

Jon Niermann, *Chairman*
Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 13, 2024

TO: All interested persons.

RE: Remy Jade Generating LLC
TPDES Permit No. WQ0005333000

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 Stratford Branch Library, 509 Stratford Street, Highlands, 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.

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- (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
Remy Jade Generating LLC
TPDES Permit No. WQ0005333000

The Executive Director has made the Response to Public Comment (RTC) for the application by Remy Jade Generating LLC for TPDES Permit No. WQ0005333000 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 (WQ0005333000) 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 Stratford Branch Library, 509 Stratford Street, Highlands, Texas.



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas reduciendo y previniendo la contaminación

13 de febrero de 2024

TO: Todas las personas interesadas.

RE: Remy Jade Generating LLC
TPDES Permiso No. WQ0005333000

Decisión del Director Ejecutivo.

El director ejecutivo ha tomado la decisión de que la solicitud de permiso mencionada anteriormente cumple con los requisitos de la ley aplicable. **Esta decisión no autoriza la construcción u operación de ninguna instalación propuesta.** Esta decisión será considerada por los comisionados en una reunión pública programada regularmente antes de que se tome cualquier medida sobre esta solicitud, a menos que todas las solicitudes de audiencia o reconsideración de casos impugnados hayan sido retiradas antes de esa reunión.

Se adjuntan a esta carta las instrucciones para ver en Internet la Respuesta del Director Ejecutivo al Comentario Público (RTC). Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a chiefclk@tceq.texas.gov. Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios públicos, están disponibles para su revisión en la Oficina Central de TCEQ. Además, una copia de la solicitud completa, el borrador del permiso y la decisión preliminar del director ejecutivo están disponibles para ver y copiar en la Stratford Branch Library, 509 Stratford Street, Highlands, Texas.

Si no está de acuerdo con la decisión del director ejecutivo y cree que es una "persona afectada" como se define a continuación, puede solicitar una audiencia de caso impugnado. Además, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Los procedimientos para la evaluación de la comisión de las solicitudes de audiencia/solicitudes de reconsideración se encuentran en 30 Código Administrativo de Texas, Capítulo 55, Subcapítulo F. A continuación, se presenta una breve descripción de los procedimientos para estas dos solicitudes.

Cómo solicitar una audiencia de caso impugnado.

Es importante que su solicitud incluya toda la información que respalde su derecho a una audiencia de caso impugnado. Su solicitud de audiencia debe demostrar que cumple con los requisitos legales aplicables para que se le conceda su solicitud de audiencia. La consideración de la comisión de su solicitud se basará en la información que usted proporcione.

La solicitud debe incluir lo siguiente:

- (1) Su nombre, dirección, número de teléfono durante el día y, si es posible, un número de fax.
- (2) El nombre del solicitante, el número de permiso y otros números enumerados anteriormente para que su solicitud pueda procesarse adecuadamente.
- (3) Una declaración que exprese claramente que está solicitando una audiencia de caso impugnado. Por ejemplo, la siguiente declaración sería suficiente: "Solicito una audiencia de caso impugnado".
- (4) Si la solicitud es realizada por un grupo o asociación, la solicitud debe identificar:
 - (A) una persona por nombre, dirección, número de teléfono durante el día y, si es posible, el número de fax, de la persona que será responsable de recibir todas las comunicaciones y documentos para el grupo.;
 - (B) los comentarios sobre la solicitud presentada por el grupo que constituyen la base de la solicitud de audiencia; y
 - (C) por nombre y dirección física, uno o más miembros del grupo que de otro modo tendrían derecho a solicitar una audiencia por derecho propio. Los intereses que el grupo busca proteger deben estar relacionados con el propósito de la organización. Ni la reclamación alegada ni la reparación solicitada deben requerir la participación de los miembros individuales en el caso.

Además, su solicitud debe demostrar que usted es una **"persona afectada"**. Una persona afectada es aquella que tiene un interés justiciable personal relacionado con un derecho, deber, privilegio, poder o interés económico legal afectado por la solicitud. Su solicitud debe describir cómo y por qué se vería afectado negativamente por la instalación o actividad propuesta de una manera que no sea común al público en general. Por ejemplo, en la medida en que su solicitud se base en estas preocupaciones, debe describir el impacto probable en su salud, seguridad o usos de su propiedad que puedan verse afectados negativamente por la instalación o las actividades propuestas. Para demostrar que tiene un interés personal justiciable, debe indicar, tan específicamente como pueda, su ubicación y la distancia entre su ubicación y la instalación o actividades propuestas.

Su solicitud debe plantear cuestiones de hecho controvertidas que sean relevantes y materiales para la decisión de la comisión sobre esta solicitud que fueron planteadas **por usted** durante el período de comentarios públicos. La solicitud no puede basarse únicamente en cuestiones planteadas en los comentarios que haya retirado.

Para facilitar la determinación por parte de la comisión del número y alcance de los asuntos que se remitirán a la audiencia, usted debe: 1) especificar cualquiera de las respuestas del director ejecutivo a **sus** comentarios que usted disputa; 2) la base fáctica de la disputa; y 3) enumerar cualquier cuestión de derecho en disputa.

Cómo solicitar la reconsideración de la decisión del Director Ejecutivo.

A diferencia de una solicitud de audiencia de caso impugnado, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Una solicitud de reconsideración debe contener su nombre, dirección, número de teléfono durante el día y, si es posible, su número de fax. La solicitud debe indicar que está solicitando la reconsideración de la decisión del director ejecutivo, y debe explicar por qué cree que la decisión debe ser reconsiderada.

Fecha límite para la presentación de solicitudes.

La oficina del Secretario Oficial debe **recibir** una solicitud de audiencia de caso impugnado o reconsideración de la decisión del director ejecutivo a más tardar **30 días calendario** después de la fecha de esta carta. Puede enviar su solicitud electrónicamente a www.tceq.texas.gov/agency/decisions/cc/comments.html o por correo a la siguiente dirección:

Laurie Gharis, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087


Procesamiento de solicitudes.

Las solicitudes oportunas para una audiencia de caso impugnado o para la reconsideración de la decisión del director ejecutivo se remitirán al Programa de Resolución Alternativa de Disputas de TCEQ y se incluirán en la agenda de una de las reuniones programadas regularmente de la comisión. Las instrucciones adicionales que explican estos procedimientos se enviarán a la lista de correo adjunta cuando se haya programado esta reunión.

Cómo obtener información adicional.

Si tiene alguna pregunta o necesita información adicional sobre los procedimientos descritos en esta carta, llame al Programa de Educación Pública, al número gratuito, 1-800-687-4040.

Atentamente,



Laurie Gharis
Secretaria Oficial

LG/erg

Recinto

RESPUESTA DEL DIRECTOR EJECUTIVO AL COMENTARIO DEL PÚBLICO
para
Remy Jade Generating LLC
TPDES Permiso No. WQ0005333000

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de Remy Jade Generating LLC del permiso de TPDES No. WQ0005333000. Puede ver e imprimir el documento visitando la Base de Datos Integrada de los Comisionados de TCEQ en el siguiente enlace:

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

Para ver el RTC en el enlace anterior, ingrese el número de identificación TCEQ para esta solicitud (WQ0005333000) y haga clic en el botón "Buscar". Los resultados de la búsqueda mostrarán un enlace al RTC.

Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a chiefclk@tceq.texas.gov.

Información adicional

Para obtener más información sobre el proceso de participación pública, puede comunicarse con la Oficina del Asesor de Interés Público al (512) 239-6363 o llamar al Programa de Educación Pública, al número gratuito, (800) 687-4040.

Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios, están disponibles para su revisión en la Oficina Central de TCEQ en Austin, Texas. Además, una copia de la solicitud completa, el borrador del permiso y la decisión preliminar del director ejecutivo están disponibles para ver y copiar en Stratford Branch Library, 509 Stratford Street, Highlands, Texas.

MAILING LIST / LISTA DE CORREO

for / para

Remy Jade Generating LLC

TPDES Permit No. WQ0005333000 / TPDES Permiso No. WQ0005333000

FOR THE APPLICANT /
PARA EL SOLICITANTE:

Jennifer Coleman
Director or Regulatory Compliance
Remy Jade Generating LLC
2001 Proenergy Boulevard
Sedalia, Missouri 65301

John Christiansen, P.E.
Program Manager – Industrial Water and
Wastewater
Tetra Tech
1500 CityWest Boulevard, Suite 10000
Houston, Texas 77042

INTERESTED PERSONS /
PERSONAS INTERESADAS:

See attached list /
Ver lista adjunta.

FOR THE EXECUTIVE DIRECTOR / PARA
EL DIRECTOR EJECUTIVO

via electronic mail /
por correo electrónico:

Ryan Vise, Deputy Director
Texas Commission on Environmental
Quality
External Relations Division
Public Education Program MC-108
P.O. Box 13087
Austin, Texas 78711-3087

Bekuechi Edeh, Staff Attorney
Texas Commission on Environmental
Quality
Environmental Law Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087

Thomas Starr, Technical Staff
Texas Commission on Environmental
Quality
Water Quality Division MC-148
P.O. Box 13087
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL /
PARA ABOGADOS DE INTERÉS PÚBLICO

via electronic mail /
por correo electrónico:

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 /
PARA EL SECRETARIO OFICIAL

via electronic mail
por correo electrónico:

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

ALVAREZ , CHRISTIAN A
2305 LOCH LOMOND ST
HIGHLANDS TX 77562-2332

AMADOR , ANTONIO
2419 LOCH LOMOND ST
HIGHLANDS TX 77562-2300

AMADOR , BLANCA A
10418 BRAEMER ST
CROSBY TX 77532-7009

AMADOR , JUAN A
10418 BRAEMER ST
CROSBY TX 77532-7009

BARRON , STEPHANIE
3306 BARBERS HILL RD
HIGHLANDS TX 77562-2342

BERNARD , HERSELL
1103 BARBERS HILL RD
HIGHLANDS TX 77562-2317

BOYD , JOAN
2319 BARBERS HILL RD
HIGHLANDS TX 77562-2367

BYARS , JACKELYN
2419 BARBERS HILL RD
HIGHLANDS TX 77562-2368

BYARS , JIMMY
2419 BARBERS HILL RD
HIGHLANDS TX 77562-2368

CAROTHERS , KENDRA
3520 DANEK RD
CROSBY TX 77532-7177

CARR , KEARSTEN
2507 LOCH LOMOND ST
HIGHLANDS TX 77562-2336

CARR , MATTHEW
2507 LOCH LOMOND ST
HIGHLANDS TX 77562-2336

CIBBS , KAROL
10426 BRAEMER ST
CROSBY TX 77532-7009

CIBBS , KYNDALL
10426 BRAEMER ST
CROSBY TX 77532-7009

CLEMMONS , ARLENE
723 BARBERS HILL RD
HIGHLANDS TX 77562-2313

CONCERNED CITIZEN ,
10302 BRAEMER ST
CROSBY TX 77532-7052

CONCERNED CITIZEN ,
10322 BRAEMER ST
CROSBY TX 77532-7052

CONCERNED CITIZEN ,
10217 BRAEMER ST
CROSBY TX 77532-7050

ELLIS , TAMMY
2215 BARBERS HILL RD
HIGHLANDS TX 77562-2366

FAZAL , JEREMY
2307 BARBERS HILL RD
HIGHLANDS TX 77562-2367

GONZALEZ , RAMON
10223 BRAEMER ST
CROSBY TX 77532-7050

GOUDEAU , REGINALD
10411 BRAEMER ST
CROSBY TX 77532-7008

GOURLAY , ROSANA
2419 BARBERS HILL RD
HIGHLANDS TX 77562-2368

HODGES , TROY
903 BARBERS HILL RD
HIGHLANDS TX 77562-2315

HOWELL , DAVID
10118 BRAEMAR ST
HIGHLANDS TX 77562-2322

HOWELL , DAVID & KATHLEEN
10118 BRAEMAR ST
HIGHLANDS TX 77562-2322

HOWELL , KATHLEEN D
10118 BRAEMAR ST
HIGHLANDS TX 77562-2322

JAIMES , WENCESLAO
10219 BRAEMER ST
CROSBY TX 77532-7050

JONES , ROBERT A
2415 LOCH LOMOND ST
HIGHLANDS TX 77562-2300

KIRK , CANDACE
2607 BARBERS HILL RD
HIGHLANDS TX 77562-2370

LEWELLYN , WILLIAM
10202 BRAEMAR ST
HIGHLANDS TX 77562-2323

MARTINEZ , NANCY
2505 BARBERS HILL RD
HIGHLANDS TX 77562-2369

MOBILE , VICKY
2415 BARBERS HILL RD
HIGHLANDS TX 77562-2368

MOSSEY , EDWARD DARLENE
3404 DANER RD
CROSBY TX 77532-7176

MURES , LINDA
10116 SRALLA RD
CROSBY TX 77532-7028

OSONO , CAMI
10202 SRALLA RD
HIGHLANDS TX 77562-2359

PAPILLION , FELTON
10402 BRAEMER ST
CROSBY TX 77532-7009

PIERCE , WENDY
1103 BARBERS HILL RD
HIGHLANDS TX 77562-2317

PUENTES , BELINDA
10423 BRAEMER ST
CROSBY TX 77532-7008

RANKIN , RUSSELL
10215 BRAEMAR ST
HIGHLANDS TX 77562-2338

REYES , MARIO
2214 LOCH LOMOND ST
HIGHLANDS TX 77562-2331

RIENDEAU , MARSHALL
2515 LOCH KATRINE ST
CROSBY TX 77532-7058

RIENDEAU , STACY
2515 LOCH KATRINE ST
CROSBY TX 77532-7058

ROBINSON , JUDY
933 BARBERS HILL RD
HIGHLANDS TX 77562-2315

ROBINSON , MARVIN
933 BARBERS HILL RD
HIGHLANDS TX 77562-2315

SHOL , IRIS
2611 BARBERS HILL RD
HIGHLANDS TX 77562-2370

STEELY , CLAY
PORTER HEDGES
STE 3600
1000 MAIN ST
HOUSTON TX 77002-6336

STEWART , CHARLES
2516 LOCH LOMOND ST
HIGHLANDS TX 77562-2337

SWINDULL , ELAINE
10302 BRAEMER ST
CROSBY TX 77532-7052

THOMAS , HAROLD E
1921 BARBERS HILL RD
HIGHLANDS TX 77562-2363

TOMPKINS , PAUL
3214 BARBERS HILL RD
HIGHLANDS TX 77562-2343

TOPKINS , DOTTIE
3214 BARBERS HILL RD
HIGHLANDS TX 77562-2343

TOWNSEND-BUSH , ALLISON FAYE
2307 LOCH LOMOND ST
HIGHLANDS TX 77562-2332

VALDEZ , ROGER
2517 BARBERS HILL RD
HIGHLANDS TX 77562-2369

VAN HEECKEREN , LINDA
2407 BARBERS HILL RD
HIGHLANDS TX 77562-2368

VAN HEECKEREN , LINDA & STEVEN
2407 BARBERS HILL RD
HIGHLANDS TX 77562-2368

VAN HEECKEREN , STEVEN
2407 BARBERS HILL RD
HIGHLANDS TX 77562-2368

VANCE , CHRISTOPHER
2303 LOCH LOMOND ST
HIGHLANDS TX 77562-2332

TPDES PERMIT No. WQ0005333000

APPLICATION BY	§	BEFORE THE
REMY JADE GENERATING LLC	§	TEXAS COMMISSION
FOR TPDES PERMIT	§	ON ENVIRONMENTAL
NO. WQ0005333000	§	QUALITY

EXECUTIVE DIRECTOR’S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ) files this Response to Public Comment (Response) on the Executive Director’s preliminary decision to issue Remy Jade Generating LLC (the applicant) a major amendment without renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0005333000. As required by Title 30, Section 55.156 of the Texas Administrative Code, before a permit is issued, the ED prepares a response to all timely, relevant, and material, or significant comments. The Office of the Chief Clerk received timely comments from Clay Steely, Counsel for all the adjacent landowners of the original application (Dunn and Kiser) and thirty-six individually named residents. This response addresses all such timely public comments received, whether or not withdrawn. For more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found on the TCEQ’s web site at <http://www.tceq.texas.gov>.

I. Background

(A) Facility Description

Remy Jade Generating LLC, which proposes to operate Remy Jade Power Station, a natural gas-fired electric generating station, has applied to the TCEQ for a major amendment without renewal of TPDES Permit No. WQ0005333000, which would change the discharge route. The draft permit authorizes the discharge of water treatment wastes at a daily average flow not to exceed 162,000 gallons per day via Outfall 001. Effluent limits in the draft permit are as follows:

Outfall	Pollutant	Daily Average mg/L	Daily Maximum mg/L
001	Flow, million gallons per day (MGD)	0.162 MGD	0.242 MGD
001	Total Dissolved Solids (TDS) ¹	N/A	Report
	Chloride ¹	N/A	Report
	Sulfate ¹	N/A	Report
	pH, Standard Units (SU)	6.0 SU, minimum	9.0 SU

The facility is located at 3511 Danek Road, in the City of Crosby, Harris County, Texas 77532. The effluent is discharged to an unnamed ditch, thence to Harris County Flood Control District (HCFCD) ditch O119-00-00, thence to HCFCD ditch O200-00-00, thence to HCFCD ditch G103-03-00 (Bluff Gully), thence to San Jacinto River Tidal in Segment No. 1001 of the San Jacinto River Basin. The unclassified receiving water uses are minimal aquatic life use for the unnamed ditch and limited aquatic life use for the HCFCD ditches. The designated uses for Segment No. 1001 are primary contact recreation and high aquatic life use.

(B) Procedural Background

The TCEQ received the application for major amendment without renewal of TPDES Permit No. WQ0005333000 on September 6, 2023, and declared it administratively complete on September 12, 2023. The Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (NORI) was published in English and Spanish on September 21, 2023, in *The Baytown Sun* and *El Perico*, respectively. The technical review was complete on October 24, 2023, and the Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was issued on November 21, 2023. The NAPD was published in English on December 3, 2023, in *The Baytown Sun* and in Spanish on November 30, 2023, in *El Perico*. The public comment period ended on January 2, 2024. This application was filed on or after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999, and Senate Bill 709, 84th Legislature, 2015, both implemented by the Commission in its rules in 30 TAC Chapter 39, 50, and 55.

(C) Access to Rules, Statutes, and Records

- Secretary of State web site for all Texas administrative rules:
<http://www.sos.state.tx.us/texreg/index.shtml>

¹ The requirements of monitoring and reporting are effective at permit issuance and self-expire with expiration of this permit.

- 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: <http://www.statutes.legis.state.tx.us>
- TCEQ web site: <http://www.tceq.texas.gov>
- Federal rules in title 40 of the Code of Federal Regulations: <http://www.ecfr.gov>
- Federal environmental laws: <http://www.epa.gov/laws-regulations>

TCEQ records for this application are available for viewing and copying 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 <https://www14.tceq.texas.gov/epic/eCID/>. The application, draft permit, and Technical Summary and ED’s Preliminary Decision are also available for viewing and copying at the Stratford Branch Library, 509 Stratford Street, in Highlands, 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 16 Office directly at 1-956-791-6611. 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

Jimmy Byars, Jackelyn Byars, Steven van Heeckeren, Linda van Heeckeren, Nana Martinez, Candace Kirk, Iris Shol, Kathleen D. Howell, David Howel, Nikita Nelson, Felton Papillion, Stacy Riendeau, Marshall Riendeau, Belinda Puentes, Blanca A. Amador, Juan A. Amador, Cami Osono, Vicky Mabile, Arlene Clemmons, Troy Hodges, Marvin Robinson, Jeremy Fazal, Roger Valdez, Karol Gibbs, Ramon Gonzalez, Matthew Carr, Kearsten Carr, Robert A Jones, Mario Reyes, Wenceslao Jaimes, Linda Mures, Paul Tompkins, Stephanie Barron, Darlene E. Massey, Kendra Carouthers, Jammy Ellis, Harold E. Thomas, Wendy Pierce, Hershell Bernard, Christopher Vance, and others jointly wrote a complaint and commented that they are opposed to the proposed facility and its discharge.

Response 1

The ED acknowledges the comments in opposition to the proposed amendment, the proposed its location and discharge, and the concerns of all commenters.

Comment 2

Clay Steely, Counsel for landowners (Dunn and John Kinzer), Steven van Heeckeren, Linda van Heeckeren, Iris Shol, Elaine Swindull, Rosana Gourlay, Jimmy Byars, Dottie Tompkins, Paul Tompkins, Jackelyn Byars, Stephanie Barron, Felton Papillion, Linda Mures, Cami Osono, Vicky Mabile, Nikita Nelson, Troy Hodges, Arlene Clemmons, Marvin Robinson, Judy Robinson, David Howell, Jeremy Fazal, Roger Valdez, Joan Boyd, Kyndall Cibbs, Andy Venderslow, Wendy Pierce, Reginald Goudeau, Charles Stewart, Belinda Puentes, Hershell Bernard, Kathleen D. Howell, Kendra Carouthers, Blanca A. Amador, Christopher Vance, Juan A. Amador, and Allison Faye Townsend-Bush commented on flooding in the area.

Response 2

The TCEQ does not have jurisdiction to address flooding issues in the wastewater permitting process. 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.

Nonetheless, while the TCEQ does not have jurisdiction to regulate flooding in the context of a wastewater discharge permit, to the extent that the concern over flooding also involves water quality, the applicant will always be required to comply with all the numeric and narrative effluent limitations and other conditions in the proposed permit, including during flooding conditions. Likewise, the proposed permit includes effluent limits and other requirements that Remy Jade Generating LLC will be required to meet even during rainfall events and periods of flooding. According to the application, the proposed facility will be located above the 100-year flood plain.

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.

Comment 3

Clay Steely, Counsel for landowners, Steven van Heeckeren, Linda van Heeckeren, Rosana Gourlay, David Howell, Kathleen D. Howell, and Allison Faye

Townsend-Bush commented on the design of the discharge route or alternate disposal and facility and proximity to wells.

Response 3

The TWC § 26.027 authorizes the Commission to issue permits and amendments to permits for discharge of waste or pollutants into or adjacent to water in the state. However, the TCEQ does not have a statutory basis to mandate that the applicant choose an alternate disposal method for the wastewater generated at the facility.

The TCEQ does not have the authority to determine the discharge route. The Applicant chooses their discharge route. The Applicant submitted an industrial wastewater application, which requested authorization to discharge water treatment waste from a natural gas-fired electric generating station, at a daily average flow not to exceed 0.162 MGD via Outfall 001. This request was evaluated for the potential impact to the receiving water body, and the applicant would be required to meet the effluent limitations established in its permit.

The applicant determined the disposal method, the discharge route, and the facility site location, and submitted this information to the TCEQ for technical review of the proposed discharge for protection of water quality and the environment. The effluent is discharged to an unnamed ditch, thence to Harris County Flood Control District (HCFCD) ditch O119-00-00, thence to HCFCD ditch O200-00-00, thence to HCFCD ditch G103-03-00 (Bluff Gully), thence to San Jacinto River Tidal in Segment No. 1001 of the San Jacinto River Basin.

Comment 4

Clay Steely, Counsel for land owners, Steven van Heeckeren, Linda van Heeckeren, Iris Shol, Elaine Swindull, Rosana Gourlay, Jimmy Byars, Dottie Tompkins, Paul Tompkins, Jackelyn Byars, Stephanie Barron, Felton Papillion, Linda Mures, Cami Osono, Vicky Mabile, Nikita Nelson, Troy Hodges, Arlene Clemmons, Marvin Robinson, Judy Robinson, David Howell, Jeremy Fazal, Roger Valdez, Joan Boyd, Kyndall Cibbs, Andy Venderslow, Wendy Pierce, Reginald Goudeau, Charles Stewart, Belinda Puentes, Hershell Bernard, Kathleen D. Howell, Kendra Carouthers, Blanca A. Amador, Christopher Vance, Juan A. Amador, and Allison Faye Townsend-Bush commented on the chemicals (calcium, potassium, sodium, iron, magnesium, chloride, and sulfate)

and rate the chemicals would be in the wastewater, as well as contamination of the environment.

Response 4

The proposed permit was drafted in accordance with 30 TAC § 307.5 and the TCEQ's IPs (June 2010). The TSWQS provides that surface waters cannot be toxic to aquatic or terrestrial organisms. The Executive Director has determined that the proposed draft permit for the facility meets the requirements of the TSWQS, which are established to protect human health, terrestrial life, and aquatic life. The effluent limits in the draft permit are set to maintain and protect the existing instream uses.

In accordance with 30 TAC Section 307.5 and TCEQ's Procedures to Implement the Texas Surface Water Quality Standards (June 2010) (IP), 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. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life use are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life use downstream, and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

Further, the modeler review dated October 1, 2023, determined no significant depletion of dissolved oxygen is expected in the receiving waters as a result of these discharges due to the low concentrations of oxygen-demanding constituents.

To ensure the permit is protective of the receiving waters, the TCEQ established numerical criteria for the protection of aquatic life and for the protection of human health.² Numerical criteria are established for toxic substances where adequate toxicity information is available, and the substance has the potential for exerting adverse impacts on water in the state. These criteria are based on ambient water quality criteria documents published by the EPA. The criteria established in Tables 1 and 2 are incorporated into the calculations of water quality-based effluent limitations, as are recommendations in the Water Quality Assessment Team's critical conditions memorandum dated September 29, 2023.

² 30 TAC § 307.6(c)(1), Table 1; 30 TAC § 307.6(d)(1), Table 2.

Protection of aquatic life and human health are incorporated in Appendix A (Calculated Water Quality-Based Effluent Limits) of the Statement of Basis. The draft permit includes Other Requirement No. 6, which requires the Applicant to conduct a minimum of four effluent sampling events at least a week apart within 60 days of the facility's initial discharge via Outfall 001. The Applicant must submit the analytical data to the TCEQ within 90 days of the facility's initial discharge. After the analytical data is submitted, the effluent data will be compared to the screening levels established in Appendix A of the Statement of Basis. If necessary, the permit may be reopened and amended to include additional effluent limitations and/or monitoring requirements for any discharged pollutant that could contribute to contamination of the receiving water.

Protection of nearby wells per 30 TAC § 309.13(c) to ensure the wastewater treatment unit is located at least 500 feet from a public water supply well and 250 feet from a private well does not apply to water treatment wastes since this wastewater is not retained by a pond or used to irrigate the soil.

Further, if the draft permit is issued it will not authorize a discharge that is not in accordance with the applicable federal and state laws or regulations. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. In addition, this preliminary determination can be reexamined and may be modified if new information is received that shows a negative impact to the environment.

Comment 5

Clay Steele, David Howell, and Kathleen D. Howell commented on property values and trespass on property.

Response 5

TPDES permits establish terms and conditions that are intended to provide water quality pollution control, as directed by federal law and state law. The proposed permit does not grant the applicant the right to use private or public property for conveyance of wastewater along the discharge route. This includes property belonging to any individual, partnership, corporation, or other entity. As noted on page one of the draft permit, "the permit does not authorize any invasion of personal rights or any violation of federal, state, or local laws or regulations." It is the responsibility of the

permittee to acquire any necessary proprietary rights for planned treatment facility and the discharge route.

The TWC, Chapter 26, provides that the TCEQ is the agency primarily responsible for “implementing the constitution and laws for this state relating to the conservation of natural resources and the protection of the environment.” The TWC prohibits the discharge of waste or pollution into or adjacent to water in the state without authorization from the Commission. To implement this policy, Chapter 26 of the TWC grants TCEQ the authority to issue TPDES permits that discharge of wastes or pollutants into or adjacent to water in the state.

Water in the state is defined per TWC § 26.001(5): “groundwater, percolating water or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, canals...and all other water bodies of surface water...navigable or non-navigable, and including the bed banks of all watercourses and bodies of surface water.” Historically, Texas Courts have held that water in a watercourse is the property of the State, held in trust for the public. TWC § 26.001(5).

However, the draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually result in injury or adverse effects on human health or welfare, animal life, vegetation, or property, or that may or actually interfere with the normal use and enjoyment of animal life, vegetation, or property.

It is the responsibility of the applicant to acquire any rights necessary to operate the WWTF and discharge treated effluent under the terms of the proposed permit, if issued. The TCEQ does not have jurisdiction to consider property values during the review of a TPDES application.

Comment 6

David Howell and Kathleen D. Howell expressed concern for the impact to air quality.

Response 6

This RTC and the subject permit application is for TPDES Permit No. WQ0005333000. Therefore, this RTC only addresses the TPDES Permit No. WQ0005333000 application and proposed permit. For information related to air quality applications please contact the TCEQ Air Permits Division Office at (512) 239-1250. Please

note, the air permits issued on November 5, 2021, and February 28, 2022, are Air New Source Permits No. 167033 and 168123 respectively.

Comment 7

Steven van Heeckeren and Linda van Heeckeren commented on whether proper notice was given to all the landowners “along the flow through the ditch to the San Jacinto River.”

Response 7

Proper notice was given. For new permit and major amendment applications, the Applicant must provide a list of affected landowners and a map showing their location(s), as stated in 30 TAC § 39.413(1). Affected landowners are landowners located adjacent to the wastewater treatment plant site and landowners with property on either side of the receiving stream for approximately one mile downstream from the point of discharge. The applicant is required to certify that the submitted application is accurate. The TCEQ mails notice of the application to the affected landowners, and others on the mailing list for the application, which is maintained by the Office of Chief Clerk.

In the application, the applicant identified sixty-one adjacent landowners. All identified landowners received mailed notices for the application. Since adjacent landowners were notified of the application, the Executive Director has determined that the applicant has properly identified the proposed adjacent landowners.

III. Changes Made to the Draft Permit in Response to Comment

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

Respectfully submitted,

Texas Commission on Environmental
Quality

Kelly Keel
Executive Director

Charmaine Backens, Deputy Director
Environmental Law Division



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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on February 6, 2024, the “Executive Director’s Response to Public Comment” for Remy Jade Generating LLC Permit No. WQ0005333000 was filed with the Texas Commission on Environmental Quality’s Office of Chief Clerk.



Bekuechi Edeh
Staff Attorney
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