

L.M. "Matt" Sebesta, Jr.
County Judge

Lacey Powell
Chief of Staff



Brazoria County

March 22, 2023

***Via Certified Mail, Return Receipt Requested
and Electronic Filing***

Laurie Gharis
Office of the Chief Clerk,
MC 105
TCEQ
PO BOX 13087
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Re: Response to the Executive Director's Reply

Dear Chief Clerk Gharis:

Brazoria County again formally requests a special hearing on previously raised issues related to the draft permit WQ0016046001. It is our position that additional wastewater discharges to Bastrop Bayou threaten the fishable and swimmable uses of the stream. Bastrop Bayou is an important location with recreation and a sensitive brackish water environment. The response to the previous comments does not adequately address previously submitted comments and categorically deny many comments from the general public. Therefore, we urgently request further investigation into the potential impacts from the issuance of this permit.

Brazoria County agrees with the Office of Public Interest Counsel that the following issues should be referred to SOAH: 1. Whether the draft permit is adequately protective of water quality; 2. Whether the proposed wastewater discharge will adversely affect the health and safety of persons on nearby property; 3. Whether the proposed discharge will adversely impact fish, wildlife, and the environment; and 4. Whether the proposed discharge will adversely affect recreational activities. Brazoria County also agrees with the Office of the Executive Director regarding the referral of the following issues to SOAH: 1. Whether the draft permit includes adequate protection for water wells; 2. Whether the draft permit includes adequate monitoring for bacterial species in tidal streams; and 3. Whether the draft permit includes adequate protections for aquatic species, including fisheries and oysters.

The current draft permit appears to be based on freshwater toxicity criteria and bacteria limits, despite ultimately emptying into a tidal water system. The current permit also would be issued to a private for-profit company with no real social or economic ramifications if they chose to not operate the facility properly. We do not see any assurances that the private company would or could be held responsible for damages to the receiving stream by the general public. It seems reasonable that permits should not be

issued without some sort of financial solvency of assurance bonds provided by a private corporation in case of facility mismanagement. Permit enforcement by the TCEQ for malfunctions or lack of maintenance at the proposed facility will not restore environmental damages, mitigate for the loss of recreational value in Bastrop Bayou, or reverse any negative health outcomes from degraded water quality.

It is our current position that the current permit in its draft form is not protective of water quality in Bastrop Bayou, which is already impaired for bacteria. This additional source of bacteria should not be allowed until a Total Maximum Daily Load assessment study and full implementation plan is developed for Bastrop Bayou. It should also be noted that waste-load allocations for the Bayou should be developed with this newly proposed discharge included in the modeling not only for bacteria, but for dissolved oxygen and ammonia concerns as well. The modeling for the newly proposed facility does not seem to include consideration of the tidal portions of Bastrop Bayou and appear to be based on the drainage district channel that the facility will initially discharge to. The drainage channel will simply serve as a continuation of the facility outfall and is generally dry offering little to no pollutant attenuation or dilution.

A full analysis must include a fuller examination of the ultimate receiving body of water. As you can see in Attachment A, Bastrop Bayou, which ultimately empties into Christmas Bay, is adjacent to areas the USGS has identified as having particularly low oxygen concentration in bottom waters. The permit as it currently stands does not take into account any effect on these "Dead Zones", which can have significant environmental and recreational impact. Not to mention, the treated wastewater will likely enter the receiving bodies at an elevated temperature, further warming a body of water subject to seasonal extremes, especially during the height of the recreation season. The economy in this area, to a large extent, is dependent on recreational uses of bodies of water, including Bastrop Bayou.

The County would like to review all modeling and stream data to ensure that the current permit is based on sound science and the discharge will not cause further impairment or diminish the high aquatic use criteria of the Bastrop Bayou or downstream marine ecosystems. On page 4 of the Executive Director's Response, the Executive Director states that TCEQ's determination that the permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic dependent species or proposed species or their critical habitat is based on USFWS's opinion from 1998 and only specifically cites the Piping Plover as a species of concern. Since 1998 additional species such as Red Knots and Eastern Black Rail have been added to the endangered species list and Bastrop Bayou passes directly through their critical habitats, including the Brazoria National Wildlife Refuge. Further local species are likely to be added in the near future, such as the critically imperiled Texas Fawnfoot and Brazos Heelsplitter mussels. Additionally, it has been proposed that species such as Kemp's Ridley's Sea Turtles and Whooping Cranes include the area as part of their habitat. Brazoria County believes that it is not sufficient to rely on data a quarter century old and that the applicant should be required to obtain a more up to date opinion on the protected species that may be affected by the discharge at issue. If TCEQ and the applicant disagree, a special hearing provides the best venue for review of the issue before a neutral third party. As Brazoria County previously stated at the public meeting, it is unreasonable that applicant has failed to provide an analysis of alternative means of disposal of the treated wastewater, including re-use for landscaping. In addition, applicant has failed to provide a comprehensive plan for disposal of its sludge, a necessary byproduct of the treatment facility.

In conclusion, Brazoria County is an affected individual as stated, however the County is a governmental agency with a large citizen base that makes up the population around the Bayou. It should therefore be

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true that citizens within Brazoria County and there comments also be considered for the betterment of the environment and the protection of water quality. The County does not agree with the dismissal of any public comments and urge the Executive Director to allow and consider these comments. Respectfully, the County requests that the TCEQ grant a special hearing where additional data can be presented and the TCEQ can hear the concerns of the affected community and ensure that no permit stands unless it adequately addresses those concerns.

Sincerely,



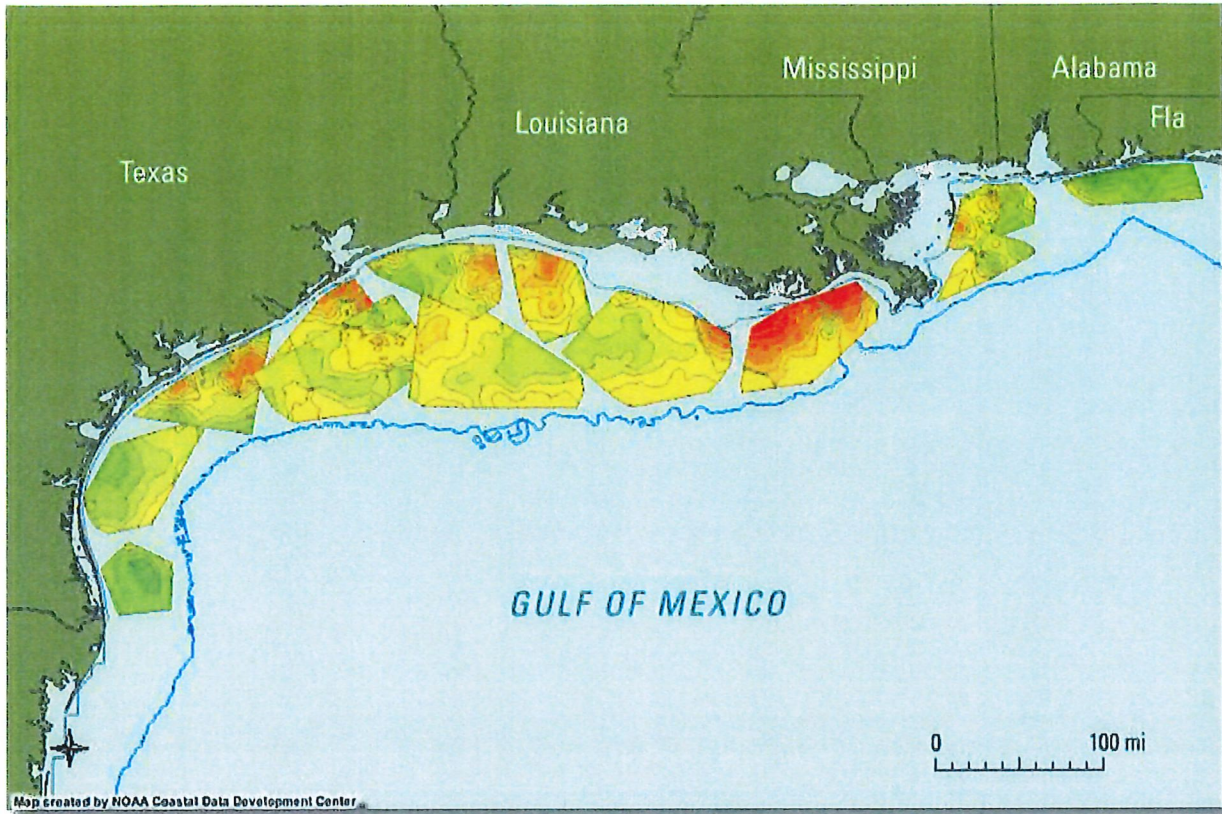
L.M. "Matt" Sebesta, Jr.
Brazoria County Judge

Attachment A USGS Map of Dissolved Oxygen in Bottom Waters:

cc: Dude Payne, Brazoria County Commissioner Pct. 1
Ryan Cade, Brazoria County Commissioner Pct. 2
Stacy Adams, Brazoria County Commissioner Pct. 3
David Linder, Brazoria County Commissioner Pct. 4

Also attached mailing list

ATTACHMENT A



Low Oxygen Concentrations are marked in orange and red.

MAILING LIST

Undine Texas Environmental, LLC

TCEQ Docket No. 2023-0163-MWD; TPDES Permit No. WQ0016046001

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313 RIVERSIDE DR
ANGLETON TX 77515-9111

PRUETT, JAVAN
3130 N FAIRWAY DR
ANGLETON TX 77515-8162

PURNELL, BOB & MELODY
12006 COUNTY ROAD 596
ANGLETON TX 77515-8251

PURNELL, MELODY
12006 COUNTY ROAD 596
ANGLETON TX 77515-8251

PURNELL, ROBERT
12006 COUNTY ROAD 596
ANGLETON TX 77515-8251

PURSWELL, KENNETH
12022 WALDEMAR DR
HOUSTON TX 77077-4957

PURSWELL, KENNETH R
12027 WALDEMAR DR
HOUSTON TX 77077-4956

PURVIS, KYLE
32226 BAYOU BND
RICHWOOD TX 77515-7078

RABORN, HELEN
12238 ANNETTE RD
ANGLETON TX 77515-8108

REICH, BRAD
310 EDGEWATER ST
RICHWOOD TX 77531-2017

REICH, BRUNO
403 EDGEWATER ST
CLUTE TX 77531-2018

REYES, GILBERT
153 HOUSTON ST
ANGLETON TX 77515-4136

REYES, MR RUBEN
7 ROBINHOOD LN
RICHWOOD TX 77531-2026

REYNOLDS , BARRY T
45 TROUT LN
FREEPORT TX 77541-7914

REYNOLDS , LAWANA
45 TROUT LN
FREEPORT TX 77541-7914

REYNOLDS , MS LAWANA J
8702 ANDANTE DR
HOUSTON TX 77040-2541

RIDENOUR , LISA
4722 COUNTY ROAD 459D
FREEPORT TX 77541-7932

ROBERTS , CINDY
17402 CATHEDRAL PINES DR
HUMBLE TX 77346-3908

ROBERTS , GENE
228 E HOSPITAL DR
ANGLETON TX 77515-4114

ROULSTON , EUNICE
4545 COUNTY ROAD 227
FREEPORT TX 77541-9662

RUSSO III , BILL JOSEPH
367 REDFISH DR
FREEPORT TX 77541-7995

RUSSO , JENNIFER
367 REDFISH DR
FREEPORT TX 77541-7995

RUSSO III , BILL JOSEPH
BILL RUSSO
376 REDFISH DR
FREEPORT TX 77541-7994

RUTLEDGE , FRANK
722 PORT RD
ANGLETON TX 77515-8374

SAWYER , WILLIAM
201 SMILIE RD
ANGLETON TX 77515-2137

SCHILLER , RAYMOND
513 COUNTY ROAD 698D
ANGLETON TX 77515-7896

SCHULTZ , FRANCES
642 COUNTY ROAD 605
ANGLETON TX 77515-7667

SEBESTA JR , L M
STE 102A
111 E LOCUST ST
ANGLETON TX 77515-4642

SHAPLEY , MICHAEL
803B PORT RD
ANGLETON TX 77515-9397

SHINE , MARY
BRAZORIA CO CRIMINAL DISTRICT ATTORNEY'S
OFFICE
STE 408A
111 E LOCUST ST
ANGLETON TX 77515-4642

SHOCKLEY , DAVID
623 PORT RD
ANGLETON TX 77515-8373

SHOCKLEY , GAYE
623 PORT RD
ANGLETON TX 77515-8373

SILVERS , JIMMIE
31410 BAYOU BND
RICHWOOD TX 77515-7091

SLUIS , KENNETH
32362 BAYOU BND
RICHWOOD TX 77515-7080

SPARKMAN , JUSTIN
140 DOVE TRL
RICHWOOD TX 77531-2248

STOCKMAN , JAMES
12113 FM 523
ANGLETON TX 77515-2001

STOCKMAN , LYN TIGNER
12113 FM 523
ANGLETON TX 77515-2001

STRAWN , JOSH
33219 BLUE MARLIN DR
RICHWOOD TX 77515-7290

STRICKLAND , LINDA S
726 RIVERSIDE DR
ANGLETON TX 77515-9118

STRICKLAND , TIMOTHY
726 RIVERSIDE DR
ANGLETON TX 77515-9118

STRICKLAND , LINDA & TIMOTHY
726 RIVERSIDE DR
ANGLETON TX 77515-9118

STRICKLAND , TYLER
1997 KINGSTON CV
LEAGUE CITY TX 77573-4988

STROTHA , DIXIE
12007 ANNETTE RD
ANGLETON TX 77515-8106

STUCKMAN, ED
PO BOX 1894
ANGLETON TX 77516-1894

TAYLOR, THE HONORABLE LARRY STATE
SENATOR
THE SENATE OF TEXAS DISTRICT 11
PO BOX 12068
AUSTIN TX 78711-2068

THOMPSON, THE HONORABLE ED STATE
REPRESENTATIVE
TEXAS HOUSE OF REPRESENTATIVES DISTRICT 29
PO BOX 2910
AUSTIN TX 78768-2910

THOMPSON, THE HONORABLE ED STATE
REPRESENTATIVE
TEXAS HOUSE OF REPRESENTATIVES DISTRICT 29
2205 BROADWAY ST
PEARLAND TX 77581-6403

TILLEY, KEVIN
371 REDFISH DR
FREEPORT TX 77541-7995

TREYBIG, GERALD
730 RIVERSIDE DR
ANGLETON TX 77515-9118

TUMLINSON, JANE
30 TROUT LN
FREEPORT TX 77541-7914

TUMLINSON, MR PAT
30 TROUT LN
FREEPORT TX 77541-7914

VASUT, THE HONORABLE CODY THANE STATE
REPRESENTATIVE
TEXAS HOUSE OF REPRESENTATIVES DISTRICT 25
STE 25
222 N VELASCO ST
ANGLETON TX 77515-4566

VASUT, THE HONORABLE CODY THANE STATE
REPRESENTATIVE
TEXAS HOUSE OF REPRESENTATIVES DISTRICT 25
PO BOX 2910
AUSTIN TX 78768-2910

VINCENT, BRUCE
403 REDFISH DR
FREEPORT TX 77541-7997

WAITE, BILL
131 BASTROP BAYOU DR
ANGLETON TX 77515-8371

WAITE, JANET
131 BASTROP BAYOU DR
ANGLETON TX 77515-8371

WALCIK, MR BILLY JOE
913 OAK RIDGE DR
ANGLETON TX 77515-9254

WALKER, DONNA
119 REDFISH DR
FREEPORT TX 77541-7907

WALTHALL, MS JANIE
706 GRIFFIN DR
FREEPORT TX 77541-9499

WATTS, MARK
149 LEGEND LN
ANGLETON TX 77515-7558

WEAVER, HUNTER
11 TROUT LN
FREEPORT TX 77541-7914

WEBB, MARK A
32811 AMBERJACK DR
RICHWOOD TX 77515-7361

WEIDNER, BRANDY
139 COUNTY ROAD 458D
ANGLETON TX 77515

WELLS, JAMES
2711 BAYOU DR
ANGLETON TX 77515-9125

WELLS, PAUL
3410 E FM 2237
MULDOON TX 78949-5107

WESTFALL, CONSTANCE
473 COUNTY ROAD 687
ANGLETON TX 77515-8691

WHITE, NORMAN
107 E SANDPIPER RD
ANGLETON TX 77515

WIEGEL, JAMES
32026 BAYOU BND
RICHWOOD TX 77515-7074

WILLINGHAM, BRET
31 TROUT LN
FREEPORT TX 77541-7914

WILLIS, JUSTIN
104 COUNTRY RD
ANGLETON TX 77515-9457

WILLIS III, REVEREND ROBERT V
711 COUNTY ROAD 687
ANGLETON TX 77515-9673

WILSON, MS MICKYE MICHELLE
685 COUNTY ROAD 687
ANGLETON TX 77515-8687

WOLLAM, NANCY
222 N VELASCO ST
ANGLETON TX 77515-4566

WOMACK , LINIZE
2003 FAIRWAY DR
ANGLETON TX 77515-9383

WOOSLEY III , GLEN M
1320 GLENVIEW LN
ANGLETON TX 77515-3633

YANEZ , ALEX
354 REDFISH DR
FREEPORT TX 77541-7994

ZIEBER , CAROLE J
3418 SURREY LN
DEER PARK TX 77536-5292

ZIEBER , CHARLES & TAMMI
2515 BAYOU DR
ANGLETON TX 77515-9121

ZIEBER III , CHARLES E
3112 MISTY SHORE DR
LEAGUE CITY TX 77573-5989

ZIEBER , MR CHRIS
239 RIVERSIDE DR
ANGLETON TX 77515-9109

ZIEBER , HEATHER
3112 MISTY SHORE DR
LEAGUE CITY TX 77573-5989

ZIEBER , JAMES K
7248 AVENUE L 1/2
SANTA FE TX 77510-9527

ZIEBER , TAMMI
2515 BAYOU DR
ANGLETON TX 77515-9121

ZIEBER , CHRIS
343 RIVERSIDE DR
ANGLETON TX 77515-9109

ZIEHL , JODI
317 COUNTY ROAD 201
ANGLETON TX 77515-7635

ZLEBIS , CAROLE & RILEY
3418 SURREY LN
DEER PARK TX 77536-5292

ZLEBIS , HARPER L
3418 SURREY LN
DEER PARK TX 77536-5292