

May 30, 2024

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

RE: Requests for Reconsideration filed by Murphy DeShong concerning the application by Love's Travel Stops & Country Stores, Inc., for the amendment and renewal of Permit No. WQ0015618001; TCEQ Docket No. 2024-0665-MWD.

Dear Ms. Gharis:

I am writing in response to the filings received by your office from the Office of Public Interest Counsel (OPIC), Executive Director of the TCEQ (ED) and APEX Companies, LLC, (APEX) on behalf of Love's Travel Stops & Country Stores, Inc. (Love's).

The OPIC filing indicated it was unable to access the document I referenced in my request for reconsideration. I would direct all interested parties to the filing submitted by APEX in response to my Request for Reconsideration (RFR). The response states:

Love's does not dispute that the plant identified as the Love's Travel Stop #250 Wastewater Treatment Facility (the "Facility") is located within the 150' buffer zone established by 30 TAC 309.13(e), as described in the Request for Reconsideration. The plans for construction of the of the existing Facility (attached as Exhibit A) indicate that the "Proposed WWTP" identified therein would be located 163' from the western property line. Notwithstanding, upon review of the site in connection with designing the expansion of the Facility, Love's determined that the existing Facility was actually constructed 136.02' from the western property line, as shown on Exhibit B.

The drawing in Exhibit B is the one submitted to the Randall County Commission Court on February 27, 2024. Two of the responses to the RFR indicate that Love's is currently attempting to acquire additional property rights to meet the buffer zone requirements. I have been in contact with the owner of this property and I strongly recommend that the TCEQ do also before considering this as a possible solution.

As referenced above, Love's acknowledged that this problem was found during the design phase of the expansion to the facility. To my knowledge, Love's made no attempt to correct the application prior to my RFR. Accordingly, Love's willfully and knowingly filed an incorrect application. I addressed this in my RFR however, it was not responded to.

In regards to the backup power source, the OPIC stated that since the backup power is included in the renewal application it meets the requirement. The ED contends that since the facility's compliance review was satisfactory no other action is needed. Neither of the responses deal with the permit's

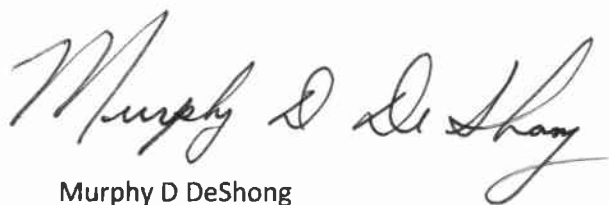
Operational Requirement #4 that **before plant startup** a backup power must be in place. This plant started up in December of 2020. The requirement does not state that after 3 years a backup power source could be installed. Nor does it state anything about a satisfactory compliance review. Love's chose to disregard a condition that is in the permit. As such 30 TAC 305.125(1) should be applied. It states:

The permittee has a duty to comply with all permit conditions. Failure to comply with any permit condition is a violation of the permit and statutes under which it was issued and is grounds for enforcement action, for permit amendment, revocation or suspension, or for denial of a permit renewal application or an application for a permit for another facility.

The responses state that the TCEQ sole responsibility is to make sure the water from the facility meets the requirements in the permit. An exceedance report from the EPA ECHO database shows that since this facility came online in December 2020 there have been over 100 instances where the permit parameters were exceeded. Some of the excesses are as much as 20 times over the limit. Each one of those excesses are now in the state's water system. How is this protecting the quality of the state's water?

Finally, in regards to the property rights of the land owners along the discharge, it appears to be the position of the TCEQ that a permittee could choose to discharge wastewater thru the center of ATT Stadium in Arlington, as long as it meets the permit parameters. Thus, leaving the Cowboys NFL team to fight the problem thru common law remedies at their own expense. It is beyond understanding how a problem created by the TCEQ is the responsibility of the individual land owner who may not have the resources to seek common law remedies.

Sincerely,

A handwritten signature in black ink, reading "Murphy D DeShong". The signature is fluid and cursive, with the first name "Murphy" being the most prominent part.

Murphy D DeShong