

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Erin E. Chancellor, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 6, 2023

TO: All interested persons.

RE: City of Denton
TPDES Permit No. WQ0010027003

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 City of Denton Service Center, 901 Texas Street, Suite A, 2nd Floor, Denton, 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
City of Denton
TPDES Permit No. WQ0010027003

The Executive Director has made the Response to Public Comment (RTC) for the application by City of Denton for TPDES Permit No. WQ0010027003 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 (WQ0010027003) 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 City of Denton Service Center, 901 Texas Street, Suite A, 2nd Floor, Denton, Texas.

MAILING LIST
for
City of Denton
TPDES Permit No. WQ0010027003

FOR THE APPLICANT:

Stephen Gay
City of Denton
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Denton, Texas 76209

Rusty Willard
City of Denton
1100 South Mayhill Road
Denton, Texas 76208

Ashley Lewis
Plummer Associates, Inc.
6300 La Calma Drive, Suite 400
Austin, Texas 78752

INTERESTED PERSONS:

Robert Nicholas Perone
4272 Swisher Road
Denton, Texas 76208

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

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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

TCEQ PERMIT NO. WQ0010027003

APPLICATION BY	§	BEFORE THE
CITY OF DENTON	§	TEXAS COMMISSION
FOR NEW TPDES PERMIT NO.	§	ON
WQ0010027003	§	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 the City of Denton's (the City) application and ED's preliminary decision for a major amendment to the Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010027003. 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. The Office of Chief Clerk timely received comments from Robert Nicholas Perone. 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

(A) Description of Facility

City of Denton, 901 Texas Street, Suite A, Denton, Texas 76209, has applied to the TCEQ for a major amendment to TPDES Permit No. WQ0010027003 to authorize an expansion of the facility over three phases and an increase in the discharge of treated domestic wastewater from an annual average flow not to exceed 21 million gallons per day (MGD) to an annual average flow not to exceed 30 MGD. The existing wastewater

treatment facility serves the City of Denton.

The plant site is located at 1100 South Mayhill Road, in the City of Denton, Denton County, Texas 76208. The Pecan Creek Water Reclamation Plant is an activated sludge process plant operated in the conventional mode. Treatment units in the Interim I phase include two bar screens, two grit chambers, one diurnal basin, two peak flow storage basins, seven primary clarifiers, eight aeration basins, eight final clarifiers, four sand filters, a two-channel Ultraviolet Light (UV) disinfection system, two gravity sludge thickeners for primary sludge, two anaerobic digesters, four sludge drying beds, and two belt filter presses. Treatment units in the Interim II phase will include two bar screens, two grit chambers, one diurnal basin, two peak flow storage basins, seven primary clarifiers, eight aeration basins, eight final clarifiers, two sand filters, two cloth media filters, a two-channel UV disinfection system, a combined primary and secondary sludge storage tank, three rotary drum thickeners, three anaerobic digesters, four sludge drying beds, and three belt filter presses. Treatment units in the Final phase will include two bar screens, three fine screens, two grit chambers, one diurnal basin, two peak flow storage basins, nine primary clarifiers, twelve aeration basins, eleven final clarifiers, four cloth media filters, two two-channel UV disinfection systems, a primary sludge storage tank, a secondary sludge storage tank, four rotary drum thickeners, three anaerobic digesters, four sludge drying beds, and three belt filter presses. The facility is operating in the Interim I phase.

The effluent limitations and monitoring requirements for those parameters that are limited in the draft permit are as follows:

A. INTERIM I PHASE EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The annual average flow of effluent shall not exceed 21.0 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 31,944 gallons per

minute (gpm).

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per day by grab sample. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

The permittee shall utilize an UV system for disinfection purposes. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

B. INTERIM II PHASE EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The annual average flow of effluent shall not exceed 26.0 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 31,944 gpm.

In order to ensure that dissolved oxygen concentrations in the receiving waters will be maintained above their established criteria, CBOD5 loading limits for the months of March through October are equivalent to CBOD5 concentrations less than (more stringent than) a 5 mg/l concentration (4 mg/l).

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per day by grab sample. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

The permittee shall utilize an UV system for disinfection purposes. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

C. FINAL PHASE EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The annual average flow of effluent shall not exceed 30.0 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 47,917 gpm.

In order to ensure that dissolved oxygen concentrations in the receiving waters will be maintained above their established criteria, CBOD5 loading limits for the months of March through October are equivalent to CBOD5 concentrations less than (more stringent than) a 5 mg/l concentration (4 mg/l).

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per day by grab sample. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

The permittee shall utilize an UV system for disinfection purposes. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

(B) Procedural Background

The permit application for the major amendment was received on January 18, 2022, and declared administratively complete on March 2, 2022. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published in English in the *Denton Record Chronicle* newspaper on March 12, 2022, and in Spanish in *La Prensa Comunidad* newspaper on March 15, 2022. ED staff completed the technical review of the application on August 10, 2022, and prepared a draft permit. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published in English in the *Denton Record Chronicle* newspaper on October 30, 2022, and in Spanish in *La Prensa Comunidad* newspaper on October 31, 2022. The public comment period ended on November 30, 2022.

This application was filed 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. 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.

(C) Access to Rules, Statutes, and Records

- Secretary of State website for all Texas administrative rules: <http://www.sos.state.tx.us/texreg/index.shtml>
- TCEQ rules in title 30 of the Texas Administrative Code: <http://www.sos.state.tx.us/tac/index.shtml> (select “View the current *Texas Administrative Code*,” then “Title 30 Environmental Quality”)
- Texas statutes: <https://statutes.capitol.texas.gov/>
- TCEQ website: <http://www.tceq.texas.gov> (for downloadable rules in portable document format, select “Rules and Rulemaking,” then “Download TCEQ Rules”)
- Federal rules in title 40 of the Code of Federal Regulations: <http://www.ecfr.gov>
- Federal environmental laws: <https://www.epa.gov/laws-regulations>

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 City of Denton Service Center, 901 Texas Street, Suite A, 2nd Floor, Denton, Texas. If you would like to file a complaint about the facility concerning its compliance with provisions of its permit or TCEQ rules, you may call the TCEQ Environmental Complaints Hot Line at 1-888-777-3186 or the TCEQ Region 4 Office directly at 817-588-5800. Citizen complaints may also be filed by sending an email to complaint@tceq.texas.gov or online at the TCEQ web site (select “Reporting,” then “Make an Environmental Complaint”). If the facility is found to be out of compliance, it may be subject to an enforcement action.

II. COMMENTS AND RESPONSES

COMMENT 1

Robert Nicholas Perone commented on the smell from the City landfill and wastewater treatment facility, stating it negatively affects his ability to use and enjoy his property.

RESPONSE 1

Maintaining an adequate dissolved oxygen concentration in the early stages of wastewater treatment helps to minimize sulfide generation, which is the most common cause of odor. The treatment process in the treatment plant supplies oxygen from the air into the wastewater for biodegradation of the organic contaminants in the wastewater through aeration. Oxygen also turns the sulfide compounds into odorless sulfates.

To control and abate odors, the TCEQ rules require domestic wastewater treatment plants to meet buffer zone requirements for the abatement and control of nuisance odor according to 30 TAC § 309.13(e). The required buffer zone requirement is 150 feet for all treatment units. According to its application, the City is complying with the requirement to abate and control nuisance of odor by ownership of the required buffer zone. This requirement is incorporated in the draft permit. Therefore, nuisance odor is not expected to occur as a result of the permitted activities at the facility if the City operates the facility in compliance with TCEQ's rules and the terms and conditions of the draft permit. The City is also required to comply with 30 TAC § 309.13(a) through (d), which restrict WWTP construction based on unsuitable site characteristics.

The TCEQ's Office of Compliance and Enforcement ensures compliance with applicable state and federal regulations. If the City is reported to be in violation of any

applicable state or federal rules, the TCEQ Region 4 office is required to conduct a comprehensive compliance investigation. If the facility is found to be out of compliance with the terms or conditions of the permit, the City may be subject to enforcement. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report these to the TCEQ by calling the toll-free number, 1-888-777-3186, or the TCEQ Region 4 Office in Fort Worth at 817-588-5800.

Citizen complaints may also be filed on-line at

<https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html>

Regarding odor issue at the landfill, you may report those to the TCEQ by calling the toll-free number, 1-888-777-3186, or the TCEQ Region 4 Office in Fort Worth at 817-588-5800. Or online at

<https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html>

COMMENT 2

Robert Nicholas Perone expressed concerns about increased discharge into the creek.

RESPONSE 2

In accordance with 30 Texas Administrative Code § 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 has preliminarily determined that no significant degradation of water quality is expected in Lewisville Lake, 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.

The potential impact of the proposed discharge on instream dissolved oxygen levels is evaluated under hot and dry, low-flow summertime conditions, which are typically the most restrictive conditions in regard to dissolved oxygen levels. Critical low-flow, as defined in 30 TAC § 307.3(a)(16), is a “low-flow condition that consists of the seven-day, two-year flow (7Q2),” which is the lowest seven-day average discharge with a recurrence interval of two years. The criteria of the Texas Surface Water Quality Standards are applicable even during critical low-flow, therefore critical low-flow is considered when evaluating the appropriate effluent limits for the proposed discharge.

The effluent limitations in the draft permit, if they are adhered to, will maintain and protect the existing instream uses and comply with the TSWQS, and 30 TAC §§ 307.1 - 307.10. The proposed draft permit includes effluent limitations and monitoring requirements to ensure that the proposed wastewater treatment plant meets water quality standards for the protection of surface water quality, even during periods of low flow, according to TCEQ rules and policies.

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

The ED did not make any changes to the draft permit in response to public comment.

Respectfully submitted,

TEXAS COMMISSION ON ENVIRONMENTAL
QUALITY

Erin E. Chancellor
Interim Executive Director

Guy Henry, Interim Deputy Director
Environmental Law Division



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CERTIFICATE OF SERVICE

I certify that on January 30, 2023, the “Executive Director’s Response to Public Comment” for Permit No. WQ0010027003 was filed with the Texas Commission on Environmental Quality’s Office of the Chief Clerk.



Harrison Cole Malley, Staff Attorney
Environmental Law Division
State Bar No. 24116710