , CRAIG
4501 GOLLIHAR RD
CORPUS CHRISTI TX 78411-2909

TRIFONIDIS , BEVERLY
430 COPANO RIDGE RD
ROCKPORT TX 78382-9634

VILLA , LEO
PO BOX 341
ROCKPORT TX 78381-0341

VINCENT , EILEEN
1615 S CHURCH ST
ROCKPORT TX 78382-2103

WARD , LARRY
301 CHERRY HLS
ROCKPORT TX 78382-6843

WATSON , J DAVID
107 COUNTRY CLUB DR
WHARTON TX 77488-4609

WAX , C & SUSAN
8 CURLEW DR
ROCKPORT TX 78382-3714

WEIER , HERB & LORRAINE
2526 WEST DR
FORT WAYNE IN 46805-3623

WEST , CHUCK
COASTAL BEND GUIDES' ASSOCIATION
PO BOX 511
ARANSAS PASS TX 78335-0511

WHITEFIELD , BEN T
610 BENT TREE ST
ROCKPORT TX 78382-6957

WIATREK , GARRY
113 N SANTA CLARA DR
ROCKPORT TX 78382-9663

WIATREK , KAREN
PO BOX 754
ROCKPORT TX 78381-0754

WIEGEL , GRETCHEN
1064 MILLWOOD CT
INDIANAPOLIS IN 46260-2230

WILDFANG , PHIL
125 CANVASBACK LN
ROCKPORT TX 78382-9568

WIMBERLEY , JAN
324 WISPERING WOODS
WIMBERLEY TX 78358

Proposed Renewal of TPDES Permit No. WQ0010054001

2010 APR 26 PM 4: 53

Application by §
CITY OF ROCKPORT §
for TPDES Permit No. WQ0010054001 §

Before the §
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 application of City of Rockport for a renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010054001 and the Executive Director's preliminary decision. As required by Title 30 of the Texas Administrative Code (30 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 and comments at the Public Meeting from the following persons:

Steven Andrews	Betsy Armstrong	Elayne Arne	Evelyn Atkinson
Rebecca Bagby	Kay Barnebey	Charles Belaire	John Blaha
Thomas Blazek	Mickey Boyd	Ann Brasher	James Brasher
Blair Brown	Ed Buskey	Joe Brown	Robby Byers
Debra Corpora	Angalee DeForest	Robert Dewar	Tim Dugan
Trey Embrey	Janie Ellis	Jennifer Ellis	Jim Ellis
James Fox	John Frederick	Lisa Frederick	Betty Fields
Byron Fields	Seth Gambill	Jose Garcia	Reynaldo Garza
David Gill	Richard Gonzales	Kerry Goodall	Tom Green
Jane Guinn	Trey Guinn	Glenn Harper	Diana Harrington
Joe Harrington	Phillip Herring	John Heaner	Charles Hrdlicka
Brenda Hutchens	Monica Hudgins	Don Jackson	Nan Jackson
Anne Johnson	John Kidwell	Raymond Kirkwood	Shirley Kirmse
Carol Koutnik	Amber Kramer	Tom Kramer	Fred Lanoue
Linda Lanoue	Bradford Lawton	Lynn Lee	Linda Lemmons
Modesto Lizcano	Christopher Lucci	Richard Mccaleb	Charles Mella
Sally Mitchell	Jim Mixon	Carolyn Moon	Leslie Moor Jr.
Austin Moore	Diane Moore	Ronald Moore	Tommy Moore
George More	Edie Muehlberger	Eric Muehlberger	John Nelson
Ronald Outen	Donna Pazera	Dane Petersen	Molly Porter
Ed Rainwater	Mike Ray	Ann Reimer	Robert Rhodes
Ty Riley	Anna Robertson	Marian Robertson	Richard Robertson
Rollins Rubsamen	Carl T. Rowe	Diana Rushing	Tom Ryan
Ralph Shaw	Mack Sikorski	Bill Silva	Charles Smith

Lamar Story	David Swiss	Sandy Swanson	Frances Symank
John Tate	Beverly Trifonidis	Eileen Vincent	David Watson
Chuck West	Ben Whitefield	Phil Wildfang	Karen Viatrek

Mrs. Kay Blaha and her 6th grade science class students at Rockport Fulton Middle School (RFMS), including the following:

Manny Alinary,	Alexander Bagley,	Amber Barcenas,	Amanda Brown,
Ityel Camacho,	Kayla Dominique,	Michael Esparza,	Kaylee Fishe,
Melyssa Garza,	Kaitlin MaRaye	Denise Garza	Mickel Genroy
Tanner Graskin,	Evan Hamilton,	Audrey Hernandez,	Kameron Gray,
Matthew Hernandez,	Anita James,	Sunset James,	Jeremie Hernandez,
Brianna Johnson,	Tyler Kelray,	Brandon King,	Camilla Jenschke,
Katy Mendoza,	Lillie Mills,	Haley Murphy,	Jonathan Loveall,
Cynea Perry III,	Connor Peters,	Taya Petersen,	Nando Pena,
Samantha Rios,	Grant Robbins,	Desiree Rodriguez,	Tanner Phillips,
Resha Ruist,	Daniel Samples,	Hannah Solis,	Joseph Romero,
Manuel Solis,	Hannah Stewart,	Kim Temple,	Kaylee Solis,
Graciele Vazquez,	Jacob Viens,	Ella Warren,	John Trevino,
Caleb Wright	Baylie	Billie	Haley Wheatley,
Dalton	Serena	Trey	Ciara
Victoria			Tyler

This response addresses all such 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 the TCEQ can be found at our website at www.tceq.state.tx.us.

The following people submitted the same comments and will be referred to as **Group 1**.

Elayne Arne	Rebecca Bagby	Kay Barnebay	Charles Belaire
John Blaha	Ann Brasher	James Brasher	Angalee Deforest
Robert Dewar	Tim Dugan	Jennifer Ellis	Jim Ellis
Janie Ellis	Trey Embrey	John Paul Frederick	Lisa Frederick
J. M. Garcia	David Gill	Kerry Goodall	Tom Green
Trey Guinn	Jane Guinn	Glenn Harper	Diana Harrington
Joe Harrington	John Heaner	Phillip Herring	Charles Hrdlicka
Monica Hudgins	Brenda Hutchens	Don Jackson	Anne Johnson
John Kidwell	Shirley Kirmse	Carol Koutnik	Amber Kramer
Tom Kramer	Bradford Lawton	Fred Lanoue	Linda Lanoue
Lynn Lee	Linda Lemmons	Richard McCaleb	Charles Mella
Sally Mitchell	Jim Mixon	Carolyn Moon	Austin Moore
Diane Moore	Ronald Moore	Tommy Moore	George More

Edie Muehlberger	John Nelson	Ronald Outen	Donna Pazera
Ann Reimer	Ty Riley	Marian Robertson	Richard Roberston
Carl T. Rowe	Rollins S. Rubsamen	Diana Rushing	Charles Smith Sandy
Swanson	Davis Swiss	Frances Symank	John Tate
Beverly Trifonidis	Eileen Vincent	J. David Watson	Chuck West

Group 1 includes the following students of Mrs. Kay Blaha's 6th grade science class at RFMS:

Manny Alinary	Amanda Brown	Michael Esparza	Kaylee Fishe
Melyssa Garza	Tanner Graskin	Evan Hamilton	Audrey Hernandez
Anita James	Brianna Johnson	Tyler Kelray	Brandon King
Jonathan Loveall	Lillie Mills	Nando Pena	Cynea Perry III
Taya Petersen	Tanner Phillips	Samantha Rios	Grant Robbins
Desiree Rodriguez	Joseph Romero	Hannah Solis	Kaylee Solis
Manuel Solis	Hannah Stewart	Kim Temple	Graciele Vazquez
Caleb Wright	Baylie	Ciara	Dalton
Trey	Victoria	Kaitlin MaRaye	Denise Garza

The following people submitted the same comments and will be referred to as **Group 2**.

Elayne Arne	Charles Belaire	Anna Brasher	Monica Hudgins,
Don Jackson	Raymond Kirkwood	Fred Lanoue	Linda Lanoue
Lynn Lee	Leslie Moor Jr.	Diane Moore	Ronald Moore
John Nelson	Donna Pazera	Diana Rushing	Mack Sikorski
Charles Smith	Frances Symank	Sandy Swanson	

The following people submitted the same comments and will be referred to as **Group 3**.

Steven Andrews	Betsy Armstrong	Elayne Arne	John Blaha
Ed Buskey	Robby Byers	Debra Corpora	Kerry Goodall
Jane Guinn	Glenn Harper	Brenda Hutchens	John Kidwell
Shirley Kirmse	Linda Lemmons	Modesto Lizacano	Christopher Lucci
Charles Mella	Sally Mitchell	Jim Mixon	Carolyn Moon
Leslie Moor Jr.	Austin Moore	George More	John Nelson
Donna Pazera	Dane Petersen	Ed Rainwater	Ann Reimer
Robert Rhodes	Anna Robetson	Carl T. Rowe	Diana Rushing
Bill Silva	Mack Sikorski	David Swiss	Eileen Vincent
Karen Viatrek	Ben Whitefield	Phil Wildfang	

Group 3 includes the following students of Mrs. Kay Blaha's 6th grade science class at RFMS:

Alexander Bagley	Amber Barcenias	Ityel Camacho	Kayla Dominique
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Mickel Genroy	Kameron Gray	Jeremie Hernandez	Matthew Hernandez
Sunset James	Camilla Jenschke	Katy Mendoza	Haley Murphy
Connor Peters	Resha Ruist	Daniel Samples	John Trevino
Jacob Viens	Ella Walren	Haley Wheatley	Billie
Serena	Tyler		

The following people submitted the same comments and will be referred to as **Group 4**.

John Blaha	Lynn Lee	Nan Jackson	Jose M. Garcia
Reynaldo Garza	Charles Hrdlicka	Don Jackson	George More
Fred Lanoue	Christopher Lucci	Charles Mella	Molly Porter
Mike Ray (TPW)	Ann Reimer	Robert Rhodes	Richard Robertson
Anna Robertson	David Swiss	Mack Sikorski	Charles Smith
J. David Watson	Ronald Outen		

BACKGROUND

Description of Facility

The City of Rockport has applied to the TCEQ for a renewal of its existing TPDES Permit No. WQ0010054001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 2,500,000 gallons per day. The current and draft permits also authorize the disposal of a portion of the treated domestic wastewater via irrigation of 200 acres. The wastewater treatment plant serves the City of Rockport. The facility is located on the west side of Farm-to-Market Road 2165, approximately 1,200 feet south of the intersection of Farm-to-Market Road 2165 and Enterprise Boulevard in Aransas County, Texas. The treated effluent is discharged to Tulle Ditch; then to an unnamed ditch (non-tidal); then to an unnamed ditch (tidal); then to Little Bay; Then to Aransas Bay in Segment No. 2471 of the Bays and Estuaries. The unclassified receiving water uses are no significant aquatic life uses for Tulle Ditch, limited aquatic life uses for the unnamed ditch (non-tidal), and high aquatic life uses for the unnamed ditch (tidal) and Little Bay. The designated uses for Segment No. 2471 are exceptional aquatic life uses, oyster waters, and contact recreation. The City of Rockport Wastewater Treatment Facility is an activated sludge process plant operated in the complete mix mode. Treatment units include bar screens, grit chamber, aeration basins, final clarifiers, aerobic sludge digester, pre-thickener, belt filter press, a chlorine contact chamber and dechlorination chamber. The facility is in operation.

Procedural Background

The permit application for a renewal was received on July 13, 2009 and declared administratively complete on July 22, 2009. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on August 1, 2009 in *The Rockport Pilot*. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on November 4, 2009 in

The Rockport Pilot. A public meeting was held on February 25, 2010, in Rockport Texas, at which time the public comment period ended. This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

Access to Rules, Laws and Records

Secretary of State website for all administrative rules: www.sos.state.tx.us
TCEQ rules in Title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac/
(select "TAC Viewer" on the right, then "Title 30 Environmental Quality")
Texas statutes: www.capitol.state.tx.us/statutes/statutes.html
TCEQ website: www.tceq.state.tx.us (for downloadable rules in WordPerfect or Adobe PDF formats, select "Rules," then "Current TCEQ Rules," then "Download TCEQ Rules")
Federal rules in Title 40 of the Code of Federal Regulations: www.epa.gov/epahome/cfr40.htm
Federal environmental laws: www.epa.gov/epahome/laws.htm

Commission records for this facility are available for viewing and copying at TCEQ's main office in Austin, 12100 Park 35 Circle, Building E, Room 103 (Central Records, for existing or past permits), or Building F, 1st Floor (Office of Chief Clerk, for the current application until final action is taken).

If you would like to file a complaint about the facility concerning its compliance with provisions of its permit or with TCEQ rules, you may contact the Agency at 1-888-777-3186 or you may contact the TCEQ Region 14 Office at (325) 825-3100. Citizen complaints may also be filed on-line at the TCEQ website (select "Reporting," then "Make an Environmental Complaint"). If the facility is found to be out of compliance it will be subject to enforcement action.

COMMENTS AND RESPONSES

COMMENT 1

Group 1 commented that they requested a public meeting.

RESPONSE 1

In accordance with 30 TAC § 55.154, a Public meeting was held on February 25, 2010 in Saltwater Pavilion at Rockport Beach Park, 810 Seabreeze Dr., Rockport Texas 78382.

COMMENT 2

Group 2 commented that they requested a hearing.

RESPONSE 2

If the request is for a public meeting, *see* "response 1." However, if the request is for a contested case hearing, after the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material or significant public comments (RTC). The RTC (also this document) along with instructions for requesting a contested case hearing or request for reconsideration will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. The Chief Clerk has received 17 requests for contested case hearing. The public has 30 days from the date of mailing of this RTC to file requests for contested case hearing. Any contested case hearing or request for reconsideration will be forwarded to the Commissioners for a decision.

COMMENT 3

Group 1 commented that they were concerned about further damage and degradation of Little Bay as the water quality had deteriorated substantially over the last few years almost to the point that Little Bay had become a "dead zone," possibly suffering the same fate as Port Lavaca with the total loss of its recreational value. Similarly, Anne Johnson, Leslie Moor Jr., and Mikaela Clark of Mrs. Kay Blaha's 6th grade science class at RFMS commented that the TCEQ should not allow the dumping of waste into Little Bay and Tulle Creek because it was harming the environment and that the health of all three needed to be protected and preserved for future generations.

RESPONSE 3

The TCEQ has the responsibility of carrying out the State's policy of maintaining the quality of water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, and the operation of existing industries, taking into consideration the economic development of the state; to encourage and promote the development and use of regional and area wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy. *See* Texas Water Code (TWC) § 26.003.

The TWC, § 26.121, authorizes discharges into waters of the state, provided the discharger obtains a permit from the Commission. The concerns regarding degradation of Little Bay are valid; however, the cause of this degradation is uncertain. Similarly, the TCEQ is concerned about degradation in any water body and works within the regulatory framework associated with the Texas Surface Water Quality Standards (TSWQS) to ensure that no degradation of state waters occurs.

TCEQ staff develop and establish, in accordance with the TSWQS, draft permit provisions that are protective of aquatic life, human health and the environment as long as the Applicant operates and maintains the facility according to TCEQ rules and regulations. The TCEQ also requires applicants to comply with all provisions of the draft permit and all applicable regulations in the TWC and TCEQ rules including the antidegradation provisions in 30 TAC § 307.5.

As part of the permitting process, TCEQ staff must determine the uses of the receiving water and set effluent limits that are protective of those uses. The effluent limits in draft permits are set to maintain and protect the existing uses.

The draft permit was developed to protect aquatic life, human health and the environment in accordance with the TSWQS and the Executive Director has determined that the proposed draft permit is in fact protective of the environment, water quality, and human health in accordance with TCEQ rules and requirements. The draft permit includes effluent limits and other requirements that the City of Rockport must meet. The draft permit's effluent limitations and monitoring requirements ensure that the proposed draft permit will not violate the TSWQS for the protection of surface water, groundwater, aquatic and terrestrial life, and human health to protect these aquatic resources for current and future generations. The effluent limitations in the draft permit, based on a 30-day average, are:

- 10 mg/l five-day carbonaceous biochemical oxygen demand (CBOD₅)
- 15 mg/l total suspended solids (TSS)
- 3.0 mg/l ammonia-nitrogen (NH₃-N)
- 5.0 mg/l minimum dissolved oxygen (DO)

The draft permit also includes additional requirements for the wastewater treatment system to ensure the protection of water quality and human health. The provisions in the draft permit were established to be protective of human health and the environment as long as the City of Rockport operates and maintains the facility according to TCEQ rules and regulations.

Speakers at the Public Meeting on February 25, 2010 indicated increased degradation of Little Bay over the course of the last five years. The City of Rockport has been operating under the same permitted effluent limitations and flow restrictions since 1994. This suggests that the recent degradation observed in Little Bay is from another source or sources. Nonetheless, in response to public comments, the TCEQ will require additional monitoring of total phosphorus and total nitrogen to better understand nutrient inputs to Little Bay. If the results of this monitoring indicate that effluent limits for nutrients are warranted, the TCEQ will require appropriate permit limitations for nutrients.

COMMENT 4

Group 3 commented that the extensive sea grasses in Little Bay, that once harbored abundant aquatic life was a habitat for whooping cranes, and a food source for many species of duck and many other forms of wildlife that lined the shorelines now gone. The group commented that in five short years the wildlife, that at one time included various species of fish and birds, was now practically nonexistent. The commenters claim that after extensive studies, the most likely cause of the loss of sea grass was due to high levels of nitrogen fertilizing algae blooms, which clouded the water and increased water turbidity, which blocked the sunlight from the sea grass and killed it. The Group

commented that the City of Rockport operated a wastewater treatment plant that discharged treated effluent with no nutrient limitations into the 405 acres that make up Little Bay. Data submitted in the City of Rockport renewal application showed that total nitrogen currently being dumped into Little Bay was 23.6 milligrams per liter (mg/l) to 41.5 mg/l. In comparison, two new coastal permits similar to the City of Rockport were issued by TCEQ with total nitrogen limits of 8mg/l for Aransas Bay, which is 21,000 acres and 6 mg/l for Port Bay, which is 2,180 acres. Unlike the City or Rockport, both new permits required wetland filtration before effluent reached the bays. It was conservatively estimated that current loading of nitrogen into Little Bay was equivalent to 2,000 lbs of 10-P-K commercial fertilizer per day, necessitating a wetland filtration system. The Group commented that the City of Rockport, as a polluting community, desperately needed to address all of the detrimental aspects of the community's effects on the wildlife and the environment. Additionally, James Fox commented that the TCEQ needs to be held directly responsible for destroying sea grass, which is against state law, by issuing permits with such high limits is irresponsible as there are better and proven methods for effluent disposal than just directly discharging into the bays as it is destroying sea grass in Texas' bay systems.

RESPONSE 4

The TCEQ has jurisdiction over the state's water quality program including issuance of permits, enforcement of water quality rules, standards, orders, and permits, and water quality planning. See Texas water Code (TWC) Sections (§§) 5.012 & 5.013.

Regarding nutrients, only perennial water bodies within the discharge route are analyzed to determine if degradation from the discharge of treated effluent proposed by the City of Rockport is likely. The water bodies along the discharge route considered are an unnamed ditch located 1.4 miles downstream of the discharge point and Little Bay, which is 2.1 miles downstream of the discharge point. The nutrient of concern in freshwater is typically phosphorus whereas the nutrient of concern for saltwater is typically nitrogen. TCEQ staff examined the pollutant analysis submitted by the City of Rockport in the TPDES permit renewal application. Results for total phosphorus indicated levels lower than average being discharged indicating very good management of this nutrient such that little or no increase in algae is expected in the freshwater receiving streams. Site visit observations on February 10, 2010 confirmed this as no attached algae was observed along the discharge route, while some other drainage ditches in the vicinity that were not along the discharge route had large amounts of filamentous algae. This suggests there is a non-point source of nutrients in the watershed. The results for nitrogen in the pollutant analysis provided with the permit application indicated very low levels of ammonia-nitrogen and average levels of nitrate-nitrogen and total Kjeldahl nitrogen. Overall this indicated average treatment of total nitrogen. During field observations on February 10, 2010 no algae was observed at the point where the discharge enters Little Bay. A mottled duck was observed basking in this area. On February 25, 2010, prior to the public meeting, a mat of algae was observed floating near main outlet from Little Bay to Aransas Bay. It is evident that Little Bay may be experiencing nutrient increases. Little Bay is surrounded by an urban/suburban landscape, has reduced circulation with Aransas Bay and has a large canal subdivision in one quarter of the bay. Evidence of numerous deer in the wooded areas surrounding

the discharge route was observed during the February 10, 2010 site visit. All of these factors can increase nutrient loading to Little Bay.

Of note, the City of Rockport Wastewater Treatment Plant has been operating under the same permitted effluent limitations and flow restrictions since 1994. This suggests that the recent degradation observed in Little Bay may be attributed to other sources or a combination of sources. The treated effluent from this facility travels 2.1 miles along freshwater drainages before reaching Little Bay. In that distance, some of the total nitrogen will be “absorbed” by the receiving streams before reaching Little Bay.

The Executive Director does not have adequate information or data at this time to require additional nutrient limits. However, in response to public comments, the Executive Director will require additional monitoring of total phosphorus and total nitrogen to better understand nutrient inputs to Little Bay. If the results of this monitoring indicate that effluent limits for nutrients are warranted, the Executive Director will require appropriate permit limitations for nutrients for the City of Rockport wastewater facility.

COMMENT 5

Group 4 comments that the current permit allows the release of too much nitrogen into Little Bay and that they are concerned that the algae blooms and turbidity in the water will eventually lead to Little Bay becoming a sterile, algae growing, bacteria infested dumping ground. Group 4 comments that the effluent limitations in the current permit are considerably less stringent than the permits issued to Aransas County Municipal District (ACMUD) and RR Development Texas (RR), all three permits discharge to sea grass areas. Group 4 wants TCEQ to revise the permit to include the type of and effluent limits and filtration features similar to those in ACMUD and RR permits. Christopher Lucci comments that such a significant change in the ecology of Little Bay should stimulate an investigation into the current level of wastewater discharge and stormwater runoff.

RESPONSE 5

The draft permit’s effluent limitations and monitoring requirements for 5-day Carbonaceous Biochemical Oxygen Demand (CBOD₅), Total Suspended Solids (TSS), Ammonia Nitrogen (NH₃-N), chlorine residual, and pH ensure that the proposed wastewater treatment plant meets water quality standards for the protection of surface water quality, groundwater, and human health according to TCEQ rules and policies. The effluent limitations in the draft permit, based on a 30-day average, are 10 mg/l CBOD₅, 15 mg/l TSS, 3.0 mg/l NH₃-N and 5.0 mg/l minimum dissolved oxygen (DO). The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per week by grab sample. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil. The effluent 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. The proposed draft permit includes additional requirements for the wastewater treatment system to ensure the protection of water quality and human health. The Executive Director has determined that the proposed draft permit meets all the current requirements under state law and is therefore protective of the environment, water quality, and human health.

Renewal of a TPDES permit through the TCEQ necessarily means that there is no increase in effluent proposed in a renewal permit application and therefore, no expected increase in pollutant loading to the receiving waters (watercourses that receive the treated effluent discharged from a wastewater facility). The ACMUD and RR treatment plants referred to above applied for a permit amendment and a new permit. Both of these permit applications involved construction of new facilities and would result in an increase in discharge of treated effluent to their receiving waters. Likewise, the City of Rockport Wastewater Treatment Plant has been operating under the same permitted effluent limitations and flow restrictions since 1994. Each permit application is differently and is independently evaluated based on the information provided by the applicant, the characteristics of the receiving water bodies, the water quality assessment, and modeling information, etc. However, as stated in Response No. 4 above, in order to ascertain the effects, if any, discharges of treated effluent from this facility may have on Little Bay the Executive Director will require additional monitoring of total phosphorus and total nitrogen to better understand nutrient inputs to Little Bay. If the results of this monitoring indicate that effluent limits for nutrients are warranted, the Executive Director will require appropriate permit limitations for nutrients.

Storm water controls are not within the scope of this draft TPDES wastewater discharge permit. Storm water, if regulated, would fall under the TCEQ TPDES Storm Water Permitting Program. Technical questions relating to the Storm Water Management Program can be obtained by calling (512)-239-4671 or via email swgp@tceq.state.tx.us.

COMMENT 6

Charlie Belaire, Bill Silva, and Byron & Betty Fields commented that the disappearance of seagrasses began in 2004 from uncontrolled stormwater runoff that led to increased sedimentation into Little Bay, which, combined with nitrogen in treated wastewater led to eutrophication resulting in sea grass decline. The replacement efforts had little success due to the now unacceptable water column turbidity. Mr. Belaire commented that in addition to nitrogen in treated wastewater, that phosphorus can cause eutrophication in saltwater systems that are not nitrogen limited and suspects this may be the case in Little Bay. Mr. Bellaire recommended the following three suggestions:

1. Determine the limiting nutrient and the roles of nitrogen and phosphorus in Little Bay; or
2. Reduce the levels of nitrogen and phosphorus into Little Bay to levels which will not result in excess algal production and excess water column turbidity; and
3. In lieu of 1 and 2, above, determine if means are economically available to reroute the discharge to another receiving body which has a greater capacity to assimilate the nutrient loading in the effluent.

RESPONSE 6

As stated above, stormwater controls are not within the scope of the draft TPDES wastewater discharge permit. Storm water, if regulated, would fall under the TCEQ TPDES Storm Water Permitting Program. Technical questions relating to the Storm Water Management Program can be obtained by calling (512)-239-4671 or via email swgp@tceq.state.tx.us.

The commenters noted that most of the sea grass beds in Little Bay disappeared in 2004. The City of Rockport Wastewater Treatment Plant has been operating under the same effluent limitations and flow restrictions since 1994, suggesting that non-point source discharges such as stormwater runoff from the surrounding watershed may have contributed to the problem. The total phosphorus and ammonia-nitrogen levels in the wastewater treatment plants treated effluent as reported in the pollutant analysis of treated effluent submitted with the permit application were well below average for a wastewater treatment facility. Nitrate-nitrogen and total Kjeldahl nitrogen were average. Overall, this indicated average treatment of total nitrogen. During field observations on February 10, 2010 no algae was observed at the point where the discharge enters Little Bay. A mottled duck was observed basking in this area. On February 25, 2010, prior to the public meeting, a mat of algae was observed floating near main outlet from Little Bay to Aransas Bay. It is evident that Little Bay is experiencing nutrient problems. Little Bay is surrounded by an urban/suburban landscape, has reduced circulation with Aransas Bay and has a large canal subdivision in one quarter of the bay. Evidence of numerous deer in the wooded areas surrounding the discharge route was observed during the February 10, 2010 site visit. All of these factors can increase nutrient loading to Little Bay. Based on all information available, the Executive Director does not feel that nutrient limits are necessary for the City of Rockport Wastewater Treatment Plant at this time consistent with the TSWQS Antidegradation Policy. Nonetheless, in response to public comments, the Executive Director will require additional monitoring of total phosphorus and total nitrogen to better understand nutrient inputs to Little Bay. If the results of this monitoring indicate that effluent limits for nutrients are warranted, the Executive Director will require appropriate permit limitations for nutrients for the City of Rockport wastewater facility.

Regarding the re-routing of the treated effluent discharge to another receiving water body that has greater capacity to assimilate the nutrient load from the treated effluent, the permittee is not required to change the discharge route in order to comply with the TSWQS during this permit renewal cycle. However, if the permittee submits a request to change the point of discharge or discharge route, the Executive Director will work with the permittee to evaluate discharge route options.

COMMENT 7

James Brasher commented that he is against giving the permit to the City of Rockport that would allow unlimited discharge of treated sewage into Little Bay.

RESPONSE 7

The City of Rockport is required to comply with all provisions of the draft permit and all applicable provisions of the Texas Water Code and TCEQ rules. This facility is permitted to discharge treated domestic wastewater. Any unauthorized discharge is prohibited and the discharge of raw sewage regardless of the cause is prohibited. The City of Rockport is permitted to discharge treated domestic effluent at an annual average flow not to exceed 2,500,000 gallons per day. Accordingly, the draft permit prohibits the discharge of unlimited treated sewage into Little Bay as it prohibits unauthorized discharges. An unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the "Other Requirements" section of the draft permit. Exceeding the permitted annual flow of 2,500,000 gallons per day will be a violation of the draft permit. Additionally, there are adequate safeguards in the draft permit to prevent the discharge of raw sewage, including but not limited to the following operational requirements:

The permittee is responsible for installing prior to plant start-up, and subsequently maintaining, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control. Process control, maintenance, and operations records shall be retained at the facility site, or shall be readily available for review by a TCEQ representative, for a period of three years.

Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.

In addition, the plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by TCEQ. Also, please note that Standard Provision 7 of the draft permit states that when the flow reaches 75 percent of the permitted daily average flow for three consecutive months, the City of Rockport must initiate engineering and financial planning for expansion or upgrade of the domestic wastewater treatment or collection facilities. When the flow reaches 90 percent of the permitted daily average flow for three consecutive months, the City of Rockport must obtain authorization from TCEQ to begin constructing the necessary additional treatment or collection facilities. These permit provisions are designed to help prevent unauthorized discharges of raw or treated sewage. If an unauthorized

discharge occurs, the City of Rockport is required to report it to TCEQ within 24 hours. Finally, the City of Rockport is subject to potential enforcement action for failure to comply with TCEQ rules or the permit.

COMMENT 8

Jane Guinn commented that the permit needs to be publicly reviewed.

RESPONSE 8

TCEQ's rules provide a variety of mechanisms for public involvement in the permitting of wastewater treatment plants. The public has an opportunity to review and comment on all proposed draft wastewater permits during the public comment period. In accordance with 30 TAC § 39.405(g), the applicant is required to place a copy of the application including the Executive Director's preliminary decision and draft permit in a public place for review and copying by the public. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at Rockport Public Works Service Building, 622 East Market Street, Rockport, Texas. Copies of the application materials and draft permit are also available for review and copying at the TCEQ's main office in Austin, Texas. Under 30 TAC § 55.152, the public may comment on the application and the Executive Director is required to file a response to all timely, relevant and material, or significant comments. *See* 30 TAC § 55.156(b)(1).

COMMENT 9

Reynaldo Garza and Don Jackson commented that because the City of Rockport is not fully filtering its wastewater discharge, large quantities of marine life in the local bay system are being affected. If the wastewater facility is not being properly regulated, then something must change and no new permits should be issued without first conducting further studies of the issue.

RESPONSE 9

30 TAC Section 307.6(b)(3) requires that water in the state shall be maintained to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three. The Executive Director expects that human health and the environment will be protected if the Applicant operates and maintains the facility as permitted and in accordance with TCEQ rules. The Executive Director has determined that the draft permit meets all applicable requirements under state and federal law and is therefore protective of human health and the environment. Again, the provisions in the draft permit were established to be protective of human health and the environment as long as the Applicant operates and maintains the facility according to TCEQ rules and regulations. The City of Rockport is required to comply with all provisions of the draft permit and all applicable provisions of the Texas Water Code and TCEQ rules. Any noncompliance with the terms of the proposed draft permit could result in enforcement action against the City of Rockport..

The TCEQ regional offices conduct periodic inspections of wastewater facilities and conducts investigations based on complaints received from the public. To report complaints about the facility, please contact the TCEQ at 1-888-777-3186 or 361-825-3100 to reach the regional office (TCEQ Region 14) in your area or by e-mail at complaint@TCEQ.state.tx.us. If violations are discovered, they may be resolved by the TCEQ Field Operations Division or referred to the TCEQ Enforcement Division for formal enforcement proceedings. Under Texas Water Code (TWC) § 7.052, a maximum administrative penalty of \$10,000 per day per violation may be assessed. TWC, Section 7.053, and TCEQ's Enforcement Policy and Guidelines delineate the factors TCEQ may consider when determining a penalty. A fine for an environmental violation will vary for a variety of reasons, including the severity of the violation, the compliance history of the permittee, the permittee's degree of responsibility for the violation, and the permittee's good faith. The commission may consider an applicant's compliance history in an application to renew a permit. For more information regarding enforcement, please see TCEQ's web site at www.tceq.state.tx.us/ and click on "Compliance, Enforcement and Cleanups."

COMMENT 10

Lamar Story, of the ACND, Charles Smith, County Commissioner, Pct.3, and Carl T. Rowe commented that they are concerned that Little Bay is not receiving the needed protection that other bays in the county are receiving. They commented that they do not understand why Little Bay is designated as an unclassified receiving water with only "high aquatic life uses" rather than "exceptional aquatic life uses, oyster waters, and contact recreation" similar to Aransas Bay. Therefore, according to the Texas Administrative Code Rule 307.4, Little Bay should be re-determined and considered part of Segment 2471 and the "exceptional aquatic life uses, oyster waters, and contact recreation" designation should be specified in the new permit as well as the protection from pollutants that the designation affords.

RESPONSE 10

The draft permit was developed to protect aquatic life, human health and the environment in accordance with the Texas Surface Water Quality Standards (TSWQS). As part of the permit application process, the Executive Director must determine the uses of the receiving water and set effluent limits that are protective of those uses. The effluent limits in the draft permit are set to maintain and protect the existing uses. Little Bay is being protected consistent with TSWQS. Little Bay is currently presumed to have a high aquatic life use. The current effluent limitations given to the City of Rockport Wastewater Treatment Plant will meet a dissolved oxygen criterion associated with an exceptional aquatic life in Little Bay as well as the current presumed high aquatic life use. Little Bay does have contact recreation uses and the wastewater permit has disinfection requirements to be protective of contact recreation uses. Since the discharge for the City of Rockport Wastewater Treatment Plant eventually reaches a water body with designated oyster water uses, the discharge of treated effluent from the City of Rockport is expected to meet these oyster water uses in Little Bay as well as Aransas Bay. Little Bay is somewhat isolated from Aransas Bay given, and was therefore not

included as part of Segment 2471. If there is a regulatory need to make a site-specific determination regarding the appropriate aquatic life uses of Little Bay, the TCEQ will examine Little Bay to make the appropriate determination. If the water body has degraded in recent years, a site-specific examination of Little Bay may not reveal the true and appropriate aquatic life uses. Consistent with the TSWQS 307.5 (c) (2)(B), the appropriate aquatic life use of a water body is “[t]he highest water quality sustained since November 28, 1975” (in accordance with EPA Standard Regulation 40 Code of Federal Regulations Part 131) defines baseline conditions for determinations of degradation.

COMMENT 11

Karen Viatrek and Robby Byers comment that an Environmental Impact Study needs to be conducted before renewal of the draft permit.

RESPONSE 11

The Environmental Impact Statement is a federal process associated with the National Environmental Policy Act (NEPA) Act of 1969 and is not part of the TPDES permitting process in Texas. See 42 U.S.C. §§ 4321-4370h. An applicant for a TPDES domestic wastewater permit is not required to submit an EIS as required under NEPA. However, as discussed above, in response to public comments, the Executive Director will require additional monitoring of total phosphorus and total nitrogen to better understand nutrient inputs to Little Bay. If the results of this monitoring indicate that effluent limits for nutrients are warranted, the Executive Director will require appropriate permit limitations for nutrients for the City of Rockport wastewater facility.

COMMENT 12

Dr. Ronald Outen commented that he has noticed a marked decline in the abundance and vitality of submerged aquatic vegetation in the shallows and the near-disappearance of submerged aquatic vegetation detritus along the downwind shoreline in his observations over the last eight years. He also commented that as recently as four years ago, extensive areas of submerged aquatic vegetation were present in the shallows along the western shore of Little Bay. Dr. Outen commented that part of the TCEQ’s mission is in fact to help maintain water quality conditions in Little Bay through a permit program that promotes restoration of the integrity of water. Dr. Outen commented that the wastewater treatment plant discharge is one of a number of factors contributing to the degradation of Little Bay and therefore should undergo a Tier 2 antidegradation review, where the TCEQ should establish present and future loading conditions and determine whether these loading conditions could “cause degradation.” If a positive finding is made the nutrient limit should be established that will prevent the further contribution to degradation by the wastewater treatment plant.

RESPONSE 12

Renewal of a TPDES permit through the TCEQ does not typically require an antidegradation review because there is no increase in effluent proposed in a renewal permit application and therefore, no

expected increase in pollutant loading to the receiving waters (watercourses that receive the treated effluent discharged from a wastewater facility). TCEQ rules provides that: “[t]he antidegradation policy and implementation procedures set forth in [the antidegradation section of the rule] shall apply to actions regulated under state and federal authority which would increase pollution of the water in the state.” Since the City of Rockport is not requesting an amendment to increase the permitted amount of treated effluent to be discharged, there is no action that would increase pollution of water in the state. Therefore, a Tier 2 antidegradation review was not performed for this permit application, consistent with the TSWQS. However, in some cases, when TCEQ staff obtains new information regarding physical changes to the receiving waters, it may be necessary to modify a TPDES permit’s effluent limitations in order to accommodate the receiving waters based on the new information so that a violation of the TSWQS will not occur. In the City of Rockport’s TPDES permit application, there was new information regarding the receiving waters along the discharge route. Based on aerial photography and subsequent confirmation by field observation from TCEQ regional staff, it was determined that Tulle Lake had filled in and grown over with trees. Regional staff also made a determination regarding the tidal boundary within the discharge route. TCEQ staff noted the information and used it in the TCEQ dissolved oxygen modeling performed to determine the appropriate effluent limitations needed for consistency with the TSWQS. In this case, it was determined that the effluent limitations in the current permit were adequate to accommodate the observed changes to the discharge route.

It has been noted that non-point source discharges such as storm water runoff from the surrounding watershed may have contributed to the decline of the submerged aquatic vegetation. As a result, in response to public comments, the Executive Director will require additional monitoring of total phosphorus and total nitrogen to better understand nutrient inputs to Little Bay. If the results of this monitoring indicate that effluent limits are warranted, the Executive Director will require appropriate permit limitations for nutrients for the City of Rockport wastewater facility.

COMMENT 13

Brenda Hutchens commented that she, as a resident of the coastal area, travels along the coast almost daily, and that the scenic drive is inspirational - the birds in, over and among the marshes in the water are beautiful. Ms. Hutchens commented that she would not want to imagine their disappearance as their sources for food and shelter are altered and the water no longer hospitable. Additionally, Ms. Hutchens commented that we must be good stewards of this wonderful area and preserve the water quality in any way that we can.

RESPONSE 13

The TCEQ concurs with this comment and reviews permits for domestic wastewater facilities consistent with the Texas Surface Water Quality Standards to protect and preserve water quality.

It is the policy of the State to maintain the quality of water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and

aquatic life, and the operation of existing industries, taking into consideration the economic development of the state; to encourage and promote the development and use of regional and area wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy.

See Texas Water Code § 26.003. In carrying out this policy, TCEQ staff develops draft permits with provisions to protect aquatic life, human health, and the environment in accordance with the Texas Surface Water Quality Standards and requires its Applicant's to comply with all provisions of a draft permit and all applicable provisions of the Texas Water Code and TCEQ rules. The provisions, effluent limitations, and monitoring requirements in the City of Rockport's draft permit were established to be protective of human health and the environment as long as the Applicant operates and maintains the facility according to TCEQ rules and regulations.

The draft permit's effluent limitations and monitoring requirements for 5-day Carbonaceous Biochemical Oxygen Demand (CBOD₅), Total Suspended Solids (TSS), Ammonia Nitrogen (NH₃-N), chlorine residual, pH, and sludge disposal requirement are intended to ensure that the wastewater treatment plant meets water quality standards for the protection of surface water, groundwater, and human health according to TCEQ rules and policies.

COMMENT 14

Eileén Vincent commented that the wonderful and abundant wildlife that is sustained in Little Bay is in jeopardy due to the fact that the community is not getting enough freshwater.

RESPONSE 14

Although TCEQ has regulatory authority to administer water rights, which could potentially decrease the amount of freshwater reaching a water body such as Little Bay, administration of water rights, are not within the scope of this proposed TPDES wastewater discharge permit. Water rights would fall under the TCEQ Water Rights Permitting and Availability Section. Answers to technical questions relating to the Water Rights Permitting and Availability Section can be obtained by calling (512) 239-4612.

COMMENT 15

Carl T. Rowe commented that as he understands it, nitrogen can almost always be assumed to be the limiting factor for algae formation in saltwater and therefore, the TCEQ pollutant loading standards should be more stringent for nitrogen when flowing to a saltwater body such as Little Bay versus a freshwater body where phosphorus is normally the limiting factor. Mr. Rowe commented that by his calculations, 2.5 million gallons per day (MGD) minus the maximum daily average flow to the Rockport Country Club of .39 mgd will result in potentially 471 pounds of nitrogen flowing into

Little Bay daily and the potential algae formation of 47 times the amount indicated above would surely further degrade Little Bay.

RESPONSE 15

The City of Rockport is seeking a renewal of an existing permit with no proposal to increase the amount of effluent or nutrient load to Little Bay. The City of Rockport Wastewater Treatment Plant has been operating under the same permitted effluent limitations and flow restrictions since 1994. The treated effluent from this facility travels 2.1 miles along freshwater drainages before reaching Little Bay. In that distance, some of the total nitrogen will be biologically and physically "absorbed" by the receiving streams before reaching Little Bay. In addition, it has been noted that non-point source discharges such as storm water runoff from the surrounding watershed may have contributed to the decline of the submerged aquatic vegetation. However, in response to public comments, the Executive Director will require additional monitoring of total phosphorus and total nitrogen in the draft permit to better understand nutrient inputs to Little Bay. If the results of this monitoring indicate that effluent limits are warranted, the Executive Director will require appropriate permit limitations for nutrients for the City of Rockport wastewater facility.

COMMENT 16

Carl T. Rowe commented that in 1999 the National Oceanic and Atmospheric Administration published "The National Estuarine Eutrophication Assessment," which stated that the primary symptom of excess nutrients (nitrogen) is decreased light availability leading to a secondary symptom, the loss of submerged aquatic vegetation (sea grass). The report concluded that the loss of sea grass lead to the loss of habitat and use impairments such as fishing, both commercial and recreation, and tourism. Mr. Rowe commented that a way to prevent the nitrogen from entering Little Bay is to use a biological nutrient removal process in the new permit.

RESPONSE 16

The TCEQ agrees that the use of biological treatment can be an effective means of removing nitrogen from treated effluent. The TCEQ assigns effluent limits in a wastewater permit such that those limits will be protective of the receiving waters consistent with the Texas Surface Water Quality Standards and the applicant is required to meet those effluent limitations. The Texas Water Code, § 26.121, authorizes discharges into waters of the state, provided the discharger obtains a permit from the TCEQ. However, the TCEQ does not have the authority to mandate a particular form of treatment. TCEQ evaluates applications based on the information provided in the application. The TCEQ allows the applicant latitude to design their treatment units as necessary to achieve the appropriate effluent limitations. However, prior to construction of any treatment facilities, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) a summary submittal letter in accordance with the requirements in 30 TAC Section 217.6(c). If requested by the Wastewater Permitting Section, the permittee shall submit plans, specifications, and

a final engineering design report, which comply with 30 TAC Chapter 217, Design Criteria for Wastewater Treatment Systems. The permittee shall clearly show how the treatment system will meet the final permitted effluent limitations required on Page 2 of the permit.

COMMENT 17

Carl T. Rowe commented that Little Bay also has foam problem on the shoreline most likely caused by oil and grease in the discharge of effluent. Mr. Rowe commented that the solution to removing the oil and grease and other pollutants other than nitrogen from the discharge is to route the effluent to a wetland.

RESPONSE 17

Regarding the use of a wetland to remove oil and grease and other pollutants from the effluent, the TCEQ assigns effluent limits in a wastewater permit such that the limits will be protective of the receiving waters consistent with the TSWQS. The City of Rockport is required to meet those effluent limitations; however, the TCEQ does not have the authority to mandate a particular form of treatment. The TCEQ allows the applicant latitude to design their treatment units as necessary to achieve the appropriate effluent limitations. Nevertheless, section 307.4 (b)(6) of the Texas Surface Water Quality Standards (TSWQS) states: "there shall be no foaming or frothing of a persistent nature." Section 307.4(b)(7) states: "surface waters shall be maintained so that oil, grease, or related residue will not produce a visible film of oil or globules of grease on the surface or coat the banks or bottoms of the watercourse; or cause toxicity to man, aquatic life, or terrestrial life in accordance with subsection (d) of this section." The draft permit includes a requirement that "[t]here shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil." The permittee is required to operate the facility in compliance with these rules and permit limits. Noncompliance with the permit or the applicable rules and regulations will result in enforcement action against the City of Rockport. If you would like to file a complaint about the facility concerning its compliance with provisions of its permit or with TCEQ rules, you may contact the Agency at 1-888-777-3186 or you may contact the TCEQ Region 14 Office at (325) 825-3100. Citizen complaints may also be filed on-line at the TCEQ website (select "Reporting," then "Make an Environmental Complaint"). If the facility is found to be out of compliance it will be subject to enforcement action.

COMMENT 18

Carl T. Rowe commented that the application lacks the annual soil sample for land irrigated by the effluent.

RESPONSE 18

Since a review by an agronomist is not generally performed on renewal applications, no soil analysis

was requested. However, according to the Other Requirements Section, Item No. 6.f. on page 24 of the permit, the City of Rockport shall submit the results of the soil sample analyses to the TCEQ Regional Office (MC Region 14) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division during September of each year.

COMMENT 19

Lynn Lee commented that assurance is needed that Little Bay will not be damaged by this discharge. Mr. Lee commented that it would be better to let Little Bay recover than add to the degradation with more nutrients. Mr. Lee commented that the TCEQ ought to require proper reduction of nutrients from the municipal sewage system before the permit renewal is approved.

RESPONSE 19

The City of Rockport has applied for a renewal of an existing permit with no increase in effluent flow proposed. The draft permit was developed to protect aquatic life, human health and the environment in accordance with the TSWQS and the Executive Director has determined that the proposed draft permit is in fact protective of the environment, water quality, and human health in accordance with TCEQ rules and requirements. The draft permit includes effluent limits and other requirements that the City of Rockport must meet. The draft permit's effluent limitations and monitoring requirements provide assurances that the proposed effluent limits will not violate the TSWQS for the protection of surface water, groundwater, aquatic, and terrestrial life, and human health. The draft permit also includes additional requirements for the wastewater treatment system to ensure the protection of water quality and human health. The provisions in the draft permit were established to be protective of human health and the environment as long as the City of Rockport operates and maintains the facility according to TCEQ rules and regulations. Furthermore, in response to comments, the Executive Director will require additional monitoring of total phosphorus and total nitrogen to better understand nutrient inputs to Little Bay. If the results of this monitoring indicate that effluent limits are warranted, the Executive Director will require appropriate permit limitations for nutrients.

COMMENT 20

Tommy Moore commented that the City of Rockport still used herbicides to control vegetation along the roadways, bridges, and culverts killing the root systems that hold this sediment in, and the City could use guidance from the TCEQ.

RESPONSE 20

The Texas Department of Agriculture is the agency responsible for regulating the application of herbicides and pesticides. The Department can be contacted at:

1700 N. Congress

11th Floor
Austin TX 78701
(512) 463-7476 (800) TELL-TDA (835-5832)
For the Hearing Impaired: (800) 735-2989(TTY)
http://www.agr.state.tx.us/agr/index/0,1911,1848_0_0_0,00.html

COMMENT 21

Billie of Mrs. Kay Blaha's 6th grade science class at RFMS commented that more sea grass needs to be planted.

RESPONSE 21

While the TCEQ does not engage directly in planting seagrasses, the TCEQ assigns effluent limitations to wastewater facilities such as the City of Rockport to ensure that the treated effluent from the facilities will be protective of seagrasses.

COMMENT 22

Tanner Phillips of Mrs. Kay Blaha's 6th grade science class at RFMS commented that society needs to think about what is put down the drains because it might go to the ocean and pollute it, which will affect the food chain.

RESPONSE 22

The TCEQ acknowledges, agrees, and thanks Mr. Phillips and all the students of Mrs. Kay Blaha's 6th grade science class at RFMS for their comments regarding the City of Rockport's renewal application for TPDES #WQ0010054001 and appreciates their interest in environmental issues.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

- Effluent monitoring requirements for Total Phosphorus and Total Nitrogen have been added to the draft permit in response to public comment. If the results of this monitoring indicate that effluent limits are warranted, the Executive Director will require appropriate permit limitations for nutrients.

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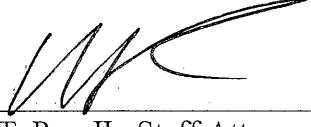
CHIEF CLERKS OFFICE

Respectfully submitted,

Texas Commission on Environmental Quality


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REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS COMMISSION
ON ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on April 26, 2010 the "Executive Director's Response to Public Comment" for TPDES Permit No. WQ0010054001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.


Michael T. Parr II, Staff Attorney
Environmental Law Division
State Bar No. 24062936