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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 30, 2023

TO: All interested persons.

RE: Crystal Springs Water Co., Inc.
TPDES Permit No. WQ0016116001

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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. 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 Montgomery County Central Library, 104 Interstate Highway 45 North, Conroe, 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 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
Crystal Springs Water Co., Inc.
TPDES Permit No. WQ0016116001**

The Executive Director has made the Response to Public Comment (RTC) for the application by Crystal Springs Water Co., Inc. for TPDES Permit No. WQ0016116001 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 (WQ0016116001) 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.

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 the Montgomery County Central Library, 104 Interstate Highway 45 North, Conroe, Texas.

MAILING LIST
for
Crystal Springs Water Co., Inc.
TPDES Permit No. WQ0016116001

FOR THE APPLICANT:

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FOR THE EXECUTIVE DIRECTOR
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Texas Commission on Environmental
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TCEQ PERMIT NO. WQ0016116001

APPLICATION BY	§	BEFORE THE
CRYSTAL SPRINGS WATER CO.,	§	TEXAS COMMISSION
INC.	§	ON
FOR NEW TPDES PERMIT NO.	§	ENVIRONMENTAL QUALITY
WQ0016116001		

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comments (Response) on the application by Crystal Springs Water Co., Inc. (Applicant) and the Executive Director's preliminary decision for the new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016116001. As required by 30 Texas Administrative Code (TAC) Section (§) 55.156, before a permit is issued the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk received a timely comment letter from Eric Allmon on behalf of Clean Water Action and Bayou City Waterkeeper. This response addresses all such timely 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 Office of Public Participation and Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at <https://www.tceq.texas.gov/>.

I. BACKGROUND

Description of Facility

Crystal Springs Water Co., Inc. applied to TCEQ for a new TPDES Permit No. WQ0016116001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 140,000 gallons per day. The wastewater treatment facility (WWTF) facility will be located approximately 2,300 feet northeast of the intersection of Copperhead Road and Nicholson Road, in Montgomery County, Texas 77303. The treated effluent will be discharged via pipe to Camp Creek, thence to Caney Creek in Segment No. 1010 of the San Jacinto River Basin.

The Copperhead Cove WWTF will be an activated sludge process plant operated in the conventional mode with nitrification. Treatment units include a bar screen, an anoxic basin, an aeration basin, a final clarifier, a sludge thickener, an aerobic digester, and a chlorine contact chamber. The facility has not been constructed. The draft permit authorizes a discharge of treated domestic wastewater at a volume not to exceed a daily average flow of 0.14 million gallons per day (MGD).

The effluent limitations in both phases of the draft permit, based on a 30-day average, are 10 mg/l five-day carbonaceous biochemical oxygen demand (CBOD₅), 15 mg/l total suspended solids (TSS), 3 mg/l ammonia-nitrogen (NH₃-N), 63 colony forming units (CFU) or most probable number (MPN) of *Escherichia coli* (*E. coli*) per 100 ml, and 4.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a total chlorine residual of at least 1.0 mg/l and shall not exceed a total chlorine residual of

4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

Procedural Background

TCEQ received the application on February 25, 2022, and declared it administratively complete on April 25, 2022. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published in English in the *Conroe Courier* on May 2, 2022, and in Spanish in the *Buena Suerte Newspaper* on May 10, 2022. The ED completed the technical review of the application on July 20, 2022. A Notice of Application and Preliminary Decision (NAPD) was published in English in the *Houston Chronicle* on September 9, 2022, and in Spanish in the *Buena Suerte Newspaper* on September 13, 2022. The public comment period ended on October 13, 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), both implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55. The Texas Legislature enacted Senate Bill 709, effective September 1, 2015, amending the requirements for comments and contested case hearings. This application is subject to those changes in the law.

Access to Rules, Statutes, and Records

Please consult the following websites to access the rules and regulations applicable to this permit:

- to access the Secretary of State website: www.sos.state.tx.us;
- for TCEQ rules in 30 TAC: www.sos.state.tx.us/tac/ (select “TAC Viewer” on the right, then “Title 30 Environmental Quality”);
- for Texas statutes: <http://www.statutes.legis.state.tx.us/>;
- to access the TCEQ website: <https://www.tceq.texas.gov/rules/index.html> (for downloadable rules in Microsoft Word or Adobe PDF formats, select “Rules,” then “Current Rules and Regulations,” then “Download TCEQ Rules”);
- for Federal rules in Title 40 of the Code of Federal Regulations: <http://www.epa.gov/lawsregs/search/40cfr.html>; and
- for Federal environmental laws: <http://www.epa.gov/lawsregs/>.

TCEQ records for this application are available at the TCEQ’s Office of the Chief Clerk until the TCEQ takes final action on the application. Some documents located at the Office of the Chief Clerk may also be located in the Commissioners’ Integrated Database at www.tceq.texas.gov/goto/cid. The application, draft permit, and Statement of Basis/Technical Summary and ED’s Preliminary Decision are also available for viewing and copying at Montgomery County Central Library, 104 Interstate Highway 45 North, Conroe, Texas.

II. COMMENTS AND RESPONSES

COMMENT 1:

The Clean Water Action and Bayou City Waterkeeper expressed concern that the water quality and designated uses will not be protected.

RESPONSE 1:

The TCEQ has a statutory and regulatory responsibility to protect water quality in the State of Texas and to authorize wastewater discharge TPDES permits under Texas Water Code (TWC) Chapter 26, and 30 TAC Chapters 305, 307 and 309, including specific regulations regarding wastewater treatment systems under 30 TAC Chapters 217 and 309. The proposed draft permit was developed in accordance with the Texas Surface Water Quality Standards to be protective of water quality, provided that Crystal Springs Water Co., Inc. operates and maintains the proposed facility according to TCEQ rules and the proposed permit's requirements. The methodology outlined in the *Procedures to Implement the Texas Surface Water Quality Standards* (IPs; June 2010) is designed to ensure compliance with the TSWQS (30 TAC Chapter 307).

Specifically, the methodology 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 part of the application process, TCEQ staff must determine the uses of the receiving waters and set effluent limits that are protective of those uses. In order to achieve the goal of maintaining a level of water quality sufficient to protect existing water body uses, the proposed permit contains several water quality specific parameter requirements that limit the potential impact of the discharge on the receiving waters. In this case, the designated uses for Segment No. 1010 of the San Jacinto River Basin are primary contact recreation, public water supply, and high aquatic life use. The Executive Director determined that these uses should be protected if the facility is operated and maintained as required by the proposed permit and regulations. Additionally, the treated effluent will be disinfected prior to discharge to protect human health.

In accordance with 30 TAC § 307.5 and the IPs, 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 has preliminarily determined that no significant degradation of water quality is expected in Camp Creek and Caney Creek, which have been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

Effluent limitations in the draft permit for the conventional effluent parameters (i.e., CBOD₅, TSS, and minimum DO) 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 (WQMP).

COMMENT 2:

The Clean Water Action and Bayou City Waterkeeper expressed concern regarding discharging into Segment 1010 of the San Jacinto River Basin since it is currently listed on the State's inventory of impaired and threatened waters for bacteria as per the recently approved 2022 Clean Water Act Section 303(d) list.

RESPONSE 2:

Segment No. 1010 is currently listed on the State's inventory of impaired and threatened waters. The list is for bacteria from SH105 to FM 2090. This facility is designed to provide adequate disinfection and, when operated properly, should not add to the bacterial impairment of the segment. In addition, in order to ensure that the proposed discharge meets the stream bacterial standard, an effluent limitation of 63 colony-forming units (CFU) or most probable number (MPN) of *Escherichia coli* (*E. coli*) per 100 ml has been added to the draft permit.

The rules in 30 TAC § 309.3(g)(1) require that disinfection of domestic wastewater must be protective of both public health and aquatic life, however the rules do not require a specific method of disinfection. A permittee may disinfect domestic wastewater through use of 1) chlorination, 2) ultra-violet light, or 3) an equivalent method of disinfection with prior approval of the Executive Director. For this facility, Crystal Springs Water Co., Inc. has chosen chlorine disinfection. Chlorination may be via gaseous, liquid, or tablet forms. Chlorine is the one of the most practical and effective means of disinfection because it can kill disease-causing bacteria and nuisance organisms and can eliminate certain noxious odors during disinfection.

COMMENT 3:

The Clean Water Action and Bayou City Waterkeeper expressed concern regarding potential odors from the facility affecting a nearby public park and receiving waters.

RESPONSE 3:

All wastewater treatment facilities have the potential to generate odors. To control and abate odors the TCEQ rules require domestic WWTPs to meet buffer zone requirements for the abatement and control of nuisance odor according to 30 TAC § 309.13(e), which provides three options for Applicants to satisfy the nuisance odor abatement and control requirements. Crystal Springs Water Co., Inc. can comply with the rule by 1) ownership of the buffer zone area; 2) restrictive easement from the adjacent property owners for any part of the buffer zone not owned by the Applicant; or 3) providing nuisance odor control.

According to its application, Crystal Springs Water Co., Inc. intends to comply with the requirement to abate and control nuisance odor by legal restrictions prohibiting the construction of residences within the buffer zone. This requirement is incorporated in the draft permit. These legal restrictions include right-of-way to the

east (road) and west (road) of the property and by non-residential land use to the north (community park) of the property, in accordance with 30 TAC § 309.13(e)(3). Therefore, nuisance odor is not expected to occur as a result of the permitted activities at the facility if the permittee operates the facility in compliance with TCEQ's rules and the terms and conditions of the draft permit.

Further, Crystal Springs Water Co., Inc. proposes in its application that the Copperhead Cove WWTP will be an activated sludge process plant operated in the conventional mode with nitrification. The activated sludge process is the most frequently used biological wastewater treatment process for treating domestic wastewater and has been known to produce highly treated effluent with low biosolids production. When properly treated by the proposed wastewater treatment process, the effluent is not expected to have an offensive odor.

If anyone experiences nuisance odor conditions or any other suspected incidents of noncompliance with the permit or TCEQ rules, they may be reported to TCEQ by calling toll-free 1-888-777-3186, or the TCEQ Region 12 Office in Houston at 713-767-3500. Citizen complaints may also be filed on-line at <https://www.tceq.texas.gov/compliance/complaints>. Moreover, the permit does not limit the ability of an individual to seek legal remedies against Crystal Springs Water Co., Inc. regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

COMMENT 4:

The Clean Water Action and Bayou City Waterkeeper expressed concern that the permit has not been shown to be adequately protective of floodplain impacts.

RESPONSE 4:

The TCEQ does not have jurisdiction to regulate flooding in the context of a wastewater discharge permit. The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes and coastal waters. However, to the extent that an issue related to flooding also involves water quality, Crystal Springs Water Co., Inc. is required to comply with all the numeric and narrative effluent limitations and other conditions in the proposed permit at all times, including during flooding conditions.

According to the application, the proposed facility is located above the 100-year flood plain. For additional protection, the proposed permit includes Other Requirement No. 4, which requires the permittee to provide protection for the facility from a 100-year flood. For flooding concerns, please contact the local floodplain administrator for this area. If you need help finding the local floodplain administrator, please call the TCEQ Resource Protection Team at (512) 239-4691. For Montgomery County Floodplain Management call (936) 538-3544.

COMMENT 5:

The Clean Water Action and Bayou City Waterkeeper expressed concern that the Applicant has not demonstrated meeting regionalization requirements.

RESPONSE 5:

Texas Water Code § 26.081 enumerates the state’s regionalization policy. Section 26.081 states that the policy should “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 prevent pollution and maintain and enhance the quality of the water in the state.” In furtherance of that policy, TWC § 26.0282 authorizes the TCEQ, when considering the issuance of a permit to discharge waste, to deny or alter the terms and conditions of a proposed permit based on need and the availability of existing or proposed area-wide or regional waste collection, treatment, and disposal systems.

Domestic Technical Report 1.1 of the application requires information concerning regionalization of wastewater treatment plants. Applicants requesting a new permit or certain major amendments are required to review a three-mile area surrounding the proposed facility to determine if there is a wastewater treatment plant or sewer collection lines within the area that the permittee can utilize. Applicants are required to contact those facilities to inquire if they currently have the capacity or are willing to expand to accept the volume of wastewater proposed. If an existing wastewater facility does have the capacity and is willing to accept the proposed wastewater, the Applicant must submit an analysis of expenditures required to connect to a permitted wastewater treatment facility or collection system located within three miles versus the cost of the proposed facility or expansion. Finally, Applicants are required to provide copies of all correspondence with the owners of existing plants within three miles of the proposed plant regarding regionalization with their system.

There are existing wastewater treatment facilities or collection systems within a three-mile radius of the proposed facility site location. The Applicant has submitted responses from the existing facility declining to accept the proposed wastewater volume.

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

Erin Chancellor
Interim Executive Director

Guy Henry
Acting Deputy Director,
Environmental Law Division



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REPRESENTING THE EXECUTIVE DIRECTOR OF
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