

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Thursday, December 29, 2022 8:29 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0005341000
Attachments: 2022.12.28 CWA Hearing Request & Request for Reconsideration.pdf

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From: gwyneth@txenvirolaw.com <gwyneth@txenvirolaw.com>
Sent: Wednesday, December 28, 2022 4:55 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0005341000

REGULATED ENTY NAME CHAMBERS COUNTY ID 1 WWTP 2

RN NUMBER: RN111376828

PERMIT NUMBER: WQ0005341000

DOCKET NUMBER:

COUNTY: CHAMBERS, HARRIS

PRINCIPAL NAME: CHAMBERS COUNTY IMPROVEMENT DISTRICT 1

CN NUMBER: CN600741532

FROM

NAME: Eric Allmon

EMAIL: gwyneth@txenvirolaw.com

COMPANY: Perales, Allmon & Ice, P.C.

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AUSTIN TX 78701-1834

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FAX:

COMMENTS: Please see the attached request for a contested case hearing and request for reconsideration by Clean Water Action.

PERALES, ALLMON & ICE, P.C.

ATTORNEYS AT LAW

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Of Counsel:
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December 28, 2022

Laurie Gharis, Chief Clerk
Texas Commission on Environmental Quality
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78701-3087

Via TCEQ Online Comment Form

RE: Request for Contested Case Hearing and Request for Reconsideration on Application by Chambers County Improvement District No. 1 for Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0005341000.

Dear Ms. Gharis:

Clean Water Action (“CWA”) submits this request for reconsideration and request for a contested case hearing on the application by Chambers County Improvement District No. 1 (“Applicant”) for new TPDES Permit No. WQ0005341000.

I. Clean Water Action is an “Affected Person.”

Clean Water Action requests a contested case hearing. CWA satisfies TCEQ’s rules regarding associational standing. That is, one or more members of the association would have standing to request a hearing in their own right; the interests the association seeks to protect are germane to the association’s purpose; and neither the claim asserted nor the relief requested requires the participation of the individual members in the case.

Dakshina Jandhyala, John Chandler, and Kevin Topek are members of Clean Water Action whose recreational interests will be impacted by the proposed discharge. Their history of fishing and recreating near the proposed facility are personal justiciable interests; these interests will be impacted by the proposed facility because the proposed facility will impact fish and wildlife habitat and the ecology and productivity of the bay. Their interests will be impacted in a manner not common to members of the general public. Their recreational interests will be impacted by the

proposed discharge into Upper Galveston Bay and thus Clean Water Action is an “affected person”.

Dakshina “Moody” Jandhyala, Ph.D., is a microbiologist and biochemist who currently serves as Director of Core Research Labs and Facilities at the University of Houston. Dr. Jandhyala is a recreational fisherman in both salt and fresh waters and has fished in the waters of Galveston Bay for several years. Most recently, he kayaked and fished in the waters in the Kemah, Texas area. Dr. Jandhyala is concerned that the proposed discharge would require him to venture further down the coast for his kayaking and fishing outings in search of cleaner waters and more edible fish. Dr. Jandhyala resides at 1909 Branard Street, Unit D, Houston, Texas 77098.

Kevin Topek is a Certified Permaculture Design professional that resides in Houston, Texas. Mr. Topek is an avid oyster consumer from the waters of Galveston Bay from the coast of Bacliff, Texas, and also harvests healthy oyster shells for use in his permaculture land designs and installations. He also uses the waters of Galveston Bay for fishing, wading, and boogie boarding on Crystal Beach, Terramar Beach, and Surfside Beach and has done so at least once a year for several decades.

John “Trey” Chandler is a recreational fisherman and boater in both salt and fresh waters and has fished in the waters of Galveston Bay periodically for many years. Mr. Chandler resides at 15840 FM 529, Houston, Texas 77095.

Clean Water Action previously submitted comments on this Application on September 6, 2022, and reiterates the concerns it raised in its comments, as discussed below.

II. The proposed discharge will adversely impact water quality in violation of applicable rules and statutes.

The proposed discharge will be into Upper Galveston Bay (Segment 2421). The designated uses for this water body include contact recreation, high aquatic life uses, and oyster waters. The draft permit has not been demonstrated to contain conditions that will ensure preservation of these uses. The permitted discharge has not been demonstrated to be consistent with the total maximum daily load (TMDL) for bacteria in oyster waters applicable to Segment 2421. Each permit issued by TCEQ is required to contain conditions necessary to ensure that all applicable water quality standards will be achieved *and* ensure consistency with the state water quality plan – including the

TMDLs contained within that plan.¹ There is no indication that any consideration was given to this TMDL in consideration of the permit. CWA requests a hearing on this issue.

Furthermore, the demonstration has not been made that issuance of the permit is compliant with the Tier 2 review requirements of the Texas Surface Water Quality Standards. It has not been shown that the discharge will result in a less than de minimis lowering of water quality, nor has it been shown that the discharge is necessary for important economic or social development. CWA requests a hearing on this issue.

III. The discharge has not been demonstrated to be consistent with the Coastal Management Plan.

Issuance of the permit has not been shown to be consistent with the goals and policies of the Texas Coastal Management Program (CMP). The goals of the Coastal Management Program include ensuring the sound management of coastal resources by allowing for compatible economic development, but also the multiple human uses of the coastal zone. Issuance of the permit would unreasonably interfere with use of the nearby coastal zone for purposes including contact recreation, fishing, and oyster harvesting. CWA requests a hearing on this issue.

IV. The draft permit has not been demonstrated to contain adequate monitoring requirements.

The proposed facility is a centralized wastewater treatment facility that will accept multiple different types of waste streams and is governed by 40 C.F.R. Part 437. Where the proposed facility will accept multiple waste streams, separate monitoring of the treated waste streams is required pursuant to 40 C.F.R. § 437.4. It has not been demonstrated that sufficient monitoring is required to accomplish this, particularly given the uncertainty of the exact nature of the waste streams that will be contributing to the facility. CWA requests a hearing on this issue.

Furthermore, the whole effluent toxicity (biomonitoring) requirements of the permit are not adequate. The species utilized are not sufficiently sensitive to reflect the native aquatic environment. The frequency of monitoring is likewise inadequate to ensure compliance with applicable effluent limits. CWA requests a hearing on this issue.

¹ 30 Tex. Admin. Code § 305.531(4), incorporating 40 C.F.R. 122.44(d).

V. The draft permit has not been demonstrated to include adequate requirements related to cooling water intake structures.

The Executive Director's Response to Comment No. 6 did not adequately respond to CWA's concerns that the draft permit does not include adequate requirements related to cooling water intake structures. CWA requests a hearing on this issue.

VI. The permit has not been shown to include adequate odor prevention measures.

The facility will process domestic wastewater and will include equalization basins where this water may accumulate. The permit has not been shown to include adequate requirements for design and operation to prevent odor. Clean Water Action requests a hearing on this issue.

VII. Conclusion

For the above reasons, Clean Water Action requests reconsideration of the Application and requests a contested case hearing.

Respectfully submitted,

/s/ Eric Allmon

Eric Allmon

State Bar No. 24031819

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Debbie Zachary

From: PUBCOMMENT-OCC
Sent: Wednesday, September 7, 2022 2:17 PM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0005341000
Attachments: 2022.09.06 Chambers CWA Comments.pdf

From: ray@txenvirolaw.com <ray@txenvirolaw.com>
Sent: Tuesday, September 6, 2022 12:10 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0005341000

REGULATED ENTY NAME CHAMBERS COUNTY ID 1 WWTP 2

RN NUMBER: RN111376828

PERMIT NUMBER: WQ0005341000

DOCKET NUMBER:

COUNTY: CHAMBERS, HARRIS

PRINCIPAL NAME: CHAMBERS COUNTY IMPROVEMENT DISTRICT 1

CN NUMBER: CN600741532

FROM

NAME: Eric Allmon

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COMPANY: Perales, Allmon & Ice, P.C.

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AUSTIN TX 78701-1834

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COMMENTS: Please see our included documents for comments on this permit.

PERALES, ALLMON & ICE, P.C.

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September 6, 2022

Laurie Gharis, Chief Clerk
Texas Commission on Environmental Quality
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78701-3087

Via TCEQ Online Comment Form

RE: Comments regarding Application by Chambers County Improvement District No. 1 for Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0005341000.

Dear Ms. Gharis:

Clean Water Action (“CWA”) submits these comments regarding the application by Chambers County Improvement District No. 1 (“Applicant”) for new TPDES Permit No. WQ0005341000.

I. The proposed discharge will adversely impact water quality in violation of applicable rules and statutes.

The proposed discharge will be into Upper Galveston Bay (Segment 2421). The designated uses for this water body include contact recreation, high aquatic life uses, and oyster waters. The draft permit has not been demonstrated to contain conditions that will ensure the preservation of these uses. The permitted discharge has not been demonstrated to be consistent with the total maximum daily load (TMDL) for bacteria in oyster waters applicable to Segment 2421. Each permit issued by TCEQ is required to contain conditions necessary to ensure that all applicable water quality standards will be achieved *and* ensure consistency with the state water quality plan – including the TMDLs contained within that plan.¹ There is no indication that any consideration was given to this TMDL in consideration of the permit.

Furthermore, the demonstration has not been made that issuance of the permit is compliant with the Tier 2 review requirements of the Texas Surface Water Quality Standards. It has not been

¹ 30 Tex. Admin. Code § 305.531(4), incorporating 40 C.F.R. 122.44(d).

shown that the discharge will result in a less than de minimis lowering of water quality, nor has it been shown that the discharge is necessary for important economic or social development.

Notably, the permit does not contain effluent limits for Nickel of equal stringency as the applicable New Source Performance Standards (NSPS). The NSPS for Nickel is 0.309 mg/L as a monthly average.² The effluent limit contained within the draft permit is 0.310 mg/L.³ This constitutes an additional manner in which the draft permit fails to meet the minimum federal requirements.

II. The discharge has not been demonstrated to be consistent with the Coastal Management Plan.

Issuance of the permit has not been shown to be consistent with the goals and policies of the Texas Coastal Management Program (CMP). The goals of the Coastal Management Program include ensuring the sound management of coastal resources by allowing for compatible economic development, but also the multiple human uses of the coastal zone. Issuance of the permit would unreasonably interfere with use of the nearby coastal zone for purposes including contact recreation, fishing, and oyster harvesting.

III. The draft permit has not been demonstrated to contain adequate monitoring requirements.

The proposed facility is a centralized wastewater treatment facility that will accept multiple different types of waste streams and is governed by 40 C.F.R. Part 437. Where the proposed facility will accept multiple waste streams, separate monitoring of the treated waste streams is required pursuant to 40 C.F.R. § 437.4. It has not been demonstrated that sufficient monitoring is required to accomplish this, particularly given the uncertainty of the exact nature of the waste streams that will be contributing to the facility.

Furthermore, the whole effluent toxicity (biomonitoring) requirements of the permit are not adequate. The species utilized are not sufficiently sensitive to reflect the native aquatic environment.

The frequency of monitoring is likewise inadequate to ensure compliance with applicable effluent limits.

² 40 C.F.R. § 437.14(a).

³ Draft Permit, p. 2b.

IV. The draft permit has not been demonstrated to include adequate requirements related to cooling water intake structures.

The wastewater influent for the facility includes cooling water tower blowdown, which would qualify as cooling water under the applicable regulations. Yet, it has not been shown that the permit contains requirements sufficient to protect against adverse impacts of cooling water intake structures, as required by Section 316(b) of the Clean Water Act.

V. The permit has not been shown to include adequate odor prevention measures.

The facility will process domestic wastewater and will include equalization basins where this water may accumulate. Those basins are not required to be aerated. Thus, under the TCEQ rules, such basins are properly subject to a 500-foot buffer zone. This buffer zone is not met, nor has any alternate showing been made that would allow the use of a smaller buffer zone. It has not been shown that the facility will not produce excessive odors.

VI. Conclusion

For the above reasons, CWA respectfully opposes issuance of the draft permit in its current form and opposes issuance of the permit if a full Tier 2 review is not undertaken.

Respectfully submitted,

/s/ Eric Allmon

Eric Allmon

State Bar No. 24031819

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