

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 28, 2022

TO: All interested persons.

RE: Lyondell Chemical Company
TPDES Permit No. WQ0002927000

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 <https://www.lyondellbasell.com/en/channelview-complex/>.

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,

A handwritten signature in black ink that reads "Laurie Gharis". The signature is written in a cursive, flowing style.

Laurie Gharis
Chief Clerk

LG/erg

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
Lyondell Chemical Company
TPDES Permit No. WQ0002927000

The Executive Director has made the Response to Public Comment (RTC) for the application by Lyondell Chemical Company for TPDES Permit No. WQ0002927000 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 (WQ0002927000) 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, 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 <https://www.lyondellbasell.com/en/channelview-complex/>.

MAILING LIST
for
Lyondell Chemical Company
TPDES Permit No. WQ0002927000

FOR THE APPLICANT:

Nancy Ross, Senior Environmental Engineer
Lyondell Chemical Company
P.O. Box 777
Channelview, Texas 77530

INTERESTED PERSONS:

Dr. Latrice Babin
Harris County Pollution Control Services Department
101 South Richey Street, Suite H
Pasadena, Texas 77506

Jerry Caraviotis
Harris County Pollution Control Services Department
101 South Richey Street, Suite H
Pasadena, Texas 77506

Douglas Stewart
16531 Shady Lane
Channelview, Texas 77530

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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Bobby Salehi, Staff Attorney
Texas Commission on Environmental Quality
Environmental Law Division MC-173
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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
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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. WQ0002927000

**APPLICATION BY LYONDELL
CHEMICAL COMPANY FOR
TPDES PERMIT NO. WQ0002927000**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

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 Comment (Response) on Lyondell Chemical Company's (Applicant) application for a major amendment with renewal to Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0002927000, and on the ED's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section (§) 55.156, before a permit is issued, the ED prepares a response to all timely, relevant and material, or significant comments. This Response addresses all timely public comments received, whether or not withdrawn. The Office of the Chief Clerk received a timely comment from Douglas R. Stewart and Dr. Latrice Babin on behalf of Harris County Pollution Control Services.

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>.

BACKGROUND

Description of Facility

The Applicant applied for a major amendment with renewal to use a site-specific hardness for calculating water quality-based effluent limits; to authorize increased copper limits at Outfall 001; to remove limits and monitoring requirements for total aluminum, total zinc, and total xylenes at Outfall 001; to add wastestreams to Outfalls 001, 002, and 008; to modify various wastewater descriptions; to increase the

daily maximum pH limit at Outfall 002; to reduce the monitoring frequency at Outfalls 002 and 003 for total organic carbon and oil and grease; to use site-specific partitioning coefficients for aluminum at Outfalls 003, 004, and 005 for calculating water quality-based effluent limits; to update the discharge and monitoring locations for Outfalls 008, 009, and 010; to revise the discharge route description for Outfall 009; to remove Other Requirements Nos. 5, 12, and 14; and to update Other Requirement No. 4.

The existing permit authorizes the discharge of process wastewater, Barge Dock wastewater (Tanks 6901 and 6902), hydrostatic test water, laboratory wastewater, cooling tower and boiler blowdown, loading area and process area washdown, tank farm wastewater, heat exchanger blasting slab wastewater, demineralization regeneration blowdown, maintenance wastewater, steam condensate and blowdown, groundwater from monitoring and recovery wells (onsite and offsite), and stormwater (including, but not limited to, runoff from production units, landfarm runoff, and stormwater from the adjacent cogeneration facility) at a daily average flow not to exceed 3.2 MGD (interim phase), or 3.8 MGD (final phase) via Outfall 001; stormwater, utility wastewater, hydrostatic test water, service water, water from maintenance activities, construction stormwater, and de minimis quantities from spill cleanup on an intermittent and flow-variable basis via Outfalls 002, 003, 004, 005, 006, 009, and 010; stormwater associated with construction activities from a concrete batch plant on an intermittent and flow-variable basis via Outfall 007; and cooling tower blowdown, stormwater, utility wastewater, hydrostatic test water, service water, water from maintenance activities, construction stormwater, and de minimis quantities from spill cleanup on a continuous and flow-variable basis via Outfall 008.

The proposed permit authorizes the discharge of process wastewater, Barge Dock wastewater (Tanks 6901 and 6902), hydrostatic test water, laboratory wastewater, cooling tower and boiler blowdown (including maintenance wastewaters), loading area and process area washdown, tank farm wastewater, heat exchanger blasting slab wastewater, water treatment wastes, maintenance wastewater, steam condensate and blowdown, utility wastewater, groundwater from monitoring and recovery wells (onsite and offsite), construction stormwater, and stormwater (including, but not limited to, runoff from production units, landfarm runoff and supernate - from wastewater treatment solids, and stormwater from the adjacent cogeneration facility) at a daily average flow not to exceed 3.2 MGD (interim phase), or 3.8 MGD (final phase) via Outfall 001; stormwater, utility wastewater, hydrostatic test water, service water, water from maintenance activities, construction stormwater, landfarm runoff and supernate (from wastewater treatment solids), and de minimis quantities from spill cleanup on an intermittent and flow-variable basis via Outfalls 002; stormwater, utility wastewater, hydrostatic test water, service water, water from maintenance activities, construction stormwater, and de minimis quantities from spill cleanup on an intermittent and flow-variable basis via Outfalls 003, 004, 005, 006, 009, and 010; stormwater associated with construction activities from a concrete batch plant on an intermittent and flow-variable basis via Outfall 007; and cooling tower and boiler blowdown (including maintenance wastewaters), stormwater, utility wastewater, hydrostatic test water, service water, water from maintenance activities, construction stormwater, and de minimis quantities from spill cleanup on a continuous and flow-variable basis via Outfall 008.

Lyondell Chemical Company operates the Lyondell Chemical Channelview facility, which manufactures synthetic organic chemicals. The facility is located at 2502 Sheldon Road in the City of Channelview, Harris County, Texas 77530.

The effluent is discharged via Outfalls 001-006, and 008 to Harris County Flood Control District (HCFCD) ditch G103-02-03; via Outfall 009 to an unnamed ditch, thence to Bear Lake, which is considered part of the San Jacinto River Tidal; via Outfall 010 to a Wallisville roadside ditch; thence all to San Jacinto River Tidal in Segment No. 1001 of the San Jacinto River Basin. The unclassified receiving waters have minimal aquatic life use for HCFCD ditch G103-02-03, the unnamed ditch, and the Wallisville roadside ditch. The designated uses for Segment No. 1001 are primary contact recreation and high aquatic life use.

In accordance with Title 30 Texas Administrative Code Section 307.5 and 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 has preliminarily determined that no significant degradation of water quality is expected in San Jacinto River Tidal, which has 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.

Segment No. 1001 is currently listed on the State's inventory of impaired and threatened waters, the 2020 Clean Water Act Section 303(d) list. The listing is for dioxin and polychlorinated biphenyls (PCBs) in edible tissue from the Lake Houston Dam to Interstate Highway 10 (AUs 1001_1 and 1001_02). The permittee indicated that

dioxin and PCBs, which were banned by the EPA in 1979, are not expected to be present in the effluent. Furthermore, the application¹ reported non-detectable levels of PCBs at the minimal analytical level (MAL) of 0.2 micrograms per liter (µg/L) at Outfalls 001. through 004. Effluent data for primarily stormwater driven Outfalls 005, 006, and 008-010 was not included with the application. The discharge is not expected to contribute to the impairments for dioxin and PCBs in edible tissue.

Procedural Background

The TCEQ received Lyondell Chemical Company's application for a renewal with major amendment on January 5, 2021, and declared it administratively complete on March 5, 2021. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in the *Houston Chronicle dba Pasadena Citizen* on March 31, 2021, and in the *Houston Chronicle dba La Voz* on April 4, 2021, for the alternative language publication. The technical review was complete on September 20, 2021, and the Applicant published the Notice of Application and Preliminary Decision (NAPD) in the *Houston Chronicle dba Pasadena Citizen* on October 27, 2021, and in the *Houston Chronicle dba La Voz* on October 27, 2021, for the alternative language publication. The comment period for this application closed on November 29, 2021. 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 Chapter 39, 50, and 55.

¹ Lyondell Chemical Company's TCEQ-10055 (05/10/2019) Industrial Wastewater Permit Application Technical Report 1.0, Worksheet 2.0 for Outfalls 001-004, Pollutant Analyses Requirements.

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: www.sos.state.tx.us;
- for TCEQ rules in Title 30 of the Texas Administrative Code (TAC): www.sos.state.tx.us/tac/ (select “View the current Texas Administrative Code” 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 Adobe PDF format, select “Rules in PDF” under “Related Content”);
- for Federal rules in Title 40 of the Code of Federal Regulations: <https://www.ecfr.gov> (select “Title 40-Protection of Environment”); and
- for Federal environmental laws: <http://www.epa.gov/lawsregs/>.

Commission records for this facility are available for viewing and copying at <https://www.lyondellbasell.com/en/channelview-complex/> 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. Some documents located in the Office of the Chief Clerk may be located on the Commissioners’ Integrated Database at: <<https://www14.tceq.texas.gov/epic/eCID/>>.

The application for this permit was available for viewing and copying at <https://www.lyondellbasell.com/en/channelview-complex/>, during the comment period since publication of the NORI. The draft permit, the Fact Sheet and Executive Director’s Preliminary Decision, were available for viewing and copying at the same location since publication of the NAPD.

COMMENTS AND RESPONSES

COMMENT 1:

Douglas R. Stewart expressed concern regarding the increased discharge rate impacting the receiving waters.

RESPONSE 1:

This major amendment with renewal does not include an increase in flow. The daily average flow of 3.2 MGD (interim phase) and 3.8 MGD (final phase) are continued from the existing permit issued on January 11, 2017. The facility is currently operating in the interim phase. The changes requested in this permit action includes: use of a site-specific hardness level for calculating water quality-based effluent limits; authorizing increased copper limits at Outfall 001; removing limits and monitoring requirements for total aluminum, total zinc, and total xylenes at Outfall 001; adding wastestreams to Outfalls 001, 002, and 008; modifying various wastewater descriptions; increasing the daily maximum pH limit at Outfall 002; reducing the monitoring frequency at Outfalls 002 and 003 for total organic carbon and oil and grease; using site-specific partitioning coefficients for aluminum at Outfalls 003, 004, and 005 for calculating water quality-based effluent limits; updating the discharge and monitoring locations for Outfalls 008, 009, and 010; revising the discharge route description for Outfall 009; removing Other Requirements Nos. 5, 12, and 14; and updating Other Requirement No. 4.

COMMENT 2:

Douglas R. Stewart commented that the permit action will overload the receiving waters and Bear Lake and potentially harm the lake and impact recreational uses.

RESPONSE 2:

There is no amendment request to increase flow in this major amendment with renewal permit action. The proposed flow is continued from the existing permit.

The discharge flow, the receiving water body, and the dimensions of the receiving water are considered to evaluate the critical conditions of the receiving water. Effluent concentrations limits for specific toxic materials are calculated, using critical

mixing conditions, to meet numerical standards for chronic toxicity at the edge of the mixing zone and numerical standards for acute toxicity at the edge of the zone of initial dilution (ZID). Because the discharge from this facility is less than 10 MGD, the following assumptions were used and are consistent with *Procedures to Implement the Texas Surface Water Quality Standards*: The percentage of effluent at the edge of the mixing zone of 8% and 30% at the edge of the ZID were used for the San Jacinto River Tidal.

COMMENT 3:

Douglas R. Stewart, P.E., asked where the plant water comes from. Additionally, he asked about the water hardness of the incoming plant water, where in Bear Lake water hardness tests are conducted, and what testing methods are used.

RESPONSE 3:

Lyondell Channelview obtains potable water from the Harris County Water Control and Improvement District (WCID) No. 84. Water used for industrial purposes at Lyondell Channelview is supplied from Lake Houston.

The site-specific value was developed from a study that Lyondell completed in 2000. It chose a Harris County Flood Control District (HCFCD) drainage ditch upstream of the Channelview South Plant outfalls to be a representative stream close to the facility. The hardness data provided by the applicant was included in the calculation for the water quality-based permit limits in the 2001 Fact Sheet and Executive Director's Preliminary Decision (Fact Sheet). In recent permit renewals, the TCEQ used Segment No. 1016 (Greens Bayou Above Tidal) as a default representative stream for hardness values instead. Given that the TCEQ had approved the site-specific hardness, Lyondell believes that the HCFCD ditch used to develop the site-specific 147 mg/L value is more representative than Segment No. 1016 because it is closer to the facility.

The applicant's site-specific hardness value of 147 mg/L (as calcium carbonate, CaCO₃) was re-evaluated by the Water Quality Standards Team for this permit action and the Team concluded that the site-specific hardness value of 147 mg/L applies only to the freshwater portions of the HCFCFCD ditches.

The hardness value of 147 mg/L was applied to the freshwater portions of HCFCFCD ditch G103-02-03, the unnamed ditch, and Wallisville Roadside ditch to calculate the water quality-based effluent limitations for Outfall 001-006, and 008-010.

COMMENT 4:

Douglas R. Stewart asked why a small deviation in water hardness can allow a large amount of effluent to be discharged into Bear Lake. Mr. Stewart inquired as to how total suspended solids are handled in the plant operation, adding that suspended solids have formed a delta at the point of entry to Bear Lake.

RESPONSE 4:

The hardness value is a variable used to formulate the concentration of one or more substance in the receiving water. The hardness value is included in TEXTOX. TEXTOX calculates the water quality-based effluent limits for the protection of aquatic life and human health. The hardness is not used to calculate the technology-based effluent limitations derived for the discharge generated from this facility.

The 40 Code of Federal Regulations (CFR) require that technology-based effluent limitations be placed in wastewater discharge permits based on effluent limitations guidelines, where applicable, and/or on best professional judgment (BPJ) in the absence of guidelines. The limits on the facility discharges were developed using 40 CFR Part 414 - Organic Chemicals, Plastics, and Synthetic Fibers (OCPSF). Waste streams are subject to guidelines at Subpart F-*Commodity Organic Chemicals*, Subpart G-*Bulk Organic Chemicals*, Subpart H- *Specialty Organic Chemicals*, and Subpart I-

Direct Discharge Point Sources that Use End-of-Pipe Biological Treatment. The Fact Sheet and Executive Director's Preliminary Decision (Fact Sheet) details the calculations and discussions of technology-based effluent limitations proposed in the permit in Appendix A.

The calculated technology-based effluent limitations and water quality-based effluent limitations are compared, and the more protective effluent limitations are included in the permit for the protection of human health and the environment.

Regarding total suspended solids from the plant operation, the draft permit would allow an average of 1015 lbs. of total suspended solids per day to be discharged through Outfall 001 in the first phase, and it would allow 1254 lbs. of total suspended solids to be disposed of through Outfall 001 in the final phase. Other residuals are disposed of on land or recycled, as follows. In general, the treatment of process wastewaters includes physical, chemical, biological, and filtration treatment processes. Primary treatment includes primary oil removal, equalization, contaminated stormwater management, and neutralization. Secondary treatment combines the biological and chemical treatment processes through the use of an activated sludge biological treatment system. The system includes nutrient addition, aeration, clarification, and optional granular activated carbon treatment.

The solids accumulated at the bottom of the clarifiers are routed to the aerobic sludge digester as part of the sludge handling system. Aerobic digestion of the waste sludge occurs in an in-ground basin. This process results in a reduction of the volume of sludge, which is later landfarmed. Periodically, digested sludge is routed to the adjacent sludge holding basin, which is used as a thickener to concentrate the solids further prior to landfarming the digested solids.

The thickened sludge is pumped to one of four operating cells at the Class II landfarm. Once a cell is approximately 75% capacity with solids, the cell is taken out of service and dewatered. A crop is planted within the cell to further remove constituents from the sludge. Once the crop is matured, it is harvested and sent to an offsite waste disposal site. Afterwards, a filtration grass is planted within the cell. Once the grass is matured, the cell can be put back in service.

The other primary means of process wastewater disposal generated in the manufacturing units is by use of two on-site hazardous waste injection wells.

The TCEQ is not aware that the delta to which you refer is related to suspended solids discharged by the facility.

COMMENT 5:

Douglas R Stewart asked if using water softening devices was considered as part of this application.

RESPONSE 5:

TCEQ does not have the authority to mandate the method of disposal of treated effluent, including the use of water softening devices as long as the applicant adheres to the rules and provisions under Texas Water Code, Chapter 26.

Lyondell Channelview obtains potable water from the Harris County Water Control and Improvement District (WCID) No. 84. Water used for industrial purposes at Lyondell Channelview is supplied from Lake Houston. The City of Houston owns 100% of Lake Houston and the Coastal Water Authority (CWA) manages Lake Houston.

Water from CWA is pumped into a canal system that leads to the adjacent Equistar Chemicals Channelview North Complex. The water from the canal is pumped to a surface water treatment unit where the water is filtered and clarified before being pumped to Lyondell Channelview for use in the manufacturing process. The

application does not reference the use of water softeners to soften the water prior to its use in the process.

COMMENT 6:

Douglas R. Stewart expressed concerns regarding water quality, impacts to human health, and potential disruption of the ability for individuals to recreate in Bear Lake.

RESPONSE 6:

The TCEQ is responsible for the protection of water quality with regulatory authority over discharges of pollutants to Texas surface water. It is the purpose of the Texas Surface Water Quality Standards (TSWQS), 30 Texas Administrative Code (TAC) Chapter 307, to maintain the quality of water in the state and to be protective of human health, aquatic life, and the environment along the discharge route. In accordance with 30 TAC § 307.4(d), the Executive Director evaluated the Lyondell Chemical Company's application to ensure "surface waters will not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life." The draft permit contains effluent limitations and provisions designed to protect the designated uses of the San Jacinto River Tidal. The designated uses for Segment No. 1001 are primary contact recreation and high aquatic life use.

The Executive Director reviewed the application and determined that the application complies with all requirements and that if operated according to the approved permit conditions and regulatory requirements, the facility will not negatively impact receiving water uses and will not pose an adverse risk to human health or the environment. The permit does not bar legal remedies against the applicant 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 7:

Douglas R. Stewart requested a hearing.

RESPONSE 7:

The Executive Director 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 8:

Douglas R. Steward raised concerns about impacts from the proposed discharge on property values as well as impacts to his business.

RESPONSE 8:

The water quality 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. The TCEQ does not have jurisdiction to address or consider property values or the marketability of adjacent property when determining whether to approve or deny a permit application. Additionally, the TCEQ does not have the authority to address concerns about the impact of the facility on the economy, businesses, tourism, or resale of homes as part of the wastewater permitting process. The scope of the TCEQ's jurisdiction does not affect or limit the ability of a landowner to seek relief from a court in response to activities that interfere with the landowner's use and enjoyment of their property.

COMMENT 9:

Dr. Latrice Babin, Executive Director, Harris County Pollution Control Services, requested the addition of a criterion in the Other Requirement section in the permit, requiring Lyondell Chemical to notify the Harris County Pollution Control Services forty-five days prior to progressing to Final Phase.

RESPONSE 9:

The permitted Outfall 001 has an Interim Phase and Final Phase. Based on Dr. Babin's comment, Other Requirement No. 11 has been revised to include Outfall 001 (Final Phase) and to include notification forty-five days prior to progressing to the Final Phase to the Harris County Pollution Control Services.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

Other Requirement No. 11 on the draft permit was revised to include Outfall 001 (Final Phase) and to include notification forty-five days prior to progressing to the Final Phase to the Harris County Pollution Control Services.

Respectfully submitted,

Texas Commission on Environmental Quality

Toby Baker,
Executive Director

Charmaine Backens, Deputy Director
Environmental Law Division



Bobby Salehi, Staff Attorney
Environmental Law Division
State Bar No. 24103912
P.O. Box 13087, MC 173
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Phone: (512) 239-5930
Fax: (512) 239-0626

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on October 20, 2022, the “Executive Director’s Response to Public Comment” for Permit No. WQ0002927000 was filed with the Texas Commission on Environmental Quality’s Office of the Chief Clerk.



Bobby Salehi, Staff Attorney
Environmental Law Division
State Bar No. 24103912