

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*

October 11, 2022

TO: All interested persons.

RE: City of Houston  
TPDES Permit No. WQ0010495030

### **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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 City of Houston, Houston Public Works, Wastewater Operations Building Library, 10500 Bellaire Boulevard, Houston, 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**  
**City of Houston**  
**TPDES Permit No. WQ0010495030**

The Executive Director has made the Response to Public Comment(RTC) for the application by City of Houston for TPDES Permit No. WQ0010495030 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 (WQ0010495030) 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, 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 City of Houston, Houston Public Works, Wastewater Operations Building Library, 10500 Bellaire Boulevard, Houston, Texas

MAILING LIST  
for  
City of Houston  
TPDES Permit No. WQ0010495030

FOR THE APPLICANT:

Carrol La Breche, P.E., Supervising  
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City of Houston, Houston Public Works  
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Houston, Texas 77072

Walid Samarneh, P.E., Managing  
Engineer  
City of Houston, Houston Public Works  
10500 Bellaire Boulevard  
Houston, Texas 77072

INTERESTED PERSONS:

Will Hickman  
106 Electra Drive  
Houston, Texas 77079

FOR THE EXECUTIVE DIRECTOR  
via electronic mail:

Ryan Vise, Deputy Director  
Texas Commission on Environmental  
Quality  
External Relations Division  
Public Education Program MC-108  
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Texas Commission on Environmental  
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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

**TCEQ PERMIT NO. WQ0010495030**

<b>APPLICATION BY</b> <b>City of Houston</b>	<b>§</b>	<b>BEFORE THE</b>
<b>FOR TPDES PERMIT NO.</b>	<b>§</b>	<b>TEXAS COMMISSION</b>
<b>WQ0010495030</b>	<b>§</b>	<b>ON</b>
	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

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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 on City of Houston's application for a major amendment to Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010495030 and the ED's preliminary decision on the application. As required by 30 Texas Administrative Code (TAC) Section 55.156, before this permit is issued, the Executive Director prepares a response to all timely, relevant, and material, or significant comments. The Office of the Chief Clerk received timely comments from Will Hickman.

This response addresses all timely filed public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at <http://www.tceq.texas.gov>.

**I. Background**

***A. Description of Facility***

The City of Houston has applied for a major amendment to TPDES Permit No. WQ0010495030, to authorize the removal of the existing Sublethal Whole Effluent Toxicity (WET) limits and monitoring requirements from the permit pursuant to the Environmental Protection Agency's WET policies, the Clean Water Act, and the Code of Federal Regulations. The current permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 26.4 million gallons per day (MGD). The existing wastewater treatment facility serves an area in West Houston inside Harris County that includes residential and commercial development.

The facility is an activated sludge process plant operated in the single stage nitrification mode. Treatment units include a bar screen, nine aeration basins, six final clarifiers, two chlorine contact chambers, and dechlorination chamber.

The draft permit authorizes a discharge of treated domestic wastewater at a volume not to exceed an annual average flow of 26.4 MGD. The effluent limitations in the draft permit, based on a 30-day average, are 10 milligrams per liter (mg/l) five-day carbonaceous biochemical oxygen demand (CBOD<sub>5</sub>), 15 mg/l total suspended solids (TSS), 2.0 mg/l ammonia nitrogen (NH<sub>3</sub>-N) (April - October), 4.0 mg/l NH<sub>3</sub>-N (November - March), 63 colony forming units (CFU) or most probable number (MPN) of *Escherichia coli* (*E. coli*) per 100 milliliters (ml), and 6.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a total chlorine residual of at least 1.0 mg/l after a detention time of at least 20 minutes (based on peak flow) and shall be monitored daily by grab sample. The permittee shall dechlorinate the chlorinated effluent to less than 0.1 mg/l total chlorine residual and shall monitor total chlorine residual daily by grab sample after the dechlorination process.

The plant site is located at 12901 Hermitage Lane, in the City of Houston, Harris County, Texas 77079. The treated effluent is discharged directly to Buffalo Bayou Above Tidal in Segment No. 1014 of the San Jacinto River Basin. The designated uses for Segment No. 1014 are primary contact recreation and limited aquatic life use. In accordance with 30 Texas Administrative Code Section 307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review is not required since no exceptional, high, or intermediate aquatic life use water bodies have been identified in the discharge route. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

### ***B. Procedural Background***

The TCEQ received City of Houston's application for a major amendment TPDES permit on October 22, 2021, and declared it administratively complete on December 10, 2021. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) on December 22, 2021, in the *Houston Chronicle* and in Spanish on December 22, 2021, in *La Voz de Houston*. The application was determined technically complete on March 4, 2022. The Applicant published the Notice of Application and Preliminary Decision (NAPD) in English on June 8, 2022, in the

*Houston Chronicle* and in Spanish on June 8, 2022, in *La Voz de Houston*. The comment period for this application closed on July 8, 2022. This application was filed on or after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill (HB) 801, 76th Legislature (1999), and Senate Bill (SB) 709, 84th Legislature (2015), which are implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55.

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

- Please consult the following websites to access the rules and regulations applicable to this permit:
- to access the Secretary of State website: <https://www.sos.state.tx.us>;
- for TCEQ rules in Title 30 of the Texas Administrative Code (TAC): <https://www.sos.state.tx.us/tac/> (select “View the current Texas Administrative Code” on the right, then “Title 30 Environmental Quality”);
- for Texas statutes: <https://statutes.capitol.texas.gov/>;
- to access the TCEQ website: [www.tceq.texas.gov](http://www.tceq.texas.gov) (for downloadable rules in Adobe PDF format, select “Rules” then “Download TCEQ Rules”);
- for Federal rules in Title 40 of the Code of Federal Regulations: [www.ecfr.gov](http://www.ecfr.gov);
- and
- for Federal environmental laws: <http://www.epa.gov/lawsregs/>.

Commission records on the Application and draft permit are available for viewing and copying and are located at City of Houston, Houston Public Works, Wastewater Operations Building Library, 10500 Bellaire Boulevard, Houston, Texas, and at TCEQ’s main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of the Chief Clerk, for the current application until final action is taken).

## **II. Comments and Responses**

### **Comment 1:**

Mr. Hickman requested a public meeting and a contested case hearing on this application.

### **Response 1:**

Title 30, Texas Administrative Code § 55.154(c) provides that a public meeting is to be held if: (1) the Executive Director determines that there is a substantial or



significant degree of public interest in an application; (2) a member of the legislature who represents the general area in which the facility is located or proposed to be located requests that a public meeting be held; or (3) when a public meeting is otherwise required by law. Based on these factors, the Executive Director has determined not to hold a public meeting on this application.

The ED acknowledges the request for a contested case hearing. The ED has considered all timely comments and prepared this response to all relevant, material, or significant public comment. This RTC will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. The mailing also provides instructions for requesting a contested case hearing or reconsideration of the ED's decision. Following the close of all applicable comment and request periods, the ED will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn. If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law relating to relevant material water quality concerns submitted during the comment period. If the application does go to hearing, the final decision regarding this application will be made by the TCEQ's Commissioners.

#### Comment 2

Mr. Hickman expressed his concerns that the amendment request will change the amount and type of the discharge, which would impair recreational uses, including fishing and boating.

#### Response 2

This major amendment application will not change the amount and type of the discharge. Rather, the applicant requested to remove the existing Sublethal Whole Effluent Toxicity (WET) limits and monitoring requirements for the water flea from the permit. After review of facility's historical biomonitoring data, the ED has determined that the removal of the sublethal WET limits will protect the environment and existing water quality uses will not be impaired by this permit action. In addition, the removal of the WET limit is in accordance with the EPA Region 6 WET letter, which concurs with TCEQ's policy, which states that WET limits may be removed from a permit after three

years of compliance with the limit. Pursuant to Clean Water Act Section 402(o)(2)(B)(i) and 40 CFR § 122.44(l)(2)(i)(B)(1), a permit may be reissued containing effluent limitations that are less stringent than effluent limitations in the previous permit if information is available which was not available at the time of permit issuance, and which would have justified the application of a less stringent effluent limitation at the time of permit issuance. The test results submitted by the permittee during the past three years warrant the removal of the sublethal WET limit.

### Comment 3

Mr. Hickman commented that the facility has overflow issues when there is a large rain event.

### Response 3

As noted on Pages 9-10 in the draft permit, there shall be no unauthorized discharge of wastewater or any other waste, and any instances of such discharges shall be reported by the applicant to the TCEQ if caused by maintenance issues in their collection system. Such discharges must be reported to the TCEQ regional office within 24 hours of becoming aware of the noncompliance. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Other Requirements section of this permit. On March 31, 2021, the U.S. District Court for the Southern District of Texas approved entry of a Consent Decree (Civil Action No. 4:18-cv-03368) embodying the agreement of the City of Houston with the U.S. Environmental Protection Agency (EPA) and the State of Texas to improve the City's Wastewater Treatment and Collection System including requirements to address formal authorization for the City to continue and build upon its prior and ongoing work for wastewater assessment and rehabilitation programs over the next 15 years. Details of the approved consent decree are posted on the City's website at <https://www.publicworks.houstontx.gov/>. To report any suspected unauthorized discharges, please call the TCEQ Region No. 12 Office in Houston at 800-832-8224.

### Comment 4

Mr. Hickman commented that he would like a copy of the application.

#### Response 4

A copy of the application, proposed draft permit, and Executive Director's Preliminary Decision are available for viewing and copying and are located at City of Houston, Houston Public Works, Wastewater Operations Building Library, 10500 Bellaire Boulevard, Houston, Texas, and at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of the Chief Clerk, for the current application until final action is taken).

#### Comment 5

Mr. Hickman stated that the facility had an adverse impact on the local air quality.

#### Response 5

The City of Houston's facility will not contribute significant amounts of air contaminants to the atmosphere, and thus, will not negatively impact human health and the environment. Air emissions from facilities such as the one in this application do not have to obtain an individual air quality permit, rather they are permitted by rule (30 TAC § 106.532).

### **III. CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT**

No changes to the draft permit have been made in response to public comment.

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  
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ENVIRONMENTAL QUALITY