

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Toby Baker, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 28, 2022

TO: All interested persons.

RE: Chambers County Improvement District No. 1  
TPDES Permit No. WQ0005341000

### **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.** This decision will be considered by the commissioners at a regularly scheduled public meeting before any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter are instructions to view the Executive Director's Response to Public Comment (RTC) on the Internet. Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at [chiefclk@tceq.texas.gov](mailto:chiefclk@tceq.texas.gov). A complete copy of the RTC (including the mailing list), complete application, draft permit and related documents, including public comments, are available for review at the TCEQ Central Office. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Sam & Carmena Goss Memorial Branch Library, 1 John Hall Drive, Mont Belvieu, in Chambers County, Texas; and at Sterling Municipal Library, 1 Mary Elizabeth Wilbanks Avenue, Baytown, in Harris County, 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. The procedures for the commission's evaluation of hearing requests/requests for reconsideration are located in 30 Texas Administrative Code Chapter 55, Subchapter F. 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. Your hearing request 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) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (3) 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."
- (4) 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;
  - (B) the comments on the application submitted by the group that are the basis of the hearing request; and
  - (C) by name and physical address 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.

Additionally, 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 that were raised **by you** during the public comment period. The request cannot be based solely on issues raised in comments that you have withdrawn.

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 **your** comments that you dispute; 2) the factual basis of the dispute; and 3) list any disputed issues of law.

### **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 [www.tceq.texas.gov/agency/decisions/cc/comments.html](http://www.tceq.texas.gov/agency/decisions/cc/comments.html) or by mail to the following address:

Laurie Gharis, 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 TCEQ's Alternative Dispute Resolution Program 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 Public Education Program, toll free, at 1-800-687-4040.

Sincerely,



Laurie Gharis  
Chief Clerk

LG/erg

Enclosure

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT**  
**for**  
**Chambers County Improvement District No. 1**  
**TPDES Permit No. WQ0005341000**

The Executive Director has made the Response to Public Comment (RTC) for the application by Chambers County Improvement District No. 1 for TPDES Permit No. WQ0005341000 available for viewing on the Internet. You may view and print the document by visiting the TCEQ Commissioners' Integrated Database at the following link:

<https://www.tceq.texas.gov/goto/cid>

In order to view the RTC at the link above, enter the TCEQ ID Number for this application (WQ0005341000) and click the "Search" button. The search results will display a link to the RTC.

Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at [chiefclk@tceq.texas.gov](mailto:chiefclk@tceq.texas.gov).

**Additional Information**

For more information on the public participation process, you may contact the Office of the Public Interest Counsel at (512) 239-6363 or call the Public Education Program, toll free, at (800) 687-4040.

A complete copy of the RTC (including the mailing list), the complete application, the draft permit, and related documents, including comments, are available for review at the TCEQ Central Office in Austin, Texas. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at Sam & Carmena Goss Memorial Branch Library, 1 John Hall Drive, Mont Belvieu, in Chambers County, Texas; and at Sterling Municipal Library, 1 Mary Elizabeth Wilbanks Avenue, Baytown, in Harris County, Texas.

MAILING LIST  
for  
Chambers County Improvement District No. 1  
TPDES Permit No. WQ0005341000

FOR THE APPLICANT:

Brock Lewis, P.E., District Engineer  
Chambers County Improvement District  
No. 1  
7500 Farm-to-Market Road 1405  
Baytown, Texas 77523

Kathleen Alsup, Project Manager  
RSJ Consulting  
4256 Rock Bend Drive  
College Station, Texas 77845

INTERESTED PERSONS:

Eric Allmon  
Perales, Allmon & Ice, P.C.  
1206 San Antonio Street  
Austin, Texas 78701

FOR THE EXECUTIVE DIRECTOR  
via electronic mail:

Ryan Vise, Deputy Director  
Texas Commission on Environmental  
Quality  
External Relations Division  
Public Education Program MC-108  
P.O. Box 13087  
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Michael Parr, Staff Attorney  
Texas Commission on Environmental  
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Environmental Law Division MC-173  
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Thomas Starr, Technical Staff  
Texas Commission on Environmental  
Quality  
Water Quality Division MC-148  
P.O. Box 13087  
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL  
via electronic mail:

Garrett T. Arthur, 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:

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

TPDES PERMIT NO. WQ0005341000

APPLICATION BY CHAMBERS  
COUNTY IMPROVEMENT DISTRICT  
NO. 1 FOR NEW TPDES PERMIT  
NO. WQ0005341000

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BEFORE  
THE TEXAS COMMISSION  
ON ENVIRONMENTAL  
QUALITY

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EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

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The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the application by Chambers County Improvement District No.1 (**Applicant**) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0005341000, and on the ED's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code (30 TAC) Section (§) 55.156, before a permit is issued, the ED prepares a response to all timely, relevant, and material, or significant comments. The Office of the Chief Clerk received a timely comment letter from Eric Allmon, on behalf of Clean Water Action. This response addresses all timely public comments received, whether withdrawn or not. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found on the TCEQ web site at <http://www.tceq.texas.gov>.

**BACKGROUND**

The Applicant applied for TPDES Permit No. WQ0005341000 (**proposed permit**), which authorizes a discharge from the Applicant's proposed second wastewater treatment facility (WWTF), the Chambers County Improvement District No. 1's WWTF #2 (**proposed facility**). The proposed permit authorizes a discharge of treated domestic and nonhazardous industrial wastewater via Outfall No. 001 (**proposed discharge**) at a daily average flow limit of 960,000 or 0.96 million gallons per day (MGD) in Interim Phase I, a daily average flow limit of 1.92 MGD in Interim Phase II, a daily average flow limit of 4.42 MGD in Interim Phase III, a daily average flow limit of 6.92 MGD in Interim Phase IV, and a daily average flow limit of 9.42 MGD in the Final Phase.

**Description of Facility**

If this permit is ultimately issued, the proposed facility, a Centralized Waste Treatment facility, will be located approximately 1.5 miles east of intersection of FM 1405 and South Road, southeast of the City of Baytown, Chambers County, Texas 77523, and serve the businesses developing within the Applicant's service area that need wastewater treatment services beyond the treatment capacity of the Applicant's existing WWTF #1. The proposed facility will receive domestic and nonhazardous industrial wastewater from offsite and treat both to remove contaminants with a wastewater system that will include an activated sludge treatment system consisting of headworks mechanical screens and odor treatment, oil-water separation, aerated equalization tanks, and biological treatment in the form of aeration tanks in the activated sludge process, clarifiers, filtration units, and ultraviolet disinfection. The treated wastewater (**effluent**) will be pumped through pipes combining in the junction box and discharged through a submerged diffuser. Sludge treatment prior to off-site disposal will involve the use of gravity thickener, aerobic digester, and belt filter press.

The route of the proposed discharge of treated effluent is via pipeline directly to Upper Galveston Bay in Segment No. 2421 of the Bays and Estuaries.

### Technical Review

The TCEQ has primary authority over water quality in Texas and also federal regulatory authority for the TPDES program, which controls discharges of pollutants into Texas surface waterbodies (“**water in the state**”). The Texas Water Code (TWC) § 26.027 authorizes the TCEQ to issue permits for discharges into water in the state, and the ED evaluates applications for discharge permits based on the information provided in the application and can recommend issuance or denial of an application based on its compliance with the TWC and TCEQ rules. Specifically, the ED’s review evaluates impacts from the proposed discharge on the receiving waters, starting at the discharge point (via pipe to Upper Galveston Bay).

The designated uses and dissolved oxygen criterion for Segment No. 2421, according to Appendix A of 30 TAC § 307.10, the Texas Surface Water Quality Standards (TSWQS), are primary contact recreation, high aquatic life use, oyster waters, and 4.0 mg/L dissolved oxygen (DO). Through his Technical Review, the ED provides the proper effluent limitations (limits) to protect these uses.

The Technical Review process for surface water quality is conducted by staff in the ED’s Water Quality Division (**WQD staff**) on the Standards Implementation Team (**Standards Team**), and WQD staff in the Water Quality Assessment Section (**Modeling Team**). With the goal of the Technical Review to maintain a level of water quality sufficient to protect the existing uses of the receiving surface waters, WQD staff reviewed the application in accordance with the TSWQS and TCEQ’s *Implementation Procedures for the Texas Surface Water Quality Standards-June 2010 (IPs)*.

The first component of the ED’s Technical Review involved WQD staff on the Standards Team reviewing the classifications, designations, and descriptions of the receiving surface waters for the proposed discharge. Along with other available information, reviewing the receiving waters for the proposed discharge allows the Standards Team to preliminarily determine the aquatic life uses in the area of the proposed discharge’s possible impact and assign the corresponding Minimum Dissolved Oxygen (DO) criterion as stipulated at 30 TAC § 307.5 (TSWQS) and in the TCEQ’s IPs. For every new discharge, the Standards Team performs an antidegradation analysis of the proposed discharge, and per 30 TAC § 307.5 (TSWQS) and the TCEQ’s IPs, an antidegradation review of the receiving waters was performed. The Tier 1 review preliminarily determined that existing water quality uses will not be impaired by this permitting action, as numerical and narrative criteria to protect existing uses will be maintained. The Tier 2 review preliminarily determined that no significant degradation of water quality is expected in Upper Galveston Bay, which has been identified as having high aquatic life use, and that existing use will be maintained and protected.

As with all determinations, reviews, or analyses related to the Technical review of the proposed permit, the above and below can be reexamined and subsequently modified upon receipt of new information or information that conflicts with the bases employed in the applicable review or analysis.

The second component of the ED’s Technical Review involved WQD staff on the Modeling Team performing water quality modeling using a “Continuously Stirred Tank Reactor” (CSTR) model. CSTRs are widely used in WWTFs to reduce the organic matter

and microorganism present in sludge by anaerobic digestion. CSTRs are used in ponds, impoundments, reservoirs, or portions of larger open water bodies when the geometry of the water body makes the use of other models questionable because CSTRs have effective mixing and perform under steady-state with uniform properties. CSTRs are most commonly used in industrial processing, primarily in homogeneous liquid-phase flow reactions where constant agitation is required and involve a reaction tank in which reagents, reactants, and often solvents flow into the reactor while the product of the reaction concurrently exits the tank. In this manner, the tank reactor is considered to be a valuable tool for continuous chemical processing.

In this context, the CSTR model is a standard analytical tool used for dissolved oxygen (DO) analyses at the TCEQ for the type of receiving waters in this case, and procedures for its use in the analysis of discharge applications have been established and are readily available.

The proposed permit's water quality-related limits, established by WQD staff's modeling results using the CSTR model, will maintain and protect the existing instream uses. Similarly, conventional effluent parameters such as DO, Five-day Carbonaceous Biochemical Oxygen Demand (CBOD<sub>5</sub>), Total Suspended Solids (TSS), and Ammonia Nitrogen (NH<sub>3</sub>-N) are based on stream standards and waste load allocations for water quality-limited streams as established in the TSWQS and the State of Texas Water Quality Management Plan.

Based on the Modeling Team's results, the effluent limits below are predicted to be **necessary** to ensure that dissolved oxygen levels will be maintained above the criterion stipulated by the Standards Implementation Team for Upper Galveston Bay (4.0 mg/L). Other effluent set combinations may also be adequate and can be evaluated upon request.

**Interim I phase (0.96 MGD): 53 mg/L CBOD<sub>5</sub>, 3 mg/L NH<sub>3</sub>-N, and 2 mg/L DO**

**Interim II phase (1.92 MGD): 30 mg/L CBOD<sub>5</sub>, 3 mg/L NH<sub>3</sub>-N, and 6 mg/L DO**

**Interim III phase (4.42 MGD): 13 mg/L CBOD<sub>5</sub>, 3 mg/L NH<sub>3</sub>-N, and 6 mg/L DO**

**Interim IV phase (6.92 MGD): 10 mg/L CBOD<sub>5</sub>, 2 mg/L NH<sub>3</sub>-N, and 5 mg/L DO**

**Final phase (9.42 MGD): 10 mg/L CBOD<sub>5</sub>, 2 mg/L NH<sub>3</sub>-N, and 6 mg/L DO**

Coefficients and kinetics used in the model are a combination of site-specific, estimated and standardized default values. The results of this evaluation can be reexamined upon receipt of information that conflicts with the assumptions employed in this analysis.

The proposed permit's entire set of effluent limits are:

Outfall 001	Pollutant	Daily Average mg/L	Daily Maximum mg/L
Phase I	Flow	0.96 MGD	0.96 MGD
	CBOD <sub>5</sub>	53	163
	NH <sub>3</sub> -N	3	-
	DO	2, minimum	-
	Oil and Grease	38.0	127
	Total Suspended Solids (TSS)	11.3	29.6
	Antimony, Total	0.0312	0.111
	Arsenic, Total	0.0199	0.0993
	Cadmium, Total	0.0102	0.0172



Outfall 001	Pollutant	Daily Average mg/L	Daily Maximum mg/L
Phase I	Chromium, Total	0.0522	0.167
	Cobalt, Total	0.0703	0.182
	Copper, Total	0.0241	0.0509
	Lead, Total	0.157	0.332
	Mercury, Total	0.000246	0.000641
	Nickel, Total	0.146	0.309
	Selenium, Total	0.0698	0.176
	Silver, Total	0.00737	0.0156
	Tin, Total	0.0367	0.0955
	Titanium, Total	0.00612	0.0159
	Vanadium, Total	0.0518	0.0628
	Zinc, Total	0.250	0.530
	Acetone	7.97	30.2
	Acetophenone	0.0562	0.114
	Bis(2-ethylhexyl) phthalate	0.101	0.215
	2-Butanone	1.85	4.81
	Butylbenzyl phthalate	0.0887	0.188
	Carbazole	0.276	0.598
	o-Cresol	0.561	1.92
	p-Cresol	0.205	0.698
	n-Decane	0.437	0.948
	Fluoranthene	0.0268	0.0537
	n-Octadecane	0.302	0.589
	Phenol	1.08	3.65
	Pyridine	0.182	0.370
	2,4,6-Trichlorophenol	0.106	0.155
<i>Enterococci</i> <sup>1</sup>	14 CFU/100 mL	35 CFU 100 mL	
pH, standard unit (SU)	6.0 SU, minimum	9.0 SU	

Outfall 001	Pollutant	Daily Average mg/L	Daily Maximum mg/L
Phase II	Flow	1.92	1.92
	CBOD <sub>5</sub>	30	60
	NH <sub>3</sub> -N	3	6
	DO	6, minimum	-
	Oil and Grease	38.0	127
	Total Suspended Solids (TSS)	11.3	29.6
	Antimony, Total	0.0312	0.111
	Arsenic, Total	0.0199	0.0993
	Cadmium, Total	0.0102	0.0172
	Chromium, Total	0.0522	0.167
	Cobalt, Total	0.0703	0.182
	Copper, Total	0.0241	0.0509
	Lead, Total	0.157	0.332
	Mercury, Total	0.000246	0.000641

<sup>1</sup> Units are *most probable number* (MPN) or *colony forming units* (CFU) per 100 mls.

Outfall 001	Pollutant	Daily Average mg/L	Daily Maximum mg/L
Phase II	Nickel, Total	0.146	0.309
	Selenium, Total	0.0698	0.176
	Silver, Total	0.00737	0.0156
	Tin, Total	0.0367	0.0955
	Titanium, Total	0.00612	0.0159
	Vanadium , Total	0.0518	0.0628
	Zinc, Total	0.250	0.530
	Acetone	7.97	30.2
	Acetophenone	0.0562	0.114
	Bis(2-ethylhexyl) phthalate	0.101	0.215
	2-Butanone	1.85	4.81
	Butylbenzyl phthalate	0.0887	0.188
	Carbazole	0.276	0.598
	o-Cresol	0.561	1.92
	p-Cresol	0.205	0.698
	n-Decane	0.437	0.948
	Fluoranthene	0.0268	0.0537
	n-Octadecane	0.302	0.589
	Phenol	1.08	3.65
	Pyridine	0.182	0.370
2,4,6-Trichlorophenol	0.106	0.155	
<i>Enterococci</i>	14 CFU/100 mL	35 CFU/100 mL	
pH, standard unit (SU)	6.0 SU, minimum	9.0 SU	

Outfall 001	Pollutant	Daily Average mg/L	Daily Maximum mg/L
Phase III	Flow	4.42	4.42
	CBOD <sub>5</sub>	13	26
	NH <sub>3</sub> -N	3	6
	DO	6, minimum	-
	Oil and Grease	38.0	127
	Total Suspended Solids (TSS)	11.3	29.6
	Antimony, Total	0.0312	0.111
	Arsenic, Total	0.0199	0.0993
	Cadmium, Total	0.0102	0.0172
	Chromium, Total	0.0522	0.167
	Cobalt, Total	0.0703	0.182
	Copper , Total	0.0241	0.0509
	Lead, Total	0.157	0.332
	Mercury, Total	0.000246	0.000641
	Nickel, Total	0.146	0.309
	Selenium, Total	0.0698	0.176
	Silver, Total	0.00737	0.0156
	Tin, Total	0.0367	0.0955
	Titanium, Total	0.00612	0.0159
	Vanadium, Total	0.0518	0.0628
Zinc, Total	0.250	0.530	

Outfall 001	Pollutant	Daily Average mg/L	Daily Maximum mg/L
Phase III	Acetone	7.97	30.2
	Acetophenone	0.0562	0.114
	Bis(2-ethylhexyl) phthalate	0.101	0.215
	2-Butanone	1.85	4.81
	Butylbenzyl phthalate	0.0887	0.188
	Carbazole	0.276	0.598
	o-Cresol	0.561	1.92
	p-Cresol	0.205	0.698
	n-Decane	0.437	0.948
	Fluoranthene	0.0268	0.0537
	n-Octadecane	0.302	0.589
	Phenol	1.08	3.65
	Pyridine	0.182	0.370
	2,4,6-Trichlorophenol	0.106	0.155
	<i>Enterococci</i>	14 CFU/100 mL	35 CFU/100 mL
	pH, standard unit (SU)	6.0 SU, minimum	9.0 SU

Outfall 001	Pollutant	Daily Average mg/L	Daily Maximum mg/L
Phase IV	Flow	6.92	6.92
	CBOD <sub>5</sub>	10	20
	NH <sub>3</sub> -N	2	4
	DO	5, minimum	-
	Oil and Grease	38.0	127
	Total Suspended Solids (TSS)	11.3	29.6
	Antimony, Total	0.0312	0.111
	Arsenic, Total	0.0199	0.0993
	Cadmium, Total	0.0102	0.0172
	Chromium, Total	0.0522	0.167
	Cobalt, Total	0.0703	0.182
	Copper, Total	0.0241	0.0509
	Lead, Total	0.157	0.332
	Mercury, Total	0.000246	0.000641
	Nickel, Total	0.146	0.309
	Selenium, Total	0.0698	0.176
	Silver, Total	0.00737	0.0156
	Tin, Total	0.0367	0.0955
	Titanium, Total	0.00612	0.0159
	Vanadium, Total	0.0518	0.0628
	Zinc, Total	0.250	0.530
	Acetone	7.97	30.2
	Acetophenone	0.0562	0.114
	Bis(2-ethylhexyl) phthalate	0.101	0.215
	2-Butanone	1.85	4.81
	Butylbenzyl phthalate	0.0887	0.188
	Carbazole	0.276	0.598
	o-Cresol	0.561	1.92

Outfall 001	Pollutant	Daily Average mg/L	Daily Maximum mg/L
Phase IV	p-Cresol	0.205	0.698
	n-Decane	0.437	0.948
	Fluoranthene	0.0268	0.0537
	n-Octadecane	0.302	0.589
	Phenol	1.08	3.65
	Pyridine	0.182	0.370
	2,4,6-Trichlorophenol	0.106	0.155
	<i>Enterococci</i>	14 CFU/100 mL	35 CFU/100 mL
	pH, standard unit (SU)	6.0 SU, minimum	9.0 SU

Outfall 001	Pollutant	Daily Average mg/L	Daily Maximum mg/L
Final Phase	Flow	9.42	9.42
	CBOD <sub>5</sub>	10	20
	NH <sub>3</sub> -N	2	4
	DO	6, minimum	-
	Oil and Grease	38.0	127
	Total Suspended Solids (TSS)	11.3	29.6
	Antimony, Total	0.0312	0.111
	Arsenic, Total	0.0199	0.0993
	Cadmium, Total	0.0102	0.0172
	Chromium, Total	0.0522	0.167
	Cobalt, Total	0.0703	0.182
	Copper, Total	0.0241	0.0509
	Lead, Total	0.157	0.332
	Mercury, Total	0.000246	0.000641
	Nickel, Total	0.146	0.309
	Selenium, Total	0.0698	0.176
	Silver, Total	0.00737	0.0156
	Tin, Total	0.0367	0.0955
	Titanium, Total	0.00612	0.0159
	Vanadium, Total	0.0518	0.0628
	Zinc, Total	0.250	0.530
	Acetone	7.97	30.2
	Acetophenone	0.0562	0.114
	Bis(2-ethylhexyl) phthalate	0.101	0.215
	2-Butanone	1.85	4.81
	Butylbenzyl phthalate	0.0887	0.188
	Carbazole	0.276	0.598
	o-Cresol	0.561	1.92
	p-Cresol	0.205	0.698
	n-Decane	0.437	0.948
	Fluoranthene	0.0268	0.0537
	n-Octadecane	0.302	0.589
	Phenol	1.08	3.65
	Pyridine	0.182	0.370
	2,4,6-Trichlorophenol	0.106	0.155

Outfall 001	Pollutant	Daily Average mg/L	Daily Maximum mg/L
Final Phase	<i>Enterococci</i>	14 CFU/100 mL	35 CFU/100 mL
	pH, standard unit (SU)	6.0 SU, minimum	9.0 SU

Regulations in Title 40 of the Code of Federal Regulations (40 C.F.R.) require that wastewater discharge permits include technology-based limitations based on effluent limitations guidelines, where applicable, or on best professional judgment in the absence of guidelines. Technology-based effluent limitations from 40 C.F.R. Part 437 Subpart D, Multiple Wastestreams apply to the proposed discharge from this facility. New Source Performance Standards are presented in Appendix A.

Calculations of water quality-based effluent limitations for the protection of aquatic life and human health are presented in Appendix B of the Fact Sheet or Technical Summary of the proposed permit. Aquatic life criteria established in Table 1 and human health criteria established in Table 2 of 30 TAC Chapter 307 (TSWQS) are incorporated into the calculations, as are recommendations from WQD staff's Critical Conditions memorandum dated January 19, 2022. TCEQ practice for determining significant potential is to compare the reported analytical data from the facility against percentages of the calculated daily average water quality-based effluent limitation. Permit limitations are required when analytical data reported in the application exceeds 85 percent of the calculated daily average water quality-based effluent limitation. Monitoring and reporting is required when analytical data reported in the application exceeds 70 percent of the calculated daily average water quality-based effluent limitation.

This facility is not in operation and has yet to discharge. Therefore, there is no analytical data provided for Outfall 001. Other Requirement No. 7 has been placed in the Other Requirements section of the proposed permit and requires the submittal of analytical data within 30 days of the final sampling event. Based on a technical review of the analytical results, an amendment may be initiated by WQD staff to include additional effluent limitations or monitoring requirements.

A completed Total Maximum Daily Load (TMDL) has been approved for Segment No. 2421; *TMDL Project No. 74: Six Total Maximum Daily Loads for Bacteria in Waters of the Upper Gulf Coast Segments Nos. 2421, 2422, 2423, 2424, 2432, and 2439*. In August 2008, the TCEQ adopted Six Total Maximum Daily Loads for Bacteria in Waters of the Upper Gulf Coast. The U.S. Environmental Protection Agency (USEPA) approved the TMDL on February 4, 2009. This document describes TMDLs for six segments in the Galveston Bay system along the Texas upper Gulf Coast near Houston and Galveston, where concentrations of bacteria exceed the criteria used to evaluate the attainment of the designated oyster waters use. The waste load allocations (WLAs) specified in the TMDL and subsequent updates are applicable to discharges in proximity to the six segments covered by the TMDL. This facility is located in the area covered by the WLA requirements of the TMDL. The proposed permit's limits for *Enterococci* are consistent with the requirements of the TMDL.

Segment No. 2421 is currently listed on the state's inventory of impaired and threatened waters, the 2020 Clean Water Act § 303(d) list. The listings are for Dioxin and Polychlorinated biphenyl (PCBs) in edible fish tissue for the entire reach from Red Bluff to Five mi Cut to Houston Point to Morgan's Point (AU 2421\_01), Western portion of the bay (AU 2421\_02), and Main portion of the bay (AU 2421\_03).

Information submitted with the application indicates dioxin and PCBs are not manufactured or used in any process at the facility, therefore the proposed discharge is not expected to cause additional loadings of dioxin and PCBs in edible tissue. A prohibition of the acceptance and/or processing of wastes that contain dioxins or PCBs has been placed in the proposed permit as Other Requirement No. 5.

Whole Effluent Toxicity Testing ((WET) or Biomonitoring) requirements are included on the proposed permit. At Outfall 001 the WQD staff in the Water Quality Assessment Section recommended saltwater chronic and 24-hour acute testing. For chronic testing, the recommendation was the mysid shrimp (*Mysidopsis bahia*) and the inland silverside (*Menidia beryllina*) as test species and a testing frequency of once per quarter for both test species. Also recommended was a dilution series of 3%, 5%, 6%, 8%, and 11% with a critical dilution of 8%. The critical dilution is in accordance with the “Aquatic Life Criteria” section of the “Water Quality Based Effluent Limitations/Conditions” section of the proposed permit. For 24-hour acute testing, the recommendation was for the same test species and a testing frequency of once per six months for each test species. Because the proposed facility is a new facility, not yet constructed, there is no WET testing history to review. WET testing will commence within 90 days of initial discharge.

A reasonable potential (RP) determination was performed in accordance with 40 C.F.R. § 122.44(d)(1)(ii) to determine whether the proposed discharge will reasonably be expected to cause or contribute to an exceedance of a state water quality standard or criterion within that standard. Each test species is evaluated separately. The RP determination is based on representative data from the previous three years of chronic WET testing. This determination was performed in accordance with the methodology outlined in the TCEQ letter to the EPA dated December 28, 2015, and approved by the EPA in a letter dated December 28, 2015. However, with no WET testing history, and therefore zero failures, a determination of no RP was made. Additional WET limits are not required, and both test species may be eligible for the testing frequency reduction after one year of quarterly testing.

The proposed discharge is not expected to impact any federal endangered or threatened aquatic or aquatic dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service’s (USFWS) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System (September 14, 1998; October 21, 1998 update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. Though the piping plover, *Charadrius melodus* Ord, can occur in Segment No. 2421 and Chambers County, the county is north of Copano Bay and not a watershed of high priority per Appendix A of the biological opinion. This determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. With respect to the presence of endangered or threatened species, the proposed permit does not require EPA’s review.

### **Procedural Background**

The TCEQ received the application on November 18, 2021, and declared it administratively complete on December 22, 2021. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in Chambers County, Texas in English in the *Baytown Sun* on January 2, 2022, and in Spanish in *El Perico* on December 26, 2021. The ED completed the technical review of the application on June

22, 2022, and prepared the proposed permit, which if approved, would establish the conditions under which the proposed facility must operate. The Applicant published the Notice of Application and Preliminary Decision (NAPD) in Chambers County, Texas in English in the *Baytown Sun* on August 2, 2022, and in Spanish in *El Perico* on August 4, 2022. The public comment period ended on September 6, 2022. Because this application was received after September 1, 2015, and because it was declared administratively complete after September 1, 1999, it is subject to both the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999, and the procedural requirements and rules implementing Senate Bill 709, 84<sup>th</sup> Legislature, 2015, which are implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55.

### **Access to Rules, Laws and Records**

- All administrative rules: Secretary of State Website: [www.sos.state.tx.us](http://www.sos.state.tx.us)
- TCEQ rules: Title 30 of the Texas Administrative Code: [www.sos.state.tx.us/tac/](http://www.sos.state.tx.us/tac/) (select TAC Viewer on the right, then Title 30 Environmental Quality)
- Texas statutes: [www.statutes.capitol.texas.gov](http://www.statutes.capitol.texas.gov)
- TCEQ website: [www.tceq.texas.gov](http://www.tceq.texas.gov) (for downloadable rules in WordPerfect or Adobe PDF formats, select “Rules, Policy, & Legislation,” then “Current TCEQ Rules,” then “Download TCEQ Rules”);
- Federal rules: Title 40 of the Code of Federal Regulations (C.F.R.) [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40tab_02.tpl)
- Federal environmental laws: <http://www.epa.gov/lawsregs/>
- **Environmental or citizen complaints may be filed electronically at:** <https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html> (select “use our online form”) or by sending an email to the following address: [complaint@TCEQ.state.tx.us](mailto:complaint@TCEQ.state.tx.us).

Commission records for the Proposed facility are available for viewing and copying at TCEQ’s main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk, for the current application until final action is taken). Some documents located at the Office of the Chief Clerk may also be located in the TCEQ Commissioners’ Integrated Database at [www.tceq.texas.gov/goto/cid](http://www.tceq.texas.gov/goto/cid). The permit application has been available for viewing and copying at the Sam & Carmena Goss Memorial Branch Library, located at 1 John Hall Drive, Mont Belvieu, Chambers County, Texas; and at the Sterling Municipal Library, located at 1 Mary Elizabeth Wilbanks Avenue, Baytown, Harris County, Texas, since publication of the NORI. The final permit application, proposed permit, statement of basis/technical summary, and the ED’s preliminary decision are now available for viewing and copying at the same location since publication of the NAPD.

The ED has determined that the proposed permit, if issued, meets all statutory and regulatory requirements and is protective of the environment, water quality, and human health. However, if you would like to file a complaint about the proposed facility concerning its compliance with the provisions of its permit or with TCEQ rules, you may contact the TCEQ Regional Office (Region 12) in Houston, TX at (713) 767-3500 or the statewide toll-free number at 1-888-777-3186 to address potential permit violations. In addition, complaints may be filed electronically by using the methods described above in the third subsection of Background Information (Access to Rules, Laws, and Records). If an inspection by the Regional Office finds that the Applicant is not complying with all the requirements of the permit, or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.

## COMMENTS AND RESPONSES

### **COMMENT 1:**

Clean Water Action commented that the proposed discharge will adversely impact water quality in violation of the applicable rules and statutes. Specifically, the proposed discharge has not been demonstrated to be consistent with the TMDL for bacteria in oyster waters applicable to Segment No. 2421.

### **RESPONSE 1:**

A completed Total Maximum Daily Load (TMDL) has been approved for Segment No. 2421; *TMDL Project No. 74: Six Total Maximum Daily Loads for Bacteria in Waters of the Upper Gulf Coast Segments Nos. 2421, 2422, 2423, 2424, 2432, and 2439*. In August 2008, the TCEQ adopted Six Total Maximum Daily Loads for Bacteria in Waters of the Upper Gulf Coast. The U.S. Environmental Protection Agency (USEPA) approved the TMDL on February 4, 2009. The document describes TMDLs for six segments in the Galveston Bay system along the Texas upper Gulf Coast near Houston and Galveston, where concentrations of bacteria exceed the criteria used to evaluate the attainment of the designated oyster waters use. The waste load allocations (WLAs) specified in the TMDL and subsequent updates are applicable to discharges in proximity to the six segments covered by the TMDL. The proposed facility is located in the area covered by the WLA requirements of the TMDL. For Segment No. 2421, the TMDL stipulates a daily average limit of 35 colony forming units (CFU)/100 mL and a daily maximum limit of 130 CFU for *Enterococci* within the 1,000-foot buffer zone. However, a more stringent daily average limit of 14 CFU/100 mL for *Enterococci* was applied, and remains, in the proposed permit, as well as a more stringent daily maximum *Enterococci* limit of 35 CFU/100 mL.

TCEQ rules, found at 30 TAC § 307.7(b)(3)(B)(i), establish a 1,000-foot buffer zone, measured from the shoreline at ordinary high tide, for all bay and gulf waters except those contained in river or coastal basins. Recreational criteria for indicator bacteria, as specified in 30 TAC § 307.7(b)(1), are applicable within buffer zones. Further, TCEQ rules found at 30 TAC § 307.7(b)(3)(B)(ii), state that “the criteria for median fecal coliform concentration in bay and gulf waters, exclusive of buffer zones, are 14 colonies per 100 mL.” The proposed discharge from the proposed facility is within the 1,000-foot buffer zone and therefore the daily average bacteria limit of 35 CFU/100 mL *Enterococci* is required. For the daily maximum limit, 130 CFU/100 mL *Enterococci* is required by (30 TAC § 307.7(b)(1)(B)(i).

### **COMMENT 2:**

Clean Water Action commented that issuance of the proposed permit has not been shown to be compliant with the Tier 2 antidegradation review requirements of the TSWQS. Specifically, that the proposed discharge will result in a less than de minimis lowering of water quality, nor has it been shown that the proposed discharge is necessary for important economic or social development.

### **RESPONSE 2:**

WQD staff evaluated the application as an authorization to discharge treated wastewater into water in the State. Thus, the quality of the effluent and the method of achieving that quality must follow the TWC, the Federal Clean Water Act, and the TSWQS. Further, WQD Staff developed the proposed permit to preclude significant



degradation of water quality in the receiving waters for the proposed discharge. The proposed permit includes effluent limitations and monitoring requirements designed to ensure protection of the receiving waters in accordance with TCEQ rules and procedures.

Chapter 26 of the TWC and TCEQ rules relating to water quality are geared towards the protection of public health, aquatic life, and the environment. Accordingly, the stated policy of both the Water Code and the TSWQS is:

*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.<sup>2</sup>*

Likewise, the TPDES program mandates that discharges of treated effluent into water in the state from facilities regulated by TPDES permits meet the requirements of the TSWQS. The TSWQS is a primary mechanism for the TCEQ to protect surface water quality, groundwater quality, human health, aquatic life, the environment, and designated uses of the receiving waters. Development of the proposed permit was in accordance with the TSWQS (30 TAC Chapter 307) and the TCEQ IPs to be protective of water quality, provided that the Applicant operates and maintains the proposed facility according to TCEQ rules and the proposed permit's requirements.

The TSWQS require that discharges not cause surface waters to be toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals, not degrade receiving waters, and not result in situations that impair existing, attainable, or designated uses.

The methodology outlined in the TCEQ IPs is designed to ensure that no source will be allowed to discharge any wastewater that: 1) results in instream aquatic toxicity; 2) causes a violation of an applicable narrative or numerical state water quality standard; 3) results in the endangerment of a drinking water supply; or 4) results in aquatic bioaccumulation that threatens human health.

As specified by the methodologies outlined in the TCEQ IPs, TPDES permits issued by the TCEQ must maintain water in the state 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. In addition, permits must prevent adverse toxic effects on aquatic life, terrestrial life, livestock, and domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. The design of the proposed permit ensures these water quality standards will be supported.

To achieve the goal of maintaining a level of water quality sufficient to protect the existing uses of the receiving waters, during the Technical Review of the application process, WQD Staff review all applications in accordance with the TSWQS and the TCEQ IPs. The proposed permit contains several water quality-specific parameters that limit the potential impact of the proposed discharge on the receiving waters, such as the effluent limits that were developed by WQD Staff on the Modeling Team to maintain and protect the existing uses of the receiving waters (primary

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<sup>2</sup> Texas Water Code § 26.003 and 30 TAC § 307.1.

contact recreation, high aquatic life use, and oyster waters), which were identified by WQD Staff on the Standards Team.

The Modeling Team developed protective effluent limits by performing Dissolved Oxygen or DO modeling analyses. DO concentrations in a waterbody are critical for the waterbody's health and protection of aquatic life. In many cases, effluent discharges decrease DO levels in waterbodies. To ensure that discharges do not lower DO levels below criteria established for those water bodies by the Standards Team, DO modeling analyses are performed to evaluate whether the proposed permit's effluent limits are predicted to ensure the DO concentrations in the discharge route will be maintained above the criteria established by the Standards Team.

For every new discharge, the Standards Team performs an antidegradation analysis of the proposed discharge, and per 30 TAC § 307.5 (TSWQS) and the TCEQ's IPs, an antidegradation review of the receiving waters was performed, with the Tier 1 review preliminarily determining that existing water quality uses will not be impaired by this permitting action, as numerical and narrative criteria to protect existing uses will be maintained. The Tier 2 review preliminarily determined that no significant degradation of water quality is expected in Upper Galveston Bay, which has been identified as having high aquatic life use, and that existing use will be maintained and protected. As with all determinations, reviews, or analyses related to the Technical review of the proposed permit, the above and below can be reexamined and subsequently modified upon receipt of new information or information that conflicts with the bases employed in the applicable review or analysis.

Further, new businesses are building in the CCID1 service area, and additional wastewater treatment capacity is needed to provide service beyond the capacity of the Applicant's WWTF #1. The proposed permit addresses the proper permitting of the wastewater proposed to be discharged from the proposed facility.

**COMMENT 3:**

Clean Water Action commented that the proposed permit does not contain effluent limits for nickel of equal stringency as the applicable New Source Performance Standards (NSPS), found at 40 C.F.R. § 437.14(a).

**RESPONSE 3:**

The proposed permit is subject to the NSPS, found at 40 C.F.R. § 437.45(b)(1), instead of the NSPS, found at 40 C.F.R. § 437.14(a). Consequently, the proposed permit's limits for nickel are more stringent than the NSPS in 40 C.F.R. § 437.14(a), because the water quality-based limits are applied instead of the technology-based limits in the NSPS; and therefore, are not of equal stringency as the NSPS in 40 C.F.R. § 437.14(a). The nickel limits imposed by both are the same, a daily average limit of 0.309 mg/L and a daily maximum limit of 0.794 mg/L. The daily maximum water quality-based limit in the proposed permit of 0.310 mg/L is more restrictive than the technology-based daily maximum limit of 0.794 mg/L, just as the water quality-based daily average limit 0.146 mg/L is more restrictive than the technology-based daily average limit of 0.309 mg/L.

An extract from Appendix C of the Statement of Basis for the proposed permit is below with the more stringent limits bolded that are applied in the proposed permit.

<i>Pollutant</i>	<i>Technology-Based</i>		<i>Water Quality-Based</i>	
	<i>Daily Avg</i>	<i>Daily Max</i>	<i>Daily Avg</i>	<i>Daily Max</i>
	<i>mg/L</i>	<i>mg/L</i>	<i>mg/L</i>	<i>mg/L</i>
Nickel, Total	0.309	0.794	<b>0.146</b>	<b>0.310</b>

**COMMENT 4:**

Clean Water Action commented that no demonstration has been made that the proposed discharge is consistent with the Texas Coastal Management Program plan.

**RESPONSE 4:**

The ED reviewed this action for consistency with the Texas Coastal Management Program plan's (CMP) goals and policies in accordance with the regulations of the General Land Office and determined that the action is consistent with the applicable CMP goals and policies.

The goals of the Texas Coastal Management Program (CMP) are:

- (1) to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas (CNRAs);
- (2) to ensure sound management of all coastal resources by allowing for compatible economic development and multiple human uses of the coastal zone (CZ);
- (3) to minimize loss of human life and property due to the impairment and loss of protective features of CNRAs;
- (4) to ensure and enhance planned public access to and enjoyment of the CZ in a manner that is compatible with private property rights and other uses of the CZ;
- (5) to balance the benefits from economic development and multiple human uses of the CZ, the benefits from protecting, preserving, restoring, and enhancing CNRAs, the benefits from minimizing loss of human life and property, and the benefits from public access to and enjoyment of the CZ;
- (6) to coordinate agency and subdivision decision-making affecting CNRAs by establishing clear, objective policies for the management of CNRAs;
- (7) to make agency and subdivision decision-making affecting CNRAs efficient by identifying and addressing duplication and conflicts among local, state, and federal regulatory and other programs for the management of CNRAs;
- (8) to make agency and subdivision decision-making affecting CNRAs more effective by employing the most comprehensive, accurate, and reliable information and scientific data available and by developing, distributing for public comment, and maintaining a coordinated, publicly accessible geographic information system of maps of the coastal zone and CNRAs at the earliest possible date;
- (9) to make coastal management processes visible, coherent, accessible, and accountable to the people of Texas by providing for public participation in the ongoing development and implementation of the Texas CMP; and
- (10) to educate the public about the principal coastal problems of state concern and technology available for the protection and improved management of CNRAs.

Additionally, the proposed permit was written to comply with the various state and federal regulations to protect and preserve the water quality of the CNRA. The Applicant has proposed compatible economic development for greater human use of the coastal zone. New businesses are building in the Applicant's service area, and additional wastewater treatment capacity is needed to provide service beyond the capacity of the Applicant's WWTF #1. The proposed permit addresses the proper permitting of the wastewater proposed to be discharged from the proposed facility.

**COMMENT 5:**

Clean Water Action commented no demonstration has been made that the proposed permit contains adequate monitoring requirements. Specifically, 40 C.F.R. § 437.4 and the species utilized in biomonitoring (whole effluent toxicity) are not sufficiently sensitive to reflect the native aquatic environment.

**RESPONSE 5:**

The regulated parameters found in 40 C.F.R. Part §437.45(b)(1) are to be monitored once per week in the proposed permit per 40 C.F.R. Part § 437.4(a), and are divided into conventional, metal, and organic parameters.

40 C.F.R. § 437.4 Monitoring Requirements

- (a) Permit compliance monitoring is required for each regulated parameter.
- (b) Any CWT facility that discharges wastewater resulting from the treatment of metal-bearing waste, oily waste, or organic-bearing waste must monitor as follows:
  - (1) Facilities subject to more than one subpart of this part must monitor for compliance for each subpart after treatment and before mixing of the waste with wastes of any other subpart. Alternatively, a multiple wastestream subcategory facility may certify that it provides equivalent treatment as defined in 40 C.F.R. § 437.2(h) for the applicable waste and monitor for compliance with the applicable set of multiple wastestream subcategory limitations after mixing.

[Other Requirement No. 8 of the proposed permit spells out the certification requirements, which stipulate the submission requirements to the TCEQ for equivalent treatment.]

- (2) Facilities subject to one or more subpart of this part must monitor for compliance with the applicable subpart after treatment and before mixing of the waste with wastes of any other subpart, uncontaminated storm water, or wastewater subject to another effluent limitation or standard in subchapter N. If, however, the facility can demonstrate to the receiving POTW or permitting authority the capability of achieving the effluent limitation or standard for each subpart after treatment and before mixing with other wastestreams, the facility may monitor for compliance after mixing. In the case of a facility which elects to comply with the applicable set of multiple wastestream subcategory limitations or standards, it is only subject to one subpart.

[Other Requirement No. 8 of the proposed permit spells out the certification requirements, which stipulate the submission requirements to the TCEQ for equivalent treatment.]

(3) When a CWT facility treats any waste receipt that contains cyanide at a concentration higher than 136 mg/L, the CWT facility must monitor for cyanide after cyanide treatment and before dilution with other wastestreams. If, however, the facility can demonstrate to the receiving POTW or permitting authority the capability of achieving the cyanide limitation or standard after cyanide treatment and before mixing with other wastestreams, the facility may monitor for compliance after mixing.

[To clarify the proposed permit's cyanide requirements, this paragraph has been added as Other Requirement No. 12.]

For test species, the text below is from the 1991 Technical Support Document (EPA/505/2-90-001), page 17:

“EPA considers it unnecessary to test resident test species since standard test species have been shown to represent the sensitive range of all ecosystems analyzed.”

The EPA decides what test species are to be used in each region. Any test species has to be found in the promulgated method manuals. The species in the proposed permit are the approved and listed species by the EPA.

**COMMENT 6:**

Clean Water Action commented that no demonstration has been made that the proposed permit includes adequate requirements related to cooling water intake structures.

**RESPONSE 6:**

In response to the application's question, “Does the facility propose to use any cooling towers, boilers, or water for cooling purposes?” (posed by item nos. 5 and 12), the Applicant indicated that the proposed facility will not use any cooling towers, boilers, or water for cooling purposes. The application's item no. 1.c. states the raw material used is wastewater, and there is no mention of use of water from any source that would require a cooling water intake structure.

**COMMENT 7:**

Clean Water Action commented that the proposed permit does not include odor prevention measures because the equalization basins are not required to be aerated.

**RESPONSE 7:**

The application's treatment system description (2. Treatment System) describes the tanks as Aerated Equalization Tanks as well as aerated tanks in the activated sludge process. However, for greater clarity, the more detailed description from the application has been placed in the proposed permit.

## CHANGES MADE TO THE PERMIT IN RESPONSE TO COMMENT

The following changes were made to the proposed permit.

1. Other Requirement No. 12 was added to clarify the Applicant's responsibility regarding cyanide.
2. The wastewater description was updated to clarify aerated tanks are being used in the equalization tanks and activated sludge processes reflected in the application.

Respectfully submitted,

Texas Commission on Environmental Quality

Toby Baker, Executive Director

Charmaine Backens, Deputy Director  
Environmental Law Division



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REPRESENTING THE EXECUTIVE DIRECTOR  
OF THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## CERTIFICATE OF SERVICE

I certify that on November 21, 2022, the Executive Director's Response to Public Comment for TPDES Permit No. WQ0005341000 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



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