

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

June 10, 2024

TO: All interested persons.

RE: Leprino Foods Company
TPDES Permit No. WQ0005417000

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 TCEQ-Region 2, 5012 50th Street, Suite 100, Lubbock, 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/cb

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
Leprino Foods Company
TPDES Permit No. WQ0005417000

The Executive Director has made the Response to Public Comment (RTC) for the application by Leprino Foods Company for TPDES Permit No. WQ0005417000 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 (WQ0005417000) 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 TCEQ-Region 2, 5012 50th Street, Suite 100, Lubbock, Texas.



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas reduciendo y previniendo la contaminación

10 de junio de 2024

TO: Todas las personas interesadas.

RE: Leprino Foods Company
TPDES Permiso No. WQ0005417000

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 de la TCEQ Región 2, 5012 50th Street, Suite 100, Lubbock, 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/cb

Recinto

RESPUESTA DEL DIRECTOR EJECUTIVO AL COMENTARIO DEL PÚBLICO
para
Leprino Foods Company
TPDES Permiso No. WQ0005417000

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de Leprino del permiso de TPDES No. WQ0005417000. 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 (WQ0005417000) 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 de la TCEQ Región 2, 5012 50th Street, Suite 100, Lubbock, Texas.

MAILING LIST / LISTA DE CORREO
for / para
Leprino Foods Company
TPDES Permit No. WQ0005417000 / TPDES Permiso No. WQ0005417000

FOR THE APPLICANT /
PARA EL SOLICITANTE:

Hannan Bradish
Environmental Compliance Engineer
Leprino Foods Company
1830 West 38th Avenue
Denver, Colorado, 80211

Allen Rienstra
Consultant Trinity Consultants
6150 Clifton Street
Beaumont, Texas 77708

INTERESTED PERSONS /
PERSONAS INTERESADAS:

See Attached List

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

Kathy Humphreys, 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
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Austin, Texas 78711-3087

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PO BOX 65784
LUBBOCK TX 79464-5701

ALEXANDER , D
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LUBBOCK TX 79403-5650

ALLEN , JOYCE
3308 E 15TH PL
LUBBOCK TX 79403-6102

ANDERSON , JEFFREY L
2914 UTE AVE
LUBBOCK TX 79404-2038

ANDERSON , KATHYL
2914 UTE AVE
LUBBOCK TX 79404-2038

ANDERSON , LINDA
302 N SPRUCE AVE
LUBBOCK TX 79403-4038

ANZLEY , PHILIP
2722 E 10TH ST
LUBBOCK TX 79403-5503

ASHIRU , MOJEED
3002 4TH ST
LUBBOCK TX 79415-3233

ATKINSON , JARRETT
1314 AVENUE K
LUBBOCK TX 79401-4051

BAXTER , ISIAH
1518 E AMHERST ST
LUBBOCK TX 79403-3408

BAXTER , ROBERT
UNIT 2
2328 78TH ST
LUBBOCK TX 79423-2343

BERRY , DORIAN
2201 E 29TH ST
LUBBOCK TX 79404-2016

BIBBS , WANDA F
4510 64TH ST
LUBBOCK TX 79414-4822

BLUE , DAYNA
5432 33RD ST
LUBBOCK TX 79407-3404

BLUE , STACIE
APT 1904
701 N INDIANA AVE
LUBBOCK TX 79415-1559

BRADISH , MS HANNAH
LEPRINO FOODS COMPANY
1830 W 38TH AVE
DENVER CO 80211-2225

BROWN , GENEVIEVE
3308 E 16TH ST
LUBBOCK TX 79403-6120

CABRALES , DAVID G
FOLEY & LARDNER LLP
STE 1600
2021 MCKINNEY AVE
DALLAS TX 75201-2237

CARRINGTON , QUENETTE
3311 E DARTMOUTH ST
LUBBOCK TX 79403-3525

CAVAZOS , MATTHEW
APT B
1716 46TH ST
LUBBOCK TX 79412-2233

CAVIEL , BILLIE
2401 E 28TH ST
LUBBOCK TX 79404-2008

CERDA , ERICA
1605 COUNTY ROAD 7245
LUBBOCK TX 79423-7130

CLARK , MARY
1829 E 2ND ST
LUBBOCK TX 79403-4015

COBOS , FELIX
2908 E AUBURN ST
LUBBOCK TX 79403-4118

CONCERNED CITIZEN, & SANCHEZ,ANEWAY
2121 10TH ST
LUBBOCK TX 79401-2427

CONCERNED CITIZEN ,
LOS CANALES MC
4022 WOODROW RD
LUBBOCK TX 79423-4601

CONTEE , WILLIAM
1901 PARKWAY DR
LUBBOCK TX 79403-4412

CORTEZ , MS DORA T
PO BOX 5153
LUBBOCK TX 79408-5153

COX , TRENT
3216 TEAK AVE
LUBBOCK TX 79404-2036

CRAIG , JAMES & LINDA
2205 24TH ST
LUBBOCK TX 79411-1127

CRITTENDEN, BRITTANY & WOOD, ANDREW
9800 UNIVERSITY AVE
LUBBOCK TX 79423-5302

CROWDER, ANN
2637 PARKWAY DR
LUBBOCK TX 79403-4140

DAVIS, JOSAH
2120 E 29TH ST
LUBBOCK TX 79404-2015

DEDRICK, JOANNE
APT 131
2011 98TH ST
LUBBOCK TX 79423-3372

DOUTHIT, NATHAN
5710 4TH ST
LUBBOCK TX 79416-4214

DUNN, FABIAN
2610 E CORNELL ST
LUBBOCK TX 79403-3608

EASTER, CORINE
2704 E 2ND PL
LUBBOCK TX 79403-4510

EGBEMHENGHE, ABEL
3002 4TH ST
LUBBOCK TX 79415-3233

ESSIX, MARSHONDA
2121 DARTMOUTH ST
LUBBOCK TX 79415-2401

EVANS, BRANDI
UNIT B
3303 79TH ST
LUBBOCK TX 79423-1831

FAIR, SONYA
1821 MANHATTAN DR
LUBBOCK TX 79404-1317

FLUNDER, URISONYA
6705 CHICAGO AVE
LUBBOCK TX 79424-1503

FOERSTER, MARC
5907 FM 835
LUBBOCK TX 79403-7021

GAITHER, LAKENDREA
4702 AVENUE C
LUBBOCK TX 79404-3642

GARRETT, EARL
2409 E 30TH ST
LUBBOCK TX 79404-2022

GARRETT, ROLANDA
2412 E 7TH ST
LUBBOCK TX 79403-5524

GEORGE, EDWARD V
3616 46TH ST
LUBBOCK TX 79413-3427

GIBBS, ANGELINA V
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LUBBOCK TX 79423-7161

GILBERT, CAROLYN
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LUBBOCK TX 79404-1127

GILLETTE, SUSAN
3318 27TH ST
LUBBOCK TX 79410-3012

GIRMA, FEKODE
5240 114TH ST
LUBBOCK TX 79424-6481

GOMEZ, AL
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1819 E 1ST ST
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GRAMS, CHRIS
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LUBBOCK TX 79404-1374

GROTHE, KATIE
1001 3RD ST
LUBBOCK TX 79401-1503

HAMMOND, WENDI
LEGAL AID OF NORTHWEST TEXAS
STE 1420
400 S ZANG BLVD
DALLAS TX 75208-6600

HARPER, SONYA
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LUBBOCK TX 79403-5201

HARRIS, SHAUN
2303 BIRCH AVE
LUBBOCK TX 79404-1623

HICKS, JACQUELINE D
1102 N MEMPHIS AVE
LUBBOCK TX 79415-5121

HOBDY, CHRIS
8704 10TH PL
LUBBOCK TX 79416-1908

HODGE , LA'KENDRA
2102 E 29TH ST
LUBBOCK TX 79404-2015

HODGE , LAKISHA
2102 E 29TH ST
LUBBOCK TX 79404-2015

HOLLINS , TISHONNIA
3410 24TH ST
LUBBOCK TX 79410-2010

HOLMES , MARCIA
2429 E 29TH ST
LUBBOCK TX 79404-2018

HOOD , ERKAYJAH
502 SLIDE RD
LUBBOCK TX 79416-4343

HOWARD , CHRISTINE
2806 WALNUT AVE
LUBBOCK TX 79404-2042

JOHAS , JOHANNA
5555 56TH ST
LUBBOCK TX 79414-2054

JOHNS , LAMETRIA
1807 E 28TH ST
LUBBOCK TX 79404-2005

JOHNSON , BOBBIE
1818 E 1ST ST
LUBBOCK TX 79403-4004

JOHNSON , GREGORY
2420 E 6TH ST
LUBBOCK TX 79403-5514

JOHNSON , MYRTLE
APT 525
2627 OAK DR
LUBBOCK TX 79404-1244

JOHNSON , SHEKETHA
3012 E 2ND PL
LUBBOCK TX 79403-4512

JOHNSON , TERRI
605 37TH ST
LUBBOCK TX 79404-2329

JONES , ETHEL DENISE
2409 E 30TH ST
LUBBOCK TX 79404-2022

KENNEDY , DALLAS
APT 2122
1616 82ND ST
LUBBOCK TX 79423-2674

LANG , JULIE
2804 WALNUT AVE
LUBBOCK TX 79404-2042

LATEEF , SHENA
1710 E 2ND ST
LUBBOCK TX 79403-4014

LATEEF , SHENA
APT 403
512 N MLK BLVD
LUBBOCK TX 79403-3400

LETHRIDGE , ANGELA
1507 E 1ST PL
LUBBOCK TX 79403-3403

LEWIS , ADRIAS
7519 100TH ST
LUBBOCK TX 79424-6887

LEWIS , ALTHA
5237 93RD ST
LUBBOCK TX 79424-4319

LOPEZ , ANTONIO
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5415 JARVIS ST
LUBBOCK TX 79416-3429

LOPEZ , RICARDO
420 S 5TH ST
SLATON TX 79364-4429

MANN , LABRANDON
3301 N COUNTY ROAD 2750
LUBBOCK TX 79403-7268

MASK , KRIS
306 N ASPEN AVE
LUBBOCK TX 79403-4114

MCBREWER , PEARL
3419 E 17TH ST
LUBBOCK TX 79403-6125

MCDADE , SUSIE
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1001 3RD ST
LUBBOCK TX 79401-1503

MCDANIEL , KIMBERLY
STE 600
203 SW 8TH AVE
AMARILLO TX 79101-2228

MCGRUDER , ROBERT A
1514 E 1ST ST
LUBBOCK TX 79403-3402

MILLER , KHAMBEL & NATALIE
1817 E HARVARD ST
LUBBOCK TX 79403-2600

MITCHELL , BOBBIE
512 N MLK BLVD
LUBBOCK TX 79403-3400

MITCHELL , JESSIE
5710 118TH ST
LUBBOCK TX 79424-7797

MONROE , LINDA
APT B
3805 51ST ST
LUBBOCK TX 79413-3881

MOODY , MARQUISHA
4518 78TH ST
LUBBOCK TX 79424-3239

MORALES , STACIE
APT 507
4505 71ST ST
LUBBOCK TX 79424-2237

MORTON , COSBY
2103 CEDAR AVE
LUBBOCK TX 79404-1107

MULLINS , LASHONDA
512 N MLK BLVD
LUBBOCK TX 79403-3400

MUNOZ , JUAN
812 IDALOU HWY
LUBBOCK TX 79403

NAIL , KATHRYN
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LUBBOCK TX 79424-5015

NELOMS , SHAWN
2406 E 5TH ST
LUBBOCK TX 79403-5512

NELSON , JACOBIE
1812 E 2ND ST
LUBBOCK TX 79403-4016

NELSON , JACOBIE
3111 112TH ST
LUBBOCK TX 79423-6759

NORRIS , PATRICIA
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LUBBOCK TX 79404-1306

NORRIS JR , VERNICE
1704 E 25TH ST
LUBBOCK TX 79404-1306

OKORIE , CHIKA
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3132 4TH ST
LUBBOCK TX 79415-3297

OUALLINE , MARK
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1001 MAIN ST
LUBBOCK TX 79401-3321

OVERSTREET , ANTWAN
1911 79TH ST
LUBBOCK TX 79423-2446

PEARSON , WILLIE "LOIS"
2407 E 30TH ST
LUBBOCK TX 79404-2022

PEEBLES , EARNEST
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LUBBOCK TX 79404-2023

PHENIX , RUBY J
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LUBBOCK TX 79404-1129

PHILLIPS , CARLTON
2510 MLK BLVD
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PIRTLE , ADAM R
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LUBBOCK TX 79401-3321

PITLE , ADAM
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PRICE , DAVIS B
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LUBBOCK TX 79423-3606

PRICE , JANET L
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LUBBOCK TX 79423-3606

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924 E EMORY ST
LUBBOCK TX 79403-3811

RAYGOZA , PAUL
19401 COUNTY ROAD 2165
LUBBOCK TX 79423-6853

REED , JAY
3313 E COLGATE ST
LUBBOCK TX 79403-3701

RENDON , DARIO
3403 43RD ST
LUBBOCK TX 79413-3029

RICHARDSON , JEAN
117 26TH ST
LUBBOCK TX 79404-1613

RICHARDSON , LACARL
1711 E 26TH ST
LUBBOCK TX 79404-1309

ROBINSON , LINDA
2121 65TH ST
LUBBOCK TX 79412-3328

ROLLISON , CAROLYN
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LUBBOCK TX 79404-2014

ROLLISON III , RICHARD
2628 HICKORY AVE
LUBBOCK TX 79404-1738

ROSS , MICHAEL
2202 2ND ST
LUBBOCK TX 79415-3729

ROSS , SHEILA
1728 E CORNELL ST
LUBBOCK TX 79403-3505

RUSSELL , BILLIE
1822 E 24TH ST
LUBBOCK TX 79404-1304

SAMUELS , GLEEN
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LUBBOCK TX 79403-4523

SANDERS , GLORIA
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LUBBOCK TX 79403-4126

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LUBBOCK TX 79403-4523

SCOTT JR , JAMES F
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SHANKLES , MR JOSHUA K
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LUBBOCK TX 79403-3505

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2631 PARKWAY DR
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2818 E 5TH ST
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WHITE , LAMAISHA
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LUBBOCK TX 79416-5221

WHITE , MERLENE
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2906 E BAYLOR ST
LUBBOCK TX 79403-4126

TPDES PERMIT NO. WQ0005417000

APPLICATION BY Leprino Foods	§	BEFORE THE
Company For New	§	TEXAS COMMISSION ON
TPDES PERMIT NO. WQ0005417000	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (RTC) on the application by Leprino Foods Company (Leprino Foods) for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0005417000. As required by Title 30 Texas Administrative Code (30 TAC) Section (§) 55.156, before a permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk received timely comments from the individuals, groups, and organizations listed in Attachments A and B. A public meeting was held on October 24, 2023. This response addresses all timely public comments received whether or not withdrawn.¹

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 www.tceq.texas.gov.

I. BACKGROUND

A. Description of Facility

Leprino Foods submitted an application to the TCEQ for a new TPDES Permit No. WQ0005417000 to authorize the discharge of process wastewater, utility wastewater, and water treatment waste at a daily average flow not to exceed 2.0 million gallons per day (MGD) via Outfall 001; and disposal of high total dissolved solids water (such as

¹ Wendy Hammond, representing Stop the Oppression of Our People (STOP) submitted a SD card containing the audio file of the informal discussion period of the Public Meeting as part of STOPs formal comments. As was discussed at the Public Meeting, the Executive Director only responds to comments made during the formal portion of the period in the Response to Comments.

brine, reverse osmosis reject, and other wastewaters high in TDS) at an annual average flow not to exceed 0.08 MGD via evaporation. TCEQ received this application on September 30, 2022.

According to the application, Leprino Foods proposes to operate Leprino Foods Lubbock Manufacturing Facility, a mozzarella cheese and nutrition (powdered dairy) products manufacturing facility.

If the permit is issued, raw fluid milk will be reacted to coagulate the proteins and form cheese curds and liquid whey. The liquid whey will be separated from the cheese and further processed into nutrition products through separation and drying. According to the Leprino Foods application, it anticipates the final products will include mozzarella cheese, whey protein powder, sweet whey powder, permeate powder, and cream.

Process wastewater, utility wastewater (as cooling tower blowdown and boiler blowdown), and water treatment wastes (from reverse osmosis treatment of potable water) will be routed to the wastewater treatment facility. Wastewater high in total dissolved solids, such as brine water from the cheese making process, reverse osmosis reject, and other high TDS water (non-compliant effluent) streams, will be kept separate and sent for disposal to two on-site evaporation ponds with optional enhanced evaporation.

According to information provided in the application, the proposed wastewater system will consist of anaerobic and aerobic activated sludge systems to treat high-strength wastewater and low-strength wastewater. A divert flow system will mitigate potential non-compliance wastestreams to the 10.5 million gallon “non-compliant lagoon.” In addition, the facility will have a 1.5 million gallon “multipurpose lagoon” to serve as storage should any process units need to be taken out of service. Wastewater from the non-compliant lagoon and multipurpose lagoon will be routed back to the wastewater treatment plant prior to discharge. The draft permit does not authorize the discharge of domestic wastewater. All domestic wastewater must be disposed of in an approved manner, such as routing to an approved on-site septic tank and drainfield system or to an authorized third party for treatment and disposal.

If the draft permit is issued, the production facility will be located at 4301 East 19th Street, and the wastewater treatment facility will be located at 4502 East 4th Street, in the City of Lubbock, Lubbock County, Texas 79403. If the draft permit is issued, the effluent will be discharged via pipe to Canyon Lake #6, thence to the North Fork Double Mountain Fork Brazos River, thence to Double Mountain Fork Brazos River in Segment No. 1241 of the Brazos River Basin. The unclassified receiving water uses are high aquatic life use for Canyon Lake #6 and North Fork Double Mountain Fork Brazos River. The designated uses for Segment No. 1241 are primary contact recreation and high aquatic life use. The effluent limits in the draft permit will maintain and protect the existing instream uses. All determinations are preliminary and subject to additional review and revisions.

The draft permit includes the following proposed effluent limitations and monitoring requirements. Flows are expressed in Million Gallons per Day (MPD). All pH values are expressed in standard units (SU). Concentration values are expressed in milligrams per liter (mg/L). Mass-based values are expressed as pounds per day (lbs/day). Bacteria values are expressed in colony-forming units (cfu) or most probable number (MPN) per 100 milliliters (cfu or MPN/100 mL).

Outfall	Pollutant	Daily Average lbs/day mg/L		Daily Maximum lbs/day mg/L	
001	Flow	2.0 MGD		2.5 MGD	
	Biochemical Oxygen Demand (5-day)				
	<i>March-October</i>	83.5	5.0	188	11.3
	<i>November-February</i>	134	8.0	302	18.0
	Total Suspended Solids	825	N/A	1,704	N/A
	Ammonia-nitrogen				
	<i>March-October</i>	16.7	1.0	37.6	2.25
101	<i>November-February</i>	66.8	4.0	150	9.0
	Enterococci (CFU or MPN per 100 mL)	N/A		Report	
	Dissolved Oxygen	6.0 mg/L minimum		N/A	
	pH range	6.0 SU minimum		9.0 SU	
	Oil and Grease ²	N/A		Report mg/L	

EVAPORATION POND EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Character: Wastewater high in total dissolved solids (TDS). See Special Provisions No. 1 on page 19 of the draft permit for high-TDS waters.

² Oil and grease monitoring and reporting expires 58 months after permit issuance.

Volume: Total annual average flow of 80,000 gallons per day (combined flow of both ponds).

Quality: The following effluent limitations are required:

Parameter	Daily Average, mg/L	Daily Maximum, mg/L	Single Grab mg/L	Monitoring Frequency	Sample Type
Flow	Report, MGD	Report, MGD	N/A	1/day	Estimate
Total Dissolved Solids	N/A	Report	N/A	1/month	Grab
Chlorides	N/A	Report	N/A	1/month	Grab
Sulfates	N/A	Report	N/A	1/month	Grab
pH range	6.0 SU to 9.0 SU		N/A	1/week	Grab

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units.

The permittee shall establish a monitoring point for high-TDS water prior to routing to the evaporation ponds.

Results from the analyses must be retained on site for five years and available for inspection by authorized representatives of the Texas Commission on Environmental Quality (TCEQ). This data must be submitted to the TCEQ Enforcement Division (MC 224), Industrial Permits Team (MC 148), and Region 2 Office during the month of September of each calendar year.

B. Procedural Background

The permit application was received on September 30, 2022, and declared administratively complete on October 17, 2022. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on May 18, 2023, in the *Lubbock Avalanche Journal*, and the alternate language NORI was published on May 18, 2023, in the *El Editor Newspaper*. The Notice of Application and Preliminary Decision (NAPD) was published on September 20, 2023, in the *Lubbock Avalanche Journal*, and the alternate language NAPD was published on September 21, 2023, in the *El Editor Newspaper*. A public meeting was held on October 24, 2023, at the American Windmill Museum at 1701 Canyon Lake Drive, Lubbock, Texas. The notice of the public meeting was published in English in the *Lubbock Avalanche Journal* on September 20, 2023, and in Spanish in the *El Editor* on September 21, 2023.

The comment period was extended to the end of the public meeting on October 24, 2023. 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. 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, Laws and Records

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

- the Secretary of State website: <http://www.sos.state.tx.us>;
- 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”);
- Texas statutes: <http://www.statutes.legis.state.tx.us/>;
- the TCEQ website: www.tceq.texas.gov (for downloadable rules in Adobe PDF format, select “Rules” then “Current Rules and Regulations,” then “Download TCEQ Rules”);
- Federal rules in Title 40 of the Code of Federal Regulations: www.ecfr.gov; and
- Federal environmental laws: www.epa.gov/lawsregs.

Commission records for this application and draft permit are available for viewing and copying at the TCEQ’s main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of the Chief Clerk), until final action is taken. The permit application for this facility, Statement of Basis/Technical Summary and Executive Director’s Preliminary Decision (Statement of Basis), and draft permit are available for viewing and copying at TCEQ-Region 2, located at 5012 50th Street, Suite 100, Lubbock, Texas.

II. Comments and Responses

Comment 1: General Objections

The persons in Attachment C expressed general objections to the Leprino draft permit.

Response 1:

The Executive Director acknowledges the comments.

Comment 2: Regulatory Burden

STOP stated that because the TCEQ has not developed a Total Maximum Daily Load for the waterbodies that may be impacted by Leprino's proposed discharge, the TCEQ has shifted its regulatory review burden to a "low-income, minority-majority community that is not equipped to thoroughly collect and evaluate all of the necessary scientific data within a 30-day comment period."

Response 2:

The Executive Director acknowledges the comment, but notes that the rules provide that the public comment period for a TPDES permit ends either 30 days after the last publication of the Notice of Application and Preliminary Decision, or at the close of a public meeting. 30 TAC § 55.152. Additionally, the commenters are not required to collect or evaluate scientific evidence prior to providing public comment, or at any other time during the evaluation of an application for a TPDES permit.

Comment 3: Evaluation of the Leprino Application

STOP commented that because its members are not equipped to collect and evaluate all of the necessary scientific data, the TCEQ must conduct a "much more thorough evaluation of the impacts on water quality and antidegradation . . ." Similarly, STOP commented that the Executive Director has shifted its regulatory duty to the public. STOP is particularly concerned with the phrase "preliminary determination can be reexamined and may be modified if new information is received." Additionally, STOP noted that TCEQ's actions do not "satisfy the intent, purpose and requirements of state and federal water laws." STOP also commented that the community is not equipped to thoroughly collect and evaluate all of the necessary scientific data within a limited 30-day public comment period.

Response 3:

The Executive Director's review of the Leprino Foods application complied with all applicable state and federal requirements. Additionally, the draft permit was provided to the United States Environmental Protection Agency, which responded that it did not have any comments regarding the issuance of the TPDES permit to Leprino Foods.

Comment 4: Title VI Complaint

STOP asked the TCEQ to consider the July 14, 2023, Title VI complaint regarding industrial zoning in majority black and Hispanic neighborhoods.

Response 4:

The Executive Director acknowledges the comment. The Title VI of the Civil Rights Act of 1964 attached to STOP's comments is a complaint regarding fair and equal zoning protection to Black and Hispanic citizens living in certain areas of Lubbock. The Executive Director appreciates the importance of the complaint, however, the Executive Director does not have authority to consider the neighborhood of a proposed wastewater treatment facility, provided the required buffer zones will be met, or an alternative method of odor control is provided. In this case Leprino indicated that it will control odors by using buffer zones. For additional information regarding TCEQ's Title VI compliance, please visit:

<https://www.tceq.texas.gov/agency/decisions/participation/title-vi-compliance>.

Comment 5: Environmental Discrimination

STOP asked the TCEQ to consider the impact of environmental discrimination in the area using the EJ Screen Community Report.

Response 5:

The Executive Director acknowledges the comment; however as discussed above, the Executive Director does not have authority to consider the neighborhood of a proposed wastewater treatment facility in the evaluation of an application for a TPDES permit. To ensure the community was able to fully participate in the public meeting, the public meeting was translated live by Global Speak Translations. The Executive Director also notes that there were no comments received in an alternative language.

Comment 6: General Water Quality Concerns

Corine Easter, Linda Monroe, and Jean Richardson expressed general water quality concerns. Corine Easter noted that the water needs to be protected.

Response 6:

The Executive Director acknowledges the comment.

Comment 7: Discharges to Lakes and Streams

Shena Lateef asked why everything is discharged to lakes and streams.

Response 7:

The Texas Legislature provide the TCEQ with the authority to issues permits for the discharge of waste or pollution into or adjacent to water in the state. (Texas Water Code § 26.027). Water in the state is broadly defined to include both surface water and groundwater (Texas Water Code § 26.001(5)), thus all discharges of treated wastewater in Texas are into water in the state.

Comment 8: Odors

STOP expressed concern over odors from the facility and asked if there is a plan to prevent odors from escaping from the waste ponds. Sonya Fair and Christine Howard stated that the odors in the area are not safe. Shena Lateef noted that there is already the smell of sewage and dead animals in the area. Sonya Fair, Davis Price, Christine Howard, LaCarl Richardson, Patricia Norris, and Kristin Smith expressed concern over odors. STOP asked if there is a plan to prevent odors from escaping from the waste ponds. STOP asked how the potential odors or other pollutants (including dust) from the lagoon will be mitigated.

Response 8:

Typically, industrial wastewater discharges do not have significant odors. In its application Leprino exceeded the requirements by providing meeting the 150 feet buffer requirement. If the permit is issued, the ponds will be located more than 150 feet to the nearest property line. The rules governing industrial discharges do not require odor mitigation, however, as provided in 30 TAC § 309.13.(e)(1) for domestic wastewater treatment plant units demonstrates that Leprino will use more stringent measures to mitigate odor issues.

Comment 9: Health Concerns

Linda Anderson, Dorian Berry, Dayna Blue, Sonya Fair, Rolanda Garrett, Sonya Harper, Christine Howard, Myrtle Johnson, Sheketha Johnson, Terri Johnson, Denise Jones, Shena Lateef, Florence Lee, Patricia Norris, Vernice Norris, Jr., Antwan Overstreet, Willie Lois Pearson, Jean Richardson, Tilesha Sherman, and Merlene White expressed general health concerns.

Response 9:

As specified in the Texas Surface Water Quality Standards, water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life,

livestock, and domestic animals resulting from contact with water, consumption of aquatic organisms, consumption of water, or any combination of the three. Water in the state must also be maintained to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three. The draft permit includes provisions to ensure that the Texas Surface Water Quality Standards will be maintained.

Comment 10: Drinking Water

James Craig Sr., Linda Craig, and Michael Ross stated that they want the water they drink to be safe. Denise Jones commented that if the permit is issued the community will be drinking “toilet water.”

Response 10:

The draft permit authorizes the discharge of process wastewater, utility wastewater, and water treatment waste. The draft permit does not authorize the discharge of domestic wastewater. TCEQ’s rules do not require that wastewater (domestic or industrial) be treated to potable standards before it is discharged to water in the state; rather the rules ensure that the surface water is protective if it is accidentally ingested. The Texas Surface Water Quality Standards require that water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, and domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. Water in the State must also be maintained to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three.

Comment 11: Location

Earl Garrett and MarQuisha Moody asked why Leprino chose to locate the facility on the eastside. Sonya Harper noted that the facility would not be allowed on the west side of town. Sonia Fair, Linda Robinson, and Merlene White expressed a general concern over the location of the proposed Leprino facility. STOP, Dora Cortez, Trent Cox, Sonya Fair, Sheketha Johnson, Vernice Norris Jr., and Merlene White and asked why this development could not be in another area of Lubbock.

Response 11:

The Executive Director acknowledges the comment. The Executive Director reviews applications as they are submitted and does not require information regarding how the location was chosen. If Leprino amended its application with a different location, the Executive Director would be required to ensure the revised draft permit includes appropriate effluent limits and conditions based on the new location. Additionally, new landowners may need to be notified of the change to the proposed location of the facility or discharge route.

Comment 12: Performance Agreement

Dora T. Cortez, representing North and East Lubbock Coalition, submitted a performance agreement between Lubbock Economic Development Alliance, Inc. and Leprino Foods Company.

Response 12:

The Executive Director acknowledges the comment.

Comment 13: Technical Review

STOP commented that the TCEQ's technical review was inadequate considering that if the draft permit is issued the discharge will be to impaired water bodies.

Response 13:

The Executive Director considered the impact of the proposed discharge on impaired water bodies in her review of the Leprino application. As noted on page 2 of the Statement of Basis/Technical Summary and Executive Director's Preliminary Decision:

Segment No. 1241 is currently listed on the State's inventory of impaired and threatened waters (the 2022 Clean Water Act § 303(d) list). The Segment No. 1241 listing is specifically for elevated bacteria (Enterococci) levels in water (recreation use) in a 25-mile reach near Highway 83 (AU 1241_01). The North Fork Double Mountain Fork Brazos River is also listed as impaired on the 2022 CWA § 303(d) list for elevated bacteria levels in water (recreation use) from the confluence with Buffalo Springs Lake upstream to the confluence with Yellow House Draw and Blackwater Draw (AU 1241A_02). This impaired section of the North Fork Double Mountain Fork Brazos River includes the portion of the river that has been impounded to create Canyon Lake

Number #6. Enterococci is the indicator bacteria for Segment No. 1241 in accordance with the Texas Surface Water Quality Standards, 30 TAC § 307.10(1).

Comment 14: Bacteria

STOP expressed concern that the discharge will cause elevated bacteria levels, specifically Enterococci.

Response 14:

The draft permit does not authorize the discharge of domestic wastewater. As noted on pages 2 - 3 of the Statement of Basis/Technical Summary and Executive Director's Preliminary Decision:

The draft permit does not authorize the discharge of domestic wastewater, a known source of fecal bacteria. However, the storage and conveyance of raw materials, intermediate, and final products expected at a cheese manufacturing facility is anticipated to be conducive for bacteria growth. Self-expiring monitoring and reporting requirements for Enterococci have been included in the draft permit. Further, Other Requirement No. 7 requires a site audit and bacteria source investigation study following three consecutive months of Enterococci monitoring exceeding 130 colony-forming units (CFU) or most probable number (MPN) per 100 mL, the single sample criterion for primary contact recreation under 30 TAC § 307.7.

Comment 15: Antidegradation

STOP commented that the Executive Director's antidegradation review does not comply with the requirements of the Clean Water Act.

Response 15:

The Executive Director's antidegradation review complies with all applicable requirements in the Clean Water Act. The TCEQ was first delegated authority to administer the National Pollutant Discharge Elimination System (NPDES) program via a Memorandum of Agreement (MOA) on September 14, 1998.³ The MOA was updated on June 6, 2020, and again on January 15, 2021.⁴ The MOA provides that:

The TCEQ shall operate the TPDES program in accordance with the Clean Water Act as amended, applicable federal regulations, applicable TCEQ legal authority,

³ <https://www.tceq.texas.gov/permitting/wastewater>

⁴ *Id.*

applicable state statutes and rules, and taking into consideration published EPA policy. The TCEQ has the primary responsibility to establish the TPDES program priorities, so long as they are consistent with Clean Water Act and NPDES goals and objectives.⁵

As part of the coordination between TCEQ and EPA, TCEQ sends certain draft permits to EPA for its review. The Leprino Foods draft permit was provided to EPA for its review; on June 8, 2023, the EPA responded that it did not have any comments regarding the issuance of the Leprino Foods permit.

Comment 16: Effluent Limits

STOP stated that the draft permit should not allow Leprino to use less stringent seasonal effluent limits. Similarly, STOP commented that the monitoring and reporting requirements in the draft permit should be more stringent.

Response 16:

The water bodies in the proposed discharge route (Canyon Lake Number 6, the North Fork Double Mountain Fork Brazos River, and the Double Mountain Fork Brazos River (Segment No. 1241)) all have a year-round dissolved oxygen (DO) criterion of 5.0 mg/L. Modeling results indicate that potential DO impacts from this proposed discharge are expected to be confined to Canyon Lake Number 6. The same DO criterion (5.0 mg/L) applies in Canyon Lake Number 6 year-round, but because DO saturation concentrations are higher when water temperatures are cooler, there is more DO assimilative capacity available during the cooler months of the year.

The BOD₅, ammonia-nitrogen, and effluent DO limits recommended for inclusion in the draft permit are based directly on results of the DO modeling analysis. Leprino did not request any specific effluent limits for these oxygen-demanding constituents in the permit application. However, preliminary modeling (prior to receipt of the permit application) had been performed at the request of the applicant, and the results of these analyses had been discussed with Leprino. Printouts of emails documenting these preliminary analysis discussions, which included requests to evaluate the potential for less stringent effluent limits in the cooler-weather months, were included in the permit application. Consequently, following additional consultation with Leprino's representatives on this matter, effluent limits that were

⁵ 2020 EPA/TCEQ MOA, pg. 1 of 36.

split between the warmer-weather months of March through October and the cooler-weather months of November through February were recommended for inclusion in the draft permit. Specifically, these recommended effluent limits were 5.0 mg/L BOD₅, 1.0 mg/L ammonia-nitrogen, and 6.0 mg/L minimum effluent DO (March - October) and 8.0 mg/L BOD₅, 4.0 mg/L ammonia-nitrogen, and 6.0 mg/L minimum effluent DO (November - February). Both sets of seasonal effluent limits are predicted to be adequate to ensure that DO levels in Canyon Lake Number 6, and all downstream water bodies will be maintained above their established DO criteria. It should be noted that both sets of seasonal effluent limits are also considerably more stringent than the technology-based effluent limit for BOD₅ calculated as a starting-point for the preliminary analysis (31.12 mg/L), the ammonia-nitrogen limit originally proposed by the applicant for the preliminary analysis (10.0 mg/L), and the effluent DO discharge concentration initially presumed applicable for use in the preliminary analysis (2.0 mg/L).

Comment 17: Special Provisions for Evaporation 3.E.(4)

STOP commented that “Special Provisions for Disposal via Evaporation” 3.E.(4) should include a requirement for Leprino to inspect below the water line.

Response 17:

The standard provisions for pond requirements placed in TCEQ permit do not require inspection below the water line.

Comment 18: Special Provisions for Evaporation 3.G.(3)

STOP commented that “Special Provisions for Disposal via Evaporation” 3.G.(3) should be clarified. According to STOP, it is not clear if it applies to the Leprino application.

Response 18:

Special Provisions for Disposal Via Evaporation, Item No. 3 consists of the standard pond liner language used in industrial permits with ponds. Special Provision 3.G.(3) includes provisions for both new wastewater ponds, and existing wastewater ponds. Leprino will be required to comply with Special Provision 3.C. when it constructs the wastewater ponds. Further, Special Provisions for Disposal Via Evaporation Item No. 4 reiterates a minimum freeboard of two feet is required during operations.

Comment 19: Permit Condition 3

STOP stated that Permit Condition 3, Inspections and Entry, should also include a statement that Texas Government Code, Chapter 552 also applies.

Response 19:

The Executive Director acknowledges the comment. Texas Government Code, Chapter 552 is the Public Information Act, which details the rights and responsibilities of requestors and governmental bodies. The Public Information Act provides that public information is available to the public during normal business hours. This requirement is distinctly different from the requirements in Permit Condition 3. Permit Condition 3 provides that members of the Commission and employees and agents of the Commission are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit, or other order of the Commission.

Comment 20: Impact on Fish

James Craig Sr., Linda Craig, Willie Lois Pearson, Kristin Smith, and Merlene White expressed concern over the impact of the discharge on the fish in the lake. Similarly, Lakendrea Gaither, Denise Jones, and Tilesha Sherman expressed concern over eating fish caught in the lake. Denise Jones noted that some residents rely on fish from the lake for their food. Ricardo Lopez commented that he enjoys fishing in the lake.

Response 20:

During the technical review, the Water Quality Standards Implementation reviewer determined that the treated effluent should not negatively impact aquatic life. The antidegradation review of the receiving waters was performed in accordance with 30 TAC § 307.5 and the TCEQ Implementation Procedures (June 2010). A Tier 1 antidegradation review 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 Angleton Drainage District Ditch 22's tidal reach and Bastrop Bayou Tidal, which have been identified as having high

aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

Comment 21: Air Pollution

Linda Monroe, Patricia Norris, Vernice Norris Jr., and La Carl Richardson expressed concern over air pollution. Similarly, STOP expressed concern over the impact of the facility on air quality.

Response 21:

The Texas Clean Air Act provides that certain facilities may be exempt from the requirements of an air quality permit if, upon review, it is found that those facilities will not make a significant contribution of air contaminants to the atmosphere and that human health and the environment will be protected. According to 30 TAC § 106.532, wastewater treatment facilities have undergone this review and are permitted by rule, provided the wastewater treatment facility only performs the functions listed in the rule.

In its application, Leprino indicated that the wastewater system will consist of anaerobic and aerobic activated sludge systems to treat high-strength wastewater and low-strength wastewater. A divert flow system will mitigate potential non-compliance wastestreams to the 10.5 million gallon “non-compliant lagoon.” In addition, the facility will have a 1.5 million gallon “multipurpose lagoon” to serve as storage should any process units need to be taken out of service. Wastewater from the non-compliant lagoon and multipurpose lagoon will be routed back to the wastewater treatment plant prior to discharge. The draft permit does not authorize the discharge of domestic wastewater.

The Executive Director has determined that treatment process will not make a significant contribution of air contaminants to the atmosphere pursuant to the Texas Health and Safety Code’s Texas Clean Air Act §§ 382.057 and 382.05196 and is therefore permitted by rule.

Comment 22: Effects of pollutants

MarQuisha Moody noted that the pollutants nor the effects of the pollutants have not been discussed.

Response 22:

The draft permit includes effluent limits that are designed to protect the receiving water. The draft permit authorizes the discharge of process wastewater, utility wastewater, and water treatment wastes at a daily average flow not to exceed 2.0 MGD via Outfall 001.

Effluent limitations are established in the draft permit as follows:

<i>Outfall</i>	<i>Pollutant</i>	<i>Daily Average</i>		<i>Daily Maximum</i>	
		<i>lbs/day</i>	<i>mg/L</i>	<i>lbs/day</i>	<i>mg/L</i>
001	<i>Flow</i>	2.0 MGD		2.5 MGD	
	BOD ₅				
	<i>March-October</i>	83.5	5.0	188	11.3
	<i>November-February</i>	134	8.0	302	18.0
	Total Suspended Solids	825	N/A	1,704	N/A
	Ammonia-nitrogen				
	<i>March-October</i>	16.7	1.0	37.6	2.25
	<i>November-February</i>	66.8	4.0	150	9.0
	Enterococci (CFU or MPN per 100 mL)	N/A		Report	
	Dissolved Oxygen	6.0 mg/L minimum		N/A	
	pH range, Standard Units (SU)	6.0 SU minimum		9.0 SU	
101	Oil and Grease ⁶	N/A		Report mg/L	

Additionally, in accordance with 30 TAC § 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 Canyon Lake #6 and North Fork Double Mountain Fork Brazos River, which have been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

Comment 23: Worker Health and Safety

Patricia Norris expressed concern over the impact on worker health and safety.

⁶ Oil and grease monitoring and reporting expires 58 months after permit issuance.

Response 23:

The TPDES 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 impact of a facility on worker health and safety is outside the scope of the Executive Director's evaluation of a wastewater discharge permit application.

Comment 24: Stringency of Regulatory Standards

Patricia Norris and Vernice Norris, Jr. stated that there should be more stringent regulatory standards.

Response 24:

The Executive Director acknowledges the comment.

Comment 25: General Accountability

Vernice Norris, Jr. stated that there needs to be accountability for all commercial businesses in East Lubbock.

Response 25:

The TPDES 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. Accountability of any entity, other than the applicant, is outside the scope of the Executive Director's evaluation of a wastewater discharge permit application.

Comment 26: Impact on Land and Soil

Willie Lois Pearson expressed a general concern over the impact of the proposed facility on land, including parks. Similarly, LaCarl Richardson expressed concern over the impact of the proposed facility on the soil.

Response 26:

Special Provisions for Disposal Via Evaporation contains requirements which will ensure the appropriate soil depth is used to ensure ground water is not effected by the evaporation ponds. This section further requires reporting if any pond liner damage or repairs are needed.

Comment 27: Impact on Pipes

Willie Lois Pearson expressed a general concern over the impact of the proposed facility on pipes.

Response 27:

The TPDES 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 impact of the proposed discharge on pipes is outside the scope of the Executive Director's evaluation of a wastewater discharge permit application.

Comment 28: Total Dissolved Solids

Davis Price asked how the public can determine the total dissolved solids are currently in the lake.

Response 28:

The total dissolved solids for this segment are listed as 3,960 mg/L in Table D of the Procedures to Implement the Texas Surface Water Quality Standards, RG-194, available at: <https://www.tceq.texas.gov/downloads/permitting/water-quality-standards-implementation/june-2010-ip.pdf>

Comment 29: Process for Emptying or Dredging the Evaporation Ponds

Davis Price asked what the process is for emptying or dredging the evaporation ponds. Similarly, Joshua Shankles asked how the solids in the evaporation pond will be removed and disposed.

Response 29:

The specific process of how Leprino dredges the ponds is up to Leprino. If the liner is damaged during the dredging process, repairs are required in accordance with the Special Provisions for Disposal via Evaporation, 3.E.(4)b which provides:

Pond liner damage must be repaired at the recommendation of a Texas-licensed professional engineer or Texas-licensed professional geoscientist. If the damage is significant or could result in an unauthorized discharge, then the repair must be documented and certified by a Texas-licensed professional engineer. Within 60 days after a repair is completed, the liner certification must be provided to the TCEQ Water Quality Assessments Team (MC 150) and regional office. A copy of the liner

certification must be maintained at the facility or in a reasonably accessible location and made available to the executive director upon request.

The solids dredged from the pond must be disposed of according to the industrial waste rules.

Comment 30: General Support

Paul Raygoza expressed support for the facility.

Response 30:

The Executive Director acknowledges this comment.

Comment 31: Testing of Canyon Lake Number 6

STOP asked when the water in Canyon Lake Number 6 was last tested.

Response 31:

The Executive Director is not aware of any testing of the water in Canyon Lake.

Comment 32: Odors at Canyon Lake

STOP asked when TCEQ last investigated an odor complaint at Canyon Lake Number 6.

Response 32:

The Executive Director is not aware of any investigation of odor complaints about Canyon Lake Number 6.

Comment 33: Influent and Effluent Testing

Hafiz Hussnain Shah stated the water quality should be tested every six months. Mr. Shah also asked if TCEQ will consider the quality of the water before and after Leprino begins discharging.

Response 33:

The draft permit includes requirements for Leprino to test its wastewater. According to the terms of the draft permit, Leprino will be required to test continuously for flow quantity, once per day for pH, once per week for Dissolved Oxygen and ammonia-nitrogen, twice per week for BOD₅ and TSS, once per two weeks for oil and grease, and once per month for enterococci. The results of the tests must be reported to both TCEQ and EPA and are available to the public.

Additionally, every five years when a permittee comes in for a renewal more parameters are tested as part of the application. When a permittee applies for a renewal of its existing permit, the Executive Director evaluates the data that the permittee has previously provided, and if appropriate, may add additional parameters, or more frequent testing and reporting requirements

Comment 34: Flooding

Hafiz Hussnain Shah expressed concern for Canyon Lake #6 during flooding and how flooding events can be avoided.

Response 34:

TPDES permits establish terms and conditions that are intended to provide water quality pollution control, therefore, the Executive Director's review of an application for a TPDES permit focuses on controlling the discharge of pollutants into water in the state. TCEQ does not have the authority to regulate flooding in the wastewater permitting process unless there is an associated water quality concern. The draft permit includes effluent limits and other requirements that it must meet even during rainfall events and periods of flooding.

Additionally, according to the application, the proposed facility is located above the 100-year flood plain. For additional protection, the draft permit includes Other Requirement No. 4, which requires the Applicants to provide protection for the facility from a 100-year flood.

Finally, the draft permit does not authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations, nor does the draft permit does not limit any landowner's ability to seek private action against Leprino.

For flooding concerns, please contact the local floodplain administrator at 806-549-8178.

Comment 35: Public Tours

Angelina V. Gibbs asked for periodic public tours for schools and local families once the facility is in operation.

Response 35:

The TPDES 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. Any requests for tours of the facility must be addressed with Leprino.

Comment 36: Effluent Limits

STOP requests the seasonal effluents limits be more stringent dealing with the potential of bacteria and the bacteria impaired segment. Additionally, the parameter conditions for the single grab (Bacterial Study in Other Requirement No. 7) needs to be more stringent and the details concerning the study needs to be included in the issued permit. The study time requirement should be decreased from nine months and not set to expire on the date of permit expiration. STOP also commented that the bacterial study should be more stringent and the study requirements should be included in the permit, if the permit is issued. STOP also suggested that the bacterial study should be submitted sooner than 9 months after an impairment is noted.

Response 36:

The effluent limits in the draft permit are set to maintain and protect existing instream uses. The Texas Surface Water Quality Standards, found at 30 TAC Chapter 307, state that 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 methodology outlined in the TCEQ guidance document Procedures to Implement the Texas Surface Water Quality Standards (IPs) is designed to ensure compliance with 30 TAC Chapter 307. Specifically, the methodology is designed to ensure that no source will be allowed to discharge any wastewater that (1) results in instream aquatic toxicity; (2) causes a violation of an applicable narrative or numerical state water quality standard; (3) results in the endangerment of a drinking water supply; or (4) results in aquatic bioaccumulation that threatens human health.

The bacteria study is predicated on performance and is not required if Enterococci does not exceed 130 CFU or MPN per 100 mL. The minimum details of the study, if required, are listed in Other Requirement No. 7 of the draft permit. The study time allows Leprino Foods to work on the issue, if one exists, and report the solution and actions being taken. The self-expiring requirement allows for no action to be taken if no action is warranted. A renewal of the permit, if issued, would still review the DMR data on Enterococci being required to be collect with this draft permit. During the

renewal process, any decision on changing or continuing monitoring and limitation would be based on the submitted DMRs and application data.

Finally, the proposed effluent limitations are based on applicable technology-based effluent limitations established in 40 Code of Federal Regulations Part 405 and best professional judgement.

Comment 37: Frequency of Monitoring and Reporting

STOP commented that the reduction in the frequency of several initially proposed draft monitoring and reporting requirements should not be granted because of the existing water bodies' impairment problems.

Response 37:

Monitoring frequencies for industrial wastewater permits are in the self-monitoring schedule in 30 TAC § 319.9(c). However, the majority of industrial wastewater permits are drafted with monitoring frequencies based on facility-specific considerations and are less frequent than the frequencies in 30 TAC § 319.9(c). Monitoring frequencies for industrial wastewater permits are based on consideration of the different types of waste streams, treatment technologies, and potential for impacts on the receiving water. It is proposed that monitoring frequencies in industrial wastewater discharge permits generally be established in accordance with the Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits (TNRCC 1998), Table 2, Column B. Monitoring frequencies for industrial permits may be increased based on factors including, but not limited to, enforcement issues and compliance history, product use, changes in treatment and maintenance chemicals, or third party concerns. The rule also provides that monitoring frequencies may be reduced to those listed in other columns of Table 2, but not less than once per year. Such a reduction would be based on considerations including, but not limited to, the rate of discharge relative to the size or nature of the receiving stream, intermittent or batch discharges, consistency with other frequencies established in the permit, or the facility being consistently below the limits for a particular pollutant.

The monitoring frequencies at Outfall 001 for effluent characteristics with an effluent limit are consistent with the frequencies listed in Column B of Table 2 and flow is consistent with the more stringent Column A. The monitoring frequencies at

Outfall 001 for effluent characteristics with a reporting requirement, but no limitation, are consistent with the frequencies listed in Column C of Table 2.

The TCEQ's Office of Compliance and Enforcement helps ensure compliance with applicable state and federal regulations. The Region 2 Office is required to conduct a mandatory comprehensive compliance investigation once every five fiscal years. Additional mandatory investigations can be required if any of the facility's violations is categorized as a significant noncompliance, which is determined by the Compliance Monitoring Section of the TCEQ.

If the facility is found to be out of compliance with the terms or conditions of the permit, including the monitoring frequencies, Leprino 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 2 Office in Lubbock at (806) 796-7092. Citizen complaints may also be filed on-line at <https://www.tceq.texas.gov/compliance/complaints>.

Comment 38: Notification of Daily Maximum Limits

STOP expressed concern that under Other Requirement No. 1, Leprino will not be required to notify TCEQ Region 2 of violations of daily maximum limitations for any pollutants.

Response 38:

If the draft permit is issued, Leprino will be required to report any noncompliance in adherence with the Monitoring and Requirements Section, No. 7 on Page 6 of the draft permit.

Comment 39: Mixing Zones

STOP stated that Other Requirement No. 5 needs to be more stringent because of the existing water bodies' impairment. Similarly, STOP commented the chronic aquatic life mixing zone required by Other Requirement 5 should be more stringent.

Response 39:

Other Requirement No. 5 refers to the chronic aquatic life mixing zone which is defined as a volume within a radius of 100 feet from the point of discharge. Chronic toxic criteria apply at the edge of the chronic aquatic life mixing zone.

The size of the chronic aquatic life mixing zone for lakes and reservoirs is determined by the dimensions of the water body as described in the Procedures to Implement the Texas Surface Water Quality Standards and the Standard Operating Procedure for Critical Conditions Analysis. The bacteria impairment of the North Fork Double Mountain Fork Brazos River is not relevant to either the chronic aquatic life mixing zone applicable to this permit, nor to the dimensions of the chronic aquatic life mixing zone.

Comment 40: Removal of Other Requirement No. 9 (relating to 3rd Party Wastewater)

STOP requested Other Requirement No. 9 be removed to require Leprino to go through the major amendment process there by allowing meaningful public participation and review of any permitting changes. STOP also commented that Other Requirement 9 should prohibit acceptance of waste from third parties. According to STOP, if Leprino opts to accept third party waste, it should be required to submit an application for a permit amendment.

Response 40:

Other Requirement No. 9 states that this permit does not provide authorization for the permittee to accept wastewater from third party sources, nor does it prohibit acceptance of such wastewater. Should authorization to accept third party waste be required, it is the obligation of the permittee to obtain such authorization from the appropriate regulatory authority.

In addition, Other Requirement No. 9 does not specifically allow the permittee to add third party wastewater to the permit, if issued. Depending on the volume or type of wastestreams, a major amendment or minor amendment may be required to make the additions.

Comment 41: Special Provision No. 2 (Relating to Evaporation Ponds)

STOP requests the Special Provision for Disposal via Evaporation; No. 2 include a daily gallons per day maximum limit and require daily record keeping for total gallons per day flow of High-TDS water routed to the evaporation ponds. According to STOP, a daily limitation and the resulting record keeping data are necessary to thoroughly evaluate any potential cause of future increased degradation of the already impaired water bodies receiving effluent discharges.

Response 41:

The draft permit, Page 2c, requires daily monitoring of flow. The daily maximum flow is regulated by the annual average flow of 80,000 gallons per day on page 2c of the draft permit as well as Special Provision No. 2 which prohibits the discharge of high-Total Dissolved Solids water.

Comment 42:

STOP commented that “Special Provisions for Disposal via Evaporation” number 2 should require both a daily maximum gallons per day limit, and daily recordkeeping.

Response 42:

Special Provisions for Disposal Via Evaporation item No. 2 requires the wastewater routed to the two evaporation ponds not to exceed 80,000 gallons per day. Flow measurements are defined in the draft permit on page 3, monitoring and reporting requirements on page 4 through page 7, and operational requirements item No. 1 on page 10 where it is noted these records must be maintained for three years.

Comment 43: Relating to Other Requirement 10 in the Draft Permit

STOP requested the term *believed to be present* in Other Requirement No. 10 be defined. STOP also recommends that more than one sampling event be required. STOP commented that the draft permit should be amended to clarify Other Requirement 10, Table 4 to define what the phrase “believed to be present” means. STOP also recommended that Other Requirement 10, Table 4 should require more than one sampling event.

Response 43:

Table 4 of Other Requirement No. 10 has a column of “believed present” where Leprino will be required to provide testing of the pollutants which it believes are present in either its process water or its water source. This standard table requires only one sample.

Comment 44: Monitoring and Reporting for Oil and Grease

STOP requests that the monitoring and reporting for oil and grease not expire 58 months after the issuance of the permit. STOP also stated that the draft permit should include daily effluent limits for oil and grease. STOP commented that the draft permit should require more frequent reporting for oil and grease, and monitoring for

oil and grease should be for the life of the permit. STOP also commented that the oil and grease monitoring should not expire 58 months after the permit is issued.

Response 44:

The use of Best Professional Judgement (BPJ) provides the Executive Director the basis for the oil and grease monitoring and reporting requirements and numeric effluent limits. The determination of self-expiring limits is also based on BPJ. Self-expiring limits provide the greatest flexibility to tailor the oil and grease monitoring and reporting requirements and numeric effluent limits to the individual industrial permit. The test used does not differentiate between mineral oil or dairy fat, so the source is not as important as the test results of the presence of oil and grease. EPA has not developed effluent limits for oil and grease; therefore, the Executive Director does not apply mass loading limits for oil and grease at external Outfall 001. Instead, internal Outfall 101 is established for monitoring oil and grease from the three contributing wastestreams of utility wastewater (boiler blowdown, cooling tower blowdown, and evaporation condenser blowdown) prior to commingling.

Comment 45: EPA's failure to develop effluent limits for oil and grease

STOP commented that EPA's failure to develop oil and grease limits fails to protect human health and safety.

Response 45:

The Executive Director acknowledges the comments.

Comment 46: Best Professional Judgement

STOP asked what best professional judgement means in the context of establishing effluent limits for oil and grease.

Response 46:

Best Professional Judgement is used when no federal technological-based limit is provided. While oil and grease may be present in utility wastewater, there are no federal effluent limit guidelines for oil and grease in process wastewater subject to 40 CFR Part 405. Per the technical development document, "a major contributor to dairy waste BOD₅ is dairy fat, which is being treated successfully biologically. This is in contrast to mineral based oil which inhibits the respiration of microorganisms. The standard hexane soluble FOG (fats, oils, and grease) test used presently does not

differentiate between mineral oil and dairy fat.”⁷ Since the EPA did not develop effluent limits for oil and grease in the rulemaking for Part 405, it would be inappropriate to apply mass loading limits for oil and grease at external Outfall 001. Instead, internal Outfall 101 is established for monitoring oil and grease from the three contributing wastestreams of utility wastewater (boiler blowdown, cooling tower blowdown, and evaporation condenser blowdown) prior to commingling. Each of the three wastestreams will be sampled via grab, and the permittee shall report the highest daily maximum of the three. Monitoring and reporting for oil and grease will expire prior to permit expiration. At the next permit action, internal Outfall 101 may be removed or, conversely, numeric limits may be applied for oil and grease upon review of the monitoring data.

Comment 47: Noise

Patrica Norris expressed concern over noise from the facility.

Response 47:

Noise concerns are outside of TCEQ’s jurisdiction. However, as stated in subsection C of the Background Information (Access to Rules, Laws, and Records), the proposed permit does not limit any landowner’s ability to seek private action against Leprino.

Comment 48: TCEQ’s review of the Leprino Foods Application

STOP requested TCEQ to review all calculations of this application in conjunction with Leprino Foods’s existing air permit to be sure all data correlates.

Response 48:

This response to public comments only addresses the industrial wastewater application under review (TPDES Permit No. WQ0005417000). Any other pending applications or permits in other programs areas under the authority of the TCEQ are evaluated separately.

⁷ Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Dairy Products Processing Point Source Category. May 1974. EPA 440/1-74/021a.

Comment 49: USFWS

STOP commented that the 1998 study used to determine the endangered/threatened species is outdated and EPA should review the study.

Response 49:

The Executive Director acknowledges the comment. The 1998 opinion from the United States Fish and Wildlife Services is the latest approved listing.

Comment 50: Average Rainfall

STOP requests the definition of average rainfall conditions, including the time period that is used to determine the average rainfall including. STOP also noted that it has concerns regarding the impact of drastic weather changes due to climate change.

Response 50:

The definition of average rainfall conditions is found in the instructions for the Industrial Wastewater Permit, Appendix 7 – Example –Storage Calculation for Evaporation ponds without Irrigation, page 125 of 126. The average conditions evaluation is designed to ensure that the pond(s) have enough surface area to evaporate all the flow to the pond(s) under average rainfall conditions. The pond is considered adequately sized when the Total Storage Necessary is less than or equal to zero. If this value is greater than zero, the pond's surface must be increased, or the effluent flow reduced to ensure that no accumulation occurs during average conditions.

The figures used in the average condition evaluation are the 25-year average of rainfall and evaporation rate in their respective columns. The 25 years is the latest 25 years of data.

Comment 51: Leprino's Other Facilities

STOP asked if Leprino has other facilities that conduct similar processes?

Response 51:

The Executive Director's review of an application for a TPDES permit considers the compliance history of both the applicant and the facility. Currently, this application is the only TPDES application for Leprino currently pending before the TCEQ.

Comment 52: Permit conditions for permits for other Leprino facilities.

STOP asked if Leprino has a permit with requirements for mass loading limits for oil and grease at any of its other facilities, and if it does, STOP asked what the limits are, what types of oil and grease are being reported and the source of the oil and grease.

Response 52:

The Executive Director's review of an application for a TPDES permit considers the compliance history of both the applicant and the facility. Currently, this application is the only TPDES application for Leprino currently pending before the TCEQ.

Comment 53: Oil and Grease Limits

STOP asked if the draft permit includes effluent limits for oil and grease, and if so, what the limits are, what types of oil and grease are being reported, and the source of the oil and grease.

Response 53:

Oil and grease monitoring and limits are added to a draft permit based on the possibility of such constituents being present in the industrial activity. Such as a vehicle washing station or floor washing in an area where machinery is used. The type of oil and grease is not identified but the functional area dictates under best professional judgement mentioned previously that oil and grease monitoring or limitations be addressed.

Comment 54: Major/Minor Classification

STOP asked why all facilities are classified as minor until they are formally classified as major by EPA. Similarly STOP asked how the public or TCEQ could get EPA to formally classify the Leprino application as an application for a major facility.

Response 54:

The draft permit process for industrial permits evaluates six factors (toxic pollutant potential, flow volume, conventional pollutants, public health impacts, water quality factors, and proximity to coastal water) to determine whether a facility is classified as a major or minor facility. The process is reported to EPA after the permit is issued and if EPA excepts the determination, then the facility is changed from a

minor to a major facility. The determination is based on a point system in the six areas, and Leprino Foods has only 45 points of the 80 points required to be classified as a major facility.

Comment 55: Modeling

STOP commented that the modeling should have been based on 2.5 MGD (daily average) not 2.0 MGD (daily average). STOP also noted that according to the TCEQ the modeling is “not over conservative.” According to STOP this means the TCEQ is not complying with its regulatory responsibility to fully evaluate the potential impacts of the draft permit.

Response 55:

The dissolved oxygen modeling analysis is designed to evaluate whether the daily average concentration effluent limits in a TPDES permit for oxygen-demanding constituents (5-day biochemical oxygen demand (BOD₅) or 5-day carbonaceous biochemical oxygen demand (CBOD₅) and ammonia-nitrogen (NH₃-N)), as well as a daily minimum effluent dissolved oxygen concentration limit, are predicted to be adequate at the proposed daily average flow to ensure that daily average instream dissolved oxygen concentrations will be maintained above the daily average (24-hour mean) dissolved oxygen criterion applicable to all water bodies in a permitted or proposed discharge route. A model designed to assess daily average permitted values focusing on daily average predicted results is used.

TPDES permits may contain daily average and daily maximum flow limits; and daily average, daily maximum, and single grab concentration effluent limits. Daily maximum flow limits may be proposed by an applicant or may be determined by the permit writer, based on or consistent with the daily average flow limit. Daily maximum and single grab effluent limits are typically correlated with the daily average effluent limits included in a permit but may also have a technology-based effluent limit basis. The dissolved oxygen modeling analysis only assesses the daily average flow and daily average effluent concentration limits directly.

Comment 60: Recycling

Sonya Fair is concerned about recycling and what steps Leprino Foods is taking to recycle.

Response 60:

The Executive Director appreciates the commenter's concern; however, the response to public comments only addresses the industrial wastewater application under review (TPDES Permit No. WQ0005417000). Recycling is not part of the permitting process for industrial wastewaters.

Comment 61: Evaporation Ponds

Dora Cortez and Kathyl Anderson expressed concerns about the evaporation ponds. Specifically, the volume of the evaporation ponds, how will the ponds accommodate the influx of Total Dissolved Solids, and what is the process for dredging the ponds of their sediments?

Response 61:

If issued, the Leprino permit will authorize two evaporation ponds, 38 acre-feet each for a total of 76 acre-feet (24.76 million gallons). At the permitted volume of up to 0.08 MGD, the ponds must be constructed to handle over 300 days of wastewater entering the ponds without any evaporation. Appendix C of the Statement of Basis demonstrates the ponds must have a total storage of 41.74 acre-feet to effectively handle the wastewater during the worst year of lack of evaporation in the past 25 years of records in the Lubbock area. Under average conditions the ponds would only need to hold 6.96 acre-feet.

Comment 62: Public Information

Dora Cortez asked how the public will know if Leprino Foods exceeds the 2.0 MGD flow limit of the draft permit, especially since the pipeline to carry Leprino's wastewater was constructed to handle 3.5 MGD capacity.

Response 62:

The draft permit requires Leprino to self-report monitoring results. Specifically:

Monitoring results shall be provided at the intervals specified in the permit. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall conduct effluent sampling and reporting in accordance with 30 TAC §§ 319.4 - 319.12. Unless otherwise specified, effluent monitoring data shall be submitted each month, to the Enforcement Division (MC 224), by the 20th day of the following month for each discharge that is described by this permit whether or not a discharge is made for that month. Monitoring results must be submitted online using the NetDMR reporting system available through the TCEQ website unless

the permittee requests and obtains an electronic reporting waiver. Monitoring results must be signed and certified as required by Monitoring and Reporting Requirements No. 10.

Leprino Draft permit - page 4, Monitoring and Reporting Requirements

The public may access the data by contacting the Lubbock Regional office at 806-796-7092.

Comment 63: Dredging

Joshua Shankles asked who picks up the expense of potential dredging of Canyon Lake #6.

Response 63:

The Executive Director appreciates the comment; however it is outside of the scope of the Executive Director's review of the industrial wastewater application (TPDES Permit No. WQ0005417000). Questions regarding the potential dredging of a city lake should be directed to the city.

Comment 64: Lack of Oversight

Joshua Shankles expressed concern over the apparent lack of oversight.

Response 64:

The TCEQ's Office of Compliance and Enforcement helps ensure compliance with applicable state and federal regulations. The Region 2 Office is required to conduct a mandatory comprehensive compliance investigation (CCI) once every five fiscal years. Additional mandatory investigations can be required if any of the facility's violations is categorized as a significant noncompliance (SNC). SNC is determined by the Compliance Monitoring Section of the TCEQ.

If Leprino is found to be out of compliance with the terms or conditions of the permit, including the monitoring frequencies, Leprino 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 2 Office in Lubbock at (806) 796-7092. Citizen complaints may also be filed on-line at <https://www.tceq.texas.gov/compliance/complaints>.

Comment 65: Incorporation of all Concerns

Kathyl Anderson commented that she also raises “all concerns” that were raised during the comment period.

Response 65:

The Executive Director acknowledges the comment.

Comment 66: Disposal of Brine

Kathyl Anderson asked how the brine will be disposed of.

Response 66:

The brine wastewater will be sent to the evaporation ponds.

Comment 67: Sustainability

STOP commented that sustainability is an important tool in the battle against climate change and other social, environmental, and economic challenges.

Response 67:

The Executive Director acknowledges the comment.

III. Environmental Justice

Comment 68:

STOP provided information regarding the Department of Energy’s Environmental Justice Strategy Updates and Revisions. STOP specifically noted that the EJ strategy includes: fully implementing Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; integrate Environmental Justice into the National Environmental Policy Act; and comply with Title VI of the Civil Rights Act of 1964. STOP also included its Title VI complaint to the U.S. Department of Housing and Urban Development.

Response 68:

The TCEQ’s overriding goal is to remove barriers to public participation in agency programs for Texans, including improving access for those with language barriers, those who lack internet access, and those with other accommodation needs. Accordingly, the agency has been pursuing many different strategies to meet this goal.

IV. STOP's Supplemental Public Comments

STOP included a list of 78 comments, many of which the Executive Director cannot fully address because they appear to be directed to Leprino. The Executive Director has responded as fully as possible to the comments.

1. What's your definition of environmental improvement for your company?

Answer: This appears to be addressed to Leprino; however, as noted in the TCEQ's Mission Statement "The Texas Commission on Environmental Quality strives to protect our state's public health and natural resources consistent with sustainable economic development. Our goal is clean air, clean water, and the safe management of waste." Additionally, the TCEQ:

- bases decisions on the law, common sense, sound science, and fiscal responsibility;
- ensures that regulations are necessary, effective, and current;
- applies regulations clearly and consistently;
- ensures consistent, just, and timely enforcement when environmental laws are violated;
- ensures meaningful public participation in the decision-making process;
- promotes and foster voluntary compliance with environmental laws and provide flexibility in achieving environmental goals; and
- hires, develops, and retains a high-quality, diverse workforce.⁸

2. What do you do to protect the environment?

Answer: As noted above, the TCEQ's mission is to protect the environment. With respect to the Leprino application, TCEQ staff evaluated the application and prepared a draft permit that complies with all statutory and regulatory requirements. Specifically, the draft permit includes both technology-based and water-quality based effluent limits.

3. What do you do to enhance or improve the surrounding neighborhood?

Answer: The draft permit was devolved to be protective of human health and the environment. For example: Permit Condition 2.d provides "The permittee shall take

⁸ TCEQ Mission Statement – Available at <https://www.tceq.texas.gov/agency/mission.html>.

all reasonable steps to minimize or prevent any discharge our sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment.” Similarly, Permit Condition 2.g provides: “There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Other Requirements section of this permit.”

4. Is there any foreseen damage to the environment, i.e.... Fishes, plants, wildlife, humans, and other biodiversity?

Answer: The draft permit was developed to protect human health and the environment. Specific examples of the Executive Director’s review include the Antidegradation Review and the Endangered Species Review.

Antidegradation Review: The Executive Director performed an antidegradation review in accordance with 30 TAC § 307.5 and TCEQ’s Procedures to Implement the Texas Surface Water Quality Standards (June 2010). 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 Canyon Lake #6 and North Fork Double Mountain Fork Brazos River, which have been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

Endangered Species Review. The discharge from this permit is not expected to have an effect on any federal endangered or threatened aquatic or aquatic-dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service’s (USFWS’s) biological opinion on the State of Texas authorization of the TPDES (September 14, 1998; October 21, 1998 update). To make this determination for TPDES permits, TCEQ and the EPA only considered aquatic or aquatic-dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS’s biological opinion. The determination is subject to reevaluation due to subsequent updates or

amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species.

5. Do you guys see that the Eastside of Lubbock wants to protect the environment?

Answer: The Executive Director develops TPDES permits to be protective of the water quality of the state's rivers, lakes, and coastal waters, regardless of the location of the facility or discharge. The draft permit was developed to protect aquatic life and human health in accordance with the Texas Surface Water Quality Standards and was established to be protective of human health and the environment, provided that the Applicant operates and maintains the facility in accordance with TCEQ rules and the requirements of the draft permit.

6. Why did you choose not to communicate with the East Lubbock residents or community associations that could have informed the neighborhood?

Answer: The Executive Director required Leprino to publish three notices. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on May 18, 2023, in the *Lubbock Avalanche Journal*, and the alternate language NORI was published on May 18, 2023, in the *El Editor Newspaper*. The Notice of Application and Preliminary Decision (NAPD) was published on September 20, 2023, in the *Lubbock Avalanche Journal*, and the alternate language NAPD was published on September 21, 2023, in the *El Editor Newspaper*.

Additionally, a public meeting was held on October 24, 2023, at the American Windmill Museum at 1701 Canyon Lake Drive, Lubbock, Texas. The notice of the public meeting was published in English in the *Lubbock Avalanche Journal* on September 20, 2023, and in Spanish in the *El Editor* on September 21, 2023.

7. What type of pollution, such as noise, air, land and people the neighborhood will be exposed to (sic)?

Answer: If issued, the draft permit will authorize Leprino to treat and discharge wastes from the Leprino Foods Lubbock Manufacturing Facility. Specifically, Leprino is authorized to discharge process wastewater, utility wastewater (previously monitored at Outfall 101), and water treatment wastes. The draft permit does not authorize any activity of hazardous waste storage, processing, or disposal that requires a permit or other authorization pursuant to the Texas Health and

Safety Code. If necessary, Leprino must obtain a separate authorization for the processing, storage, or transportation of industrial or hazardous waste. TCEQ does not have jurisdiction over noise pollution. Individuals are encouraged to report any concerns about suspected noncompliance with the terms of any permit or other environmental regulation by contacting the Lubbock Regional Office at (806) 796-7092, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. The TCEQ investigates all complaints received. If the facility is found to be out of compliance with the terms and conditions of its permit, it may be subject to investigation and possible enforcement action.

8. Will East Lubbock have to deal with those pollutions (sic) on a daily schedule?

Answer: Operational Requirement 1 in the draft permit provides:

The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control. Process control, maintenance, and operations records shall be retained at the facility site, or shall be readily available for review by a TCEQ representative, for a period of three years.

Individuals are encouraged to report any concerns about suspected noncompliance with the terms of any permit or other environmental regulation by contacting the Lubbock Regional Office at (806) 796-7092, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. The TCEQ investigates all complaints received. If the facility is found to be out of compliance with the terms and conditions of its permit, it may be subject to investigation and possible enforcement action.

9. Could any breathable smoke from your factory be known to cause health issues in our children, adults, and seniors?

Answer: If issued, this permit will authorize the discharge of process wastewater, utility wastewater, and water treatment wastes at a daily average flow not to exceed

2.0 million gallons per day (MGD) via Outfall 001, and the disposal of brine water at a daily average flow not exceed 80,000 gallons per day via evaporation. This permit does not authorize any air emissions, including smoke.

10. What health conditions should the population of East Lubbock be aware of?

Answer: Based on requirements at 30 TAC § 307.6(b)(4), TPDES permits must preclude adverse toxic effects on aquatic life, terrestrial life, livestock, and domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. The permit is drafted to be protective of human health and the environment.

11. Can we have a full disclosure report regarding your waste products?

Answer: According to the Leprino application, raw fluid milk is reacted to coagulate the proteins and form cheese curds and liquid whey. The liquid whey is separated from the cheese and further processed into nutrition products through separation and drying. Final products anticipated include mozzarella cheese, whey protein powder, sweet whey powder, permeate powder, and cream. Process wastewater, utility wastewater (as cooling tower blowdown and boiler blowdown), and water treatment wastes (from reverse osmosis treatment of potable water) are routed to the wastewater treatment facility. Wastewater high in total dissolved solids (TDS), such as brine water from the cheese making process, reverse osmosis reject, and other high TDS water (non-compliant effluent) streams, will be kept separate and will be sent for disposal to two on-site evaporation ponds with optional enhanced evaporation.

12. Why did you select East Lubbock for your location without notifying the surrounding neighborhoods?

Answer: The location of the facility was chosen by Leprino. In its evaluation of a TPDES permit, the TCEQ does not specifically evaluate the location of a wastewater treatment facility; however, the Executive Director evaluates the receiving water and develops permit terms that will be protective of the receiving water.

Additionally, to help ensure the neighborhoods around the facility are aware of the proposed facility, the Executive Director required Leprino to publish three notices. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was

published on May 18, 2023, in the *Lubbock Avalanche Journal*, and the alternate language NORI was published on May 18, 2023, in the *El Editor Newspaper*. The Notice of Application and Preliminary Decision (NAPD) was published on September 20, 2023, in the *Lubbock Avalanche Journal*, and the alternate language NAPD was published on September 21, 2023, in the *El Editor Newspaper*.

Finally, a public meeting was held on October 24, 2023, at the American Windmill Museum at 1701 Canyon Lake Drive, Lubbock, Texas. The notice of the public meeting was published in English in the *Lubbock Avalanche Journal* on September 20, 2023, and in Spanish in the *El Editor* on September 21, 2023.

13. Are you aware that the City promised that no more factories within our neighborhood (sic)?

Answer: The Executive Director appreciates the comment; however, this issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Leprino must comply with all applicable local regulations.

14. What do you have tangible to offer the East Lubbock neighborhood?

Answer: If issued, the permit will be protective of human health and the environment, thus it should not negatively impact the local area. For additional information on this issue please contact Leprino.

15. How will you improve the neighborhood now that you are here?

Answer: The Executive Director appreciates the concern over the potential impact to neighborhoods; however, this issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. For additional information on this issue please contact Leprino.

16. What proof do you have to validate your concerns about the environment and our area?

Answer: Leprino must comply with the terms of the permit, if issued. If Leprino does not comply with the terms of its permit, it may be subject to enforcement action.

17. Could we have a report of the solvents and agents used during your process for our records and review?

Answer: Leprino was required to submit a list of raw materials, major intermediates, and final products handled at the facility per item 1.c. of the Industrial Technical Report 1.0. This includes chemicals used on-site which could impact effluent quality. This information is available at their posted site, TCEQ Region 2, 5012 50th Street, Suite 100, Lubbock, Texas.

18. Will neighborhoods be warned about water breakdown by the factory that is being dumped into the Historic Lake?

Answer: A spill must be reported as soon as possible to TCEQ. Spills must also be reported to local governmental entities and to the owner or occupant of the property where the spill occurred.

19. How often will you be testing the water?

Answer: The draft permit requires Leprino to self-monitor its effluent, the monitoring frequency is based on the effluent characteristics, specifically:

Outfall 001

- Flow, Biochemical Oxygen Demand, and Total Suspended Solids – 2 times a week
- Ammonia-Nitrogen, pH – once a week
- Enterococci – once a month

Outfall 101

- Oil and Grease – once every two weeks

20. What sites will you be testing along the Historic Lake?

Answer: The draft permit does not require testing along the Historic Lake.

21. Will we get a report?

Answer: The Executive Director is unsure of what type of “report” STOP is referencing. All TCEQ records are available to the public, unless there is a specific exception as provided in the Public Information Act. Additional information regarding an entities’ compliance history can be found at:

<https://www.tceq.texas.gov/compliance/enforcement/compliance-history>.

22. What other outside agents are testing your waste products?

Answer: The Texas Water Code requires that, except under certain conditions, data used in Commission decisions must be from an environmental testing laboratory that is accredited by the commission. TWC § 5.134. Leprino was not required to provide the name of the environmental testing laboratory in its application.

23. Will you name the outside sources that will be monitoring daily your waste products that are not the City of Lubbock?

Answer: The TCEQ does not require third party monitoring of wastewater discharges. Leprino may contract with a third party to sample its wastewater and must use an accredited environmental testing laboratory to perform all wastewater analyses.

24. When it comes to monitoring air quality will we get TCEQ air monitors capable of rendering near real-time measurements for volatile organic compounds and particulate matter smaller than 10 microns and 2.5 microns in North and East Lubbock near pollution sources, as well as, water testing.

Answer: This type of facility will not contribute significant amounts of air contaminants to the atmosphere, and thus, will not negatively impact human health and the environment. Air emissions from facilities such as the one proposed by Leprino do not have to obtain an air quality permit, rather they are permitted by rule (30 TAC § 106.532).

Please contact the Air Permits Division at (512) 239-1250 for questions regarding any Air New Source Permit Registrations for which the applicant has applied or will apply.

25. Will we have a contact name within your company that will be a liaison between your company and us on a monthly or quarterly basis?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino directly for information regarding a liaison.

26. What are your future goals that you have for the surrounding areas?

Answer: If Leprino opts to discharge different waste streams or at a higher volume than is provided in its permit (if issued), Leprino must apply for a major

amendment. TCEQ does not have jurisdiction to consider other goals Leprino may have in the TPDES permitting process.

27. What are your statistics to show racial equality?

Answer: Applicants for TPDES permits are not required to provide this information. For general information regarding Title VI Compliance at TCEQ, please visit <https://www.tceq.texas.gov/agency/decisions/participation/title-vi-compliance>.

28. How can that be monitored?

Answer: For information regarding Title VI Compliance at TCEQ, please visit <https://www.tceq.texas.gov/agency/decisions/participation/title-vi-compliance>.

29. Are you willing to improve the racial equality rating that will reflect good faith toward the East neighborhood where you are located?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit.

30. What is your carbon footprint?

- a. This is the question most executives and other stakeholders are asking. Don't be surprised if this question is accompanied by another more academic one, namely "What exactly is a carbon footprint anyway?"
- b. What is your fossil-fuel combustion in manufacturing, heating and transportation, as well as emission required to produce the electricity associated with goods and services consumed? In addition the carbon footprint concept also often includes the emissions of other greenhouse gases, such as methane, nitrous oxide, or chlorofluorocarbons (CFCs).
 - i. Industries have to adapt as regulations tighten around the globe to control business's carbon footprints. Any business, no matter how small, can start minimizing its carbon footprint. Not only does this help the environment, but it also saves money through lower energy costs.

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino directly for additional information.

31. Can anyone buy into your stock?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino directly for additional information.

32. Are you using some form of green energy techniques for your products and services to protect the surrounding environment?

a. This question tends to follow very quickly from the first since products and services are the bread and butter of any company. The likely consequence will focus on how a company can determine if its products are green. Issues that will need further unpacking, and may help you develop your answer include:

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino directly for additional information.

33. What are your sustainable development goals (SDG)?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino directly for additional information.

34. Do you consider your products are following the green process?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino directly for additional information.

35. What impact do your SDG will have on the surrounding neighborhood?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino directly for additional information regarding it Sustainable Development Goals.

36. Could you briefly explain to us the cheese production process?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino directly for additional information regarding the cheese production process.

37. What are the other waste products being created after the process?

Answer: According to the Leprino application, process wastewater, utility wastewater (as cooling tower blowdown and boiler blowdown), and water treatment wastes (from reverse osmosis treatment of potable water) are routed to the wastewater treatment facility. Wastewater high in total dissolved solids (TDS), such as brine water from the cheese making process, reverse osmosis reject, and other high TDS water (non-compliant effluent) streams, will be kept separate and will be sent for disposal to two on-site evaporation ponds with optional enhanced evaporation.

38. How are they handled?

Answer: According to information provided in Leprino's application, the proposed wastewater system will consist of anaerobic and aerobic activated sludge systems to treat high-strength wastewater and low-strength wastewater. A divert flow system will mitigate potential non-compliance wastestreams to the 10.5 million gallon "non-compliant lagoon." In addition, the facility will have a 1.5 million gallon "multipurpose lagoon" to serve as storage should any process units need to be taken out of service. Wastewater from the non-compliant lagoon and multipurpose lagoon will be routed back to the wastewater treatment plant prior to discharge. The draft permit does not authorize the discharge of domestic wastewater.

39. How and where are they being transported from your site?

Answer: The transportation of waste products, other than wastewater is beyond the scope of the TPDES permitting process. The transportation of hazardous waste and certain nonhazardous waste are governed through rules established and enforced by the TCEQ and the Texas Department of State Health Services (DSHS). The U.S. Department of Transportation (USDOT) and the U.S. Environmental Protection Agency (EPA) also regulate some of these same wastes. For additional information please see: <https://www.tceq.texas.gov/downloads/permitting/waste-registration/pub/rg-086.pdf>.

40. What other undisclosed substrates will be developed during you process and are any harmful to the environment?

Answer: The Executive Director's review of the Leprino application for a TPDES permit is limited to an evaluation the treatment and disposal of process wastewater, utility wastewater, and water treatment wastes. Any other waste products are outside of the scope of the Executive Director's review of an application for a TPDES permit.

41. Do you have evacuation plans for the surrounding area in case of a spillage?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino for more information regarding evacuation plans.

42. Will you share it with the Eastside Lubbock organizations?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino for more information regarding evacuation plans.

43. Have you developed more efficacy in the reduction of hazardous waste materials?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. However, Leprino may be required to obtain other permits from the TCEQ or other State or Federal regulatory agencies. Please contact Leprino for more information regarding other permits it may have applied for or intends on applying for in the future.

44. How much energy will your factory produce or use during operation?

- a. What water and resources does the business currently use?
- b. Your permit says 1.5 million water and yet you'll build a structure that will handle 2 million of water, why?
- c. Are you expecting more production and not informing the neighborhood and TCEQ of any excess?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino for additional information regarding its energy use.

45. How will your energy operation benefit our neighborhood?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino for additional information.

46. How can you improve water resource use and efficiency for the City of Lubbock?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit.

47. What type of process are you using to purify the Historical Lake water before you return it?

- a. Reverse Osmosis Type
- b. Filtration type
- c. Titration type

Answer: The Executive Director's review of the Leprino application was limited to considering the impact of the proposed discharge on Canyon Lake #6, the North Fork Double Mountain Fork Brazos River, and Double Mountain Fork Brazos River in Segment No. 1241 of the Brazos River Basin. Leprino may be required to obtain additional permits for activities not authorized by the TPDES permit.

48. Will any of the production benefit East Lubbock?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino for additional information regarding this issue.

49. Do you know if our utilities increase once you are operational?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino for additional information regarding this issue.

50. What efforts have you considered for the improvement of East Lubbock?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino for additional information regarding this issue.

51. How will you manage your waste products?

Answer: Leprino Foods provided a description in the application per item 1.a, b, and d. and 2.a. and b. of the Industrial Technical Report 1.0. This includes treatment of the effluent and a map showing the locations of processes which could impact effluent quality. This information is available at their posted site, TCEQ Region 2, 5012 50th Street, Suite 100, Lubbock, Texas.

52. Are there any poisonous material that the communities need to be aware of and will need to know if any spillage?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. TCEQ's rules governing spills are found at 30 TAC Chapter 327. The rules in 30 TAC § 327.3 describe who must be notified and when the notification must be made. Additionally, information regarding both the Texas and EPA's Right to Know Act can be found at:

<https://www.tceq.texas.gov/permitting/tier2/laws-and-regulations.html>

53. Will there be any training for the communities during an emergency?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino for additional information.

54. What is your impact on the local community in and surrounding East Lubbock?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino for additional information.

55. Have you done any study regarding East Lubbock and its people to prove why you chose this area?

Answer: The TCEQ has not performed a study and does not require applicants for TPDES permits to document how a particular location was chosen. Please contact Leprino for additional information.

56. What are your key sustainability measures? "What gets measured, get managed" is a good place to start.

Answer: Applicants for TPDES permits are not required to provide sustainability measures in their applications. As noted elsewhere in this Response to Comments, part of the TCEQ's mission statement includes protection of the public health and

natural resources consistent with sustainable economic development. Please contact Leprino for additional information.

57. What are the supportable development goals?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino for additional information regarding its supportable development goals.

58. How educated and engaged will your employees be with the communities near this factory?

a. Local

- i. Equal Employment Opportunities or hiring practices: Trusted liaisons from East Lubbock that work with your HR and us.
- ii. Communities' enrichments: Back to School events, School involvements, job fairs for graduating students in East Lubbock, application fill-out training.
- iii. Training.
 1. Internship programs for our Estacado High School Students
- iv. Employment advancements for African-Americans from entry levels to managerial (Janitor to Administration)?
- v. Second-chance employment for those returning to society from correctional detention?
- vi. Will you bring most of your people to your factory from outside sources, such as other factories?

b. Nearby neighborhoods enrichments, communities' improvements, and economic improvements

i. East Lubbock

1. Parkway District
2. Dunbar and Manhattan Heights District
3. Estacado High School
4. North East Lubbock – Guadalupe

- c. School tours for future employees

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino for additional information regarding this issue.

59. How do you set goals for improvement and make yourselves more efficient? This simple question has many implications and also requires a lot of data collection, analysis, and planning. Aspects to consider are: Can you furnish written documents to prove your point of view?

- a. What levels can you achieve while growing your business that will help East Lubbock?
- b. What will the project cost taxpayers?
- c. How quickly can you achieve the goals or do you have future progress? a) Expansion
- d. How will others receive or tell that you have your goals in conjunction with the surrounding areas?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino for additional information regarding this issue.

60. What product(s) are you using to covert materials into cheese?

- a. How is it managed?
- b. How often is it monitored?
- c. Who monitors your wastewater and by-products?
- d. What outside agents are used to monitor your wastewater and solvents?
- e. Any animals are being used to produce the cheese?

Answer: According to Leprino's application raw fluid milk will reacted to coagulate the proteins and form cheese curds and liquid whey. The liquid whey is separated from the cheese and further processed into nutrition products through separation and drying. Final products anticipated include mozzarella cheese, whey protein powder, sweet whey powder, permeate powder, and cream. As discussed elsewhere

in this Response, Leprino will be required to regularly test its effluent and provide the results to the TCEQ.

61. Since you are giving back to the City of Lubbock, what about the surrounding areas what do they get besides noise, smell and wastewater?

Answer:

Odor: Typically, industrial wastewater discharges do not have significant odors. In its application Leprino exceeded the requirements by providing meeting the 150 feet buffer requirement. If the permit is issued, the ponds will be located more than 150 feet to the nearest property line. The rules governing industrial discharges do not require odor mitigation; however, as provided in 30 TAC § 309.13.(e)(1) for domestic wastewater treatment plant units demonstrates that Leprino will use more stringent measures to mitigate odor issues.

Wastewater: In its application, Leprino indicated that the wastewater system will consist of anaerobic and aerobic activated sludge systems to treat high-strength wastewater and low-strength wastewater. A divert flow system will mitigate potential non-compliance wastestreams to the 10.5 million gallon “non-compliant lagoon.” In addition, the facility will have a 1.5 million gallon “multipurpose lagoon” to serve as storage should any process units need to be taken out of service. Wastewater from the non-compliant lagoon and multipurpose lagoon will be routed back to the wastewater treatment plant prior to discharge. The draft permit does not authorize the discharge of domestic wastewater.

Noise: Concerns over noise are outside of the TCEQ’s jurisdiction; however, the proposed permit does not limit any landowner’s ability to seek private action against the Applicants.

62. What are some good sustainability standards that we need to know about what your factory offers us?

Answer: This issue is outside of the TCEQ’s jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino for additional information on its anticipated sustainability practices.

63. What financial improvement will your factory bring to the surrounding neighborhood like East Lubbock? Jobs! Other Businesses?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino for additional information on how it intends on adding jobs and other business to East Lubbock.

64. What is the education level required to be hired by you?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino directly for information regarding available job opportunities.

65. What is an example of a job for someone who graduated from high school?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino directly for information regarding available job opportunities.

66. Do you have any internship for a local high school, namely, Estacado?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino directly for information regarding potential internships.

67. Do you have donations projects and programs available for East Lubbock organizations (nationally known like 100 Black Men's, NAACP, and those that are local like S.T.O.P) that can be sued to develop communities?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino directly for additional information regarding community outreach.

68. Do you have any employment for those who were incarcerated to help them with a second chance?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino directly for information regarding available job opportunities.

69. Do you have a retention policy?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino directly for information regarding its human resource policies.

70. Will you have daycare for working mothers?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino directly for information regarding available daycare options.

71. Will you remain in contact with my organization monthly regarding your MSDS, dumping amounts, waste handling, hiring statics, and EEO reports?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino directly to develop a communication plan.

72. Do you have an established environment, social, and governance platforms for East Lubbock's residents? Example: steps in their company to become greener, more ethical, and better governed?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit. Please contact Leprino directly to address this question.

73. Will you be willing to practice a greener, more ethical, better governed, and social justice than the other factories that thrust into our neighborhood without well-informed and caring proclaimed leaders and politicians that speak for an entire neighborhood without discussing with our East and North Lubbock residents?

Answer: The Executive Director acknowledges the comment; however his issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit.

74. We want environmental protection, environmental justice, social equity, economic challenges, and a chance for our community development like other so-called 'good neighborhoods'.

Answer: The TCEQ's overriding goal is to remove barriers to public participation in agency programs for Texans, including improving access for those with language

barriers, those who lack internet access, and those with other accommodation needs. Accordingly, the agency has been pursuing many different strategies to meet this goal. For specific information on how Leprino plans on addressing these issues, please contact Leprino directly.

75. We know that you cannot completely give us some things that the City should have never taken away from us but you can be a start and an example to show that we ALL CAN GET ALONE, IF AND ONLY IF WE WANT TO.

Answer: The Executive Director acknowledges the comment.

76. What are your viewpoints that are the closest to your beliefs and social standards for an underprivileged neighborhood that could benefit from a well-established company like yourself.

Answer: The Executive Director acknowledges the comment. Leprino must comply with the terms of its permit, if issued. The Executive Director does not have jurisdiction to consider an applicant's beliefs in its consideration of an application for a TPDES permit. However, Leprino must comply with all applicable Title VI requirements, including providing information in both English and Alternative Languages.

77. Can you give us equality or will you also practice 'Jim Crow's Law' on an already oppressed community like East Lubbock.

Answer: The Executive Director does not have jurisdiction to consider hiring practices in its consideration of an application for a TPDES permit. However, Leprino must comply with all applicable Title VI requirements, including providing information in both English and Alternative Languages.

78. Are you willing to slow down or stop the oppression in East Lubbock and work with us as a good neighbor?

Answer: This issue is outside of the TCEQ's jurisdiction in its consideration of an application for a TPDES permit; however, Leprino must comply with all applicable Title VI requirements, including providing information in both English and Alternative Languages.

V. Changes Made to the Draft Permit in Response to Comments

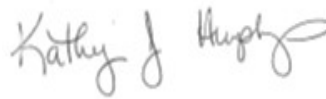
No changes were made to the draft permit in response to comments.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel
Executive Director

Charmaine Backens, Deputy Director
Environmental Law Division



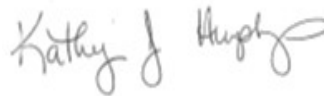
By: _____

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Fax: (512) 239-0606

REPRESENTING THE EXECUTIVE DIRECTOR OF
THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on June 3, 2024 the "Executive Director's Response to Public Comment" for Permit No. WQ0005417000 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



Kathy Humphreys, Staff Attorney
Environmental Law Division

Attachment A

All Commenters Who Provided Comments in Addition to Requesting a Public Meeting

Individuals

Jeffrey L. Anderson
Kathyl Anderson
Linda Anderson

Dorian Berry
Wanda F Bibbs
Dayna Blue

Billie Caviel
Dora T. Cortez
Trent Cox
Linda Craig
James Craig

Corine Easter

Sonya Fair
Urisonya Flunder

Lakendrea Gaither
Earl Garrett
Rolanda Garrett
Angelina V. Gibbs
Al Gomez

Sonya Harper
Marcia Holmes
Christine Howard

Lametria Johns
Christine Johnson
Myrtle Johnson
Sheketha Johnson
Terri Johnson
Ethel Denise Jones

Julie Lang
Shena Lateef
Florence Lee
Altha Lewis
Ricardo Lopez

Linda Monroe
MarQuisha Moody
Juan Munoz

Patricia Norris
Vernice Norris

Antwan Overstreet
Willie "Lois" Pearson
Earnest Peebles
Ruby J. Phenix
Davis B. Price

Paul Raygoza
Jean Richardson
Lacarl Richardson
Linda Robinson
Richard Rollison
Michael Ross

Hafiz Hussnain Shah
Joshua K. Shankles
Shonnan Shepphard
Tlesha Sherman
Kristin N Smith

Mae Thompson

Merlene White

Organizations

Stop Oppression of Our People (STOP), represented by Mark Oualline and Wendi Hammond

Attachment B

All Persons Who Stated That Their Public Comment Was a Request for a Public Meeting

D. Alexander	Chris Grams	Lashonda Mullins
Joyce Allen	Phyllis Green	Alberta Nedd
Keymoore Allen		Shawn Neloms
Kathyl Anderson	Jacqueline D. Hicks	Jacobie Nelson
Phil Anderson	Biyka Hish	Kay Anna Newman
Robert D. Anderson	Chris Hobdy	
Philip Anzley	La'kendra Hodge	Nilesh Patel
	Lakisha Hodge	Shavonte Paul
Isiah Baxter	Tishonnia Hollins	Carlton Phillips
Stacie Blue	Marcia Holmes	Adam R. Pirtle
Walter Brooks	Erkayjah Hood	
Wanda Brooks	Mickie Hudson	Cheryl Randle
Genevieve Brown		Eldon Raynash
	Johnny James	Jay Reed
Quenette Carrington	Johanna Johas	Dana Richardson
Erica Cerda	Angela Johnson	Shannon Ross
Tynisha Clay	Bobbie Johnson	Sheila Ross
Felix Cobos	Clifford E Johnson	
William Contee	Gregory Johnson	S. Sabrina
Dora T Cortez	Kelvim Johnson	Christina Salas
Ann Crowder	Patricia Jordan	Gleen Samuels
Anthony Cruz		Gloria Sanders
Dwight C. Culver	Becky Landin	James F. Scott
Solone Cunningham	John Lees	Shonnan Shepphard
	Adrias Lewis	Dolores Sifeno
Emma Danford		Mary D. Stephens
Josah Davis	Deborah Manahan	
Joanne Dedrick	Labrandon Mann	Barbara Taylor
Nathan Douthit	Cosby Marton	Dalmeshia Tennison
Fabian Dunn	Kris Mask	Datron Thompson
	Pearl McBrewer	
Marshonda Essix	Jeffrey McCutcheon	Lucy Upshaw
Brandi Evans	Larry McCutcheon	Tammie Upshaw
	Susie McDade	
Lennis Fareed	Julius McGee	Mariah Villarreal
Patricia Ann Fareed	Robert A. McGruder	
Arthur Fitzhugh	James McKinzie	Jarmonica Ward
Krystal Flores	Bradley Modisett	Alex White
	Rigo Monasterio	Anna White
Lucy Garcia	Janie Montalvo	Lamaisha White
Carolyn Gilbert	Kimely D. Moore	Channetta Williams
Al Gomez	Phyllis Moore	Dadrione Wooley
Johnny Gonzales	Cosby Morton	

Attachment C

Persons who Expressed a General Objection to the Leprino Application and Draft Permit

Jeffrey Anderson

Altha Lewis

Dorian Berry
Wanda Bibbs

Bobbie Mitchell
Linda Monroe
MarQuisha Moody
Juan Munoz

Billie Caviel
Trent Cox,
James Craig, Sr.
Linda Craig

Patricia Norris
Vernice Norris, Jr.

Corine Easter

Antwan Overstreet

Sonya Fair
Urisonya Flunder

Willie Lois Pearson
Earnest Peeples

Lakendrea Gaither
Rolanda Garrett

LaCarl Richardson
Linda Robinson
Michael Ross

Sonya Harper
Marcia Holms

Shonwa Sheppard
Tlesha Sherman
Kristin Smith

Christine Johnson
Myrtle Johnson
Terri Johnson
LaMetria Johns

Mae Thompson

Julie Lang
Shena Latief

Merlene White

Attachment D

Persons who Provided Comments During the Formal Portion of the Public Meeting

Kathyl Anderson

Dora Cortez

Sonya Fair

Angelina Gibbs

Wendi Hammond

Davis Price

Paul Raygoza

Joshua Shankles