

**Lori Rowe**

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**From:** PUBCOMMENT-OCC  
**Sent:** Tuesday, September 21, 2021 1:40 PM  
**To:** PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ  
**Subject:** FW: Public comment on Permit Number WQ0002959000  
**Attachments:** 2021.09.21 LJK to TCEQ (Comments re Overcrest Dairy).pdf

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**From:** dbroyles@lglawfirm.com <dbroyles@lglawfirm.com>  
**Sent:** Tuesday, September 21, 2021 11:55 AM  
**To:** PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>  
**Subject:** Public comment on Permit Number WQ0002959000

**REGULATED ENTY NAME** MOO-OVER DAIRY

**RN NUMBER:** RN100797141

**PERMIT NUMBER:** WQ0002959000

**DOCKET NUMBER:**

**COUNTY:** ERATH

**PRINCIPAL NAME:** OSINGA, JONATHAN CARTER, OSINGA, LAURA CHRISTINE

**CN NUMBER:** CN605832658, CN605832641

**FROM**

**NAME:** Danielle Broyles

**E-MAIL:** [dbroyles@lglawfirm.com](mailto:dbroyles@lglawfirm.com)

**COMPANY:** Lloyd Gosselink

**ADDRESS:** 816 CONGRESS AVE STE 1900 Suite 1900  
AUSTIN TX 78701-2478

**PHONE:** 5123225824

**FAX:**

**COMMENTS:** Please see attached comment letter.

September 21, 2021

Laurie Gharis  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, Texas 78711

**VIA REGULAR MAIL  
AND ELECTRONIC FILING**

Re: Comments on Draft Permit for Overcrest Dairy:  
TPDES Permit No. WQ0002959000

Dear Ms. Gharis:

Please accept these written comments on behalf of my client, the City of Waco ("City"), concerning the above-referenced draft TPDES permit ("Draft Permit") for Jonathan Carter Osinga and Laura Christine Osinga d/b/a Overcrest Dairy (hereinafter, the "Dairy" or "the Applicant"), which seeks to increase the total dairy cattle from 990 head to a maximum capacity of 2,500 head, of which 1,500 head will be milking cows, among other proposed amendments. Please feel free to contact me at my law firm, Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701, phone number (512) 322-5810, fax number (512) 472-0532, concerning any aspect of these comments or the Commission's responses to same.

#### Background

On December 9, 2020, the Dairy applied for a major amendment to its Wastewater Permit for a Concentrated Animal Feeding Operation ("CAFO") to authorize (1) increasing the headcount; (2) combining and reconfiguring Land Management Units ("LMU") Nos. 1, 2, 3, and 4 to form LMUs Nos. 1 and 2; (3) adding new LMUs Nos. 3 and 4; (4) changing the property boundary; (5) removing some pens; (6) reconfiguring the drainage area; (7) changing Retention Control Structure ("RCS") No. 2 to Settlement Pond No. 2; (8) adding composting; (9) changing the designed removal efficiency; and (10) adding a "no evidence well" and Well No. 5. The permit has also been modified for ownership transfer from Frans Binnert Osinga and Margreet Osinga to Jonathan Carter Osinga and Laura Christine Osinga, and the site name has changed from Moo-Over Dairy to Overcrest Dairy.

#### **WRITTEN COMMENTS**

The City appreciates the Commission's preparation of the Draft Permit and this opportunity to provide comments, and it hereby provides several comments to the terms and conditions of the Draft Permit, as follows:

##### **1. Management of Phosphorus Production**

Soil samples indicate that several of the Dairy's LMUs exceed the 200 PPM maximum amount of allowable phosphorus production with LMU No. 1 at 292 PPM, LMU No. 2 at 529 PPM, and LMU No. 3 at 258 PPM. Under the Draft Permit, LMU Nos. 1 and 2 are to be combined,

despite both LMUs already exceeding the 200 PPM maximum amount of allowable phosphorus production. Additionally, the Draft Permit is (1) silent on how an additional 1,510 head of cattle will further impact these phosphorus levels, and (2) unclear as to whether or not irrigation pivots will be installed to manage RCS levels. If there will be pivots, soil concentrations on those irrigation fields are absent in the application. The Draft Permit should address these elevated LMU phosphorus levels and ensure compliance with the 200 PPM standard. In addition, the Draft Permit should address the impact of 1,500 additional head on phosphorous levels, as well as the soil concentrations on irrigation fields, in order to properly manage the waste and avoid negative water quality impacts.

**2. Impacts from Odors on the Use and Enjoyment of Neighboring Property.**

The Applicant's proposed amendment to increase the herd size on the Dairy will only increase the existing odor problems that have a severe impact on and restrict the use and enjoyment of neighboring property, including the use of such property as a recovery center by a neighboring landowner. At minimum, the application of compost, manure, sludge, slurry, or wastewater should be prohibited on those portions of the LMUs most directly impacting neighboring properties, and the herd size should not be increased to 2,500 total head to avoid worsening the existing odor problems currently facing neighboring landowners.

**3. Concerns Regarding the Liner for Settling Basin Due to Anticipated Construction**

Per the Draft Permit, liner certifications for the RCS last occurred in 2008. The Draft Permit does not address the condition of the liner (due to operations at the facility since the 2008 certifications), nor does it address how the liner will be impacted by the proposed expansion. Examples of possible impacts include, but are not limited to, the following: changes in ground contour, construction near or next to the liner, or the use of heavy equipment and machinery near or next to the liner.

A new RCS liner certification should be required to protect against water quality impacts.

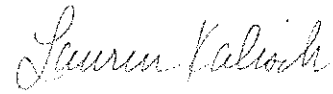
**4. Concerns Regarding the Reduction of Space and Removal of Pens**

According to the Draft Permit, RCS No. 1 will be reconfigured by the removal of pens; however, the Dairy is requesting an increase of cattle from 990 head to 2,500 head (of which 1,500 will be milking cows) that will be housed in a smaller area than is currently permitted. The City believes it quite likely (if not a certainty) that this increase in total dairy cattle concentration within a smaller space will increase pollutant levels produced by the Dairy which will negatively impact water quality in the Bosque River.

The City of Waco hereby requests that the Executive Director consider these comments in evaluating the Draft Permit which has been proposed to Overcrest Dairy. We thank you for the opportunity to provide these comments and look forward to your response.

Ms. Laurie Gharis  
September 21, 2021  
Page 3

Sincerely,

A handwritten signature in cursive script that reads "Lauren Kalisek".

Lauren Kalisek

cc: Applicant Jonathan Carter Osinga and Laura Christine Osinga, Overcrest Dairy  
Board of Directors, Bosque River Coalition

**Lori Rowe**

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**From:** dbroyles@lglawfirm.com <dbroyles@lglawfirm.com>  
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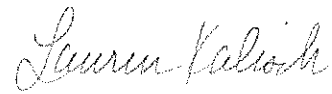
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Lauren Kalisek

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