

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

May 30, 2024

TO: All interested persons.

RE: Motiva Enterprises LLC
TPDES Permit No. WQ0003057000

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** This decision will be considered by the commissioners at a regularly scheduled public meeting before any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter are instructions to view the Executive Director's Response to Public Comment (RTC) on the Internet. Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov. A complete copy of the RTC (including the mailing list), complete application, draft permit and related documents, including public comments, are available for review at the TCEQ Central Office. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Port Arthur Public Library, Reference Section Bookshelf, 4615 9th Avenue, Port Arthur, 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.

P.O. Box 13087 • Austin, Texas 78711-3087 • 512-239-1000 • tceq.texas.gov

How is our customer service? tceq.texas.gov/customersurvey
printed on recycled paper

- (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
Motiva Enterprises LLC
TPDES Permit No. WQ0003057000

The Executive Director has made the Response to Public Comment (RTC) for the application by Motiva Enterprises LLC for TPDES Permit No. WQ0003057000 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 (WQ0003057000) and click the "Search" button. The search results will display a link to the RTC.

Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov.

Additional Information

For more information on the public participation process, you may contact the Office of the Public Interest Counsel at (512) 239-6363 or call the Public Education Program, toll free, at (800) 687-4040.

A complete copy of the RTC (including the mailing list), the complete application, the draft permit, and related documents, including comments, are available for review at the TCEQ Central Office in Austin, Texas. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Port Arthur Public Library, Reference Section Bookshelf, 4615 9th Avenue, Port Arthur, Texas.



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas reduciendo y previniendo la contaminación

30 de mayo de 2024

TO: Todas las personas interesadas.

RE: Motiva Enterprises LLC
TPDES Permiso No. WQ0003057000

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 Port Arthur Public Library, Reference Section Bookshelf, 4615 9th Avenue, Port Arthur, 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
Motiva Enterprises LLC
TPDES Permiso No. WQ0003057000

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de Motiva Enterprises LLC del permiso de TPDES No. WQ0003057000. 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 (WQ0003057000) 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 Port Arthur Public Library, Reference Section Bookshelf, 4615 9th Avenue, Port Arthur, Texas.

MAILING LIST / LISTA DE CORREO
for / para
Motiva Enterprises LLC
TPDES Permit No. WQ0003057000/ TPDES Permiso No. WQ0003057000

FOR THE APPLICANT /
PARA EL SOLICITANTE:

Jesse Caillier, Environmental Specialist
Motiva Enterprises LLC
P.O. Box 712
Port Arthur, Texas 77641

Kathleen Alsup, Senior Project Manager
4256 Rock Bend Drive
College Station, Texas 77845

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

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

FOR PUBLIC INTEREST COUNSEL /
PARA ABOGADOS DE INTERÉS PÚBLICO
via electronic mail /
por correo electrónico:

Garrett T. Arthur, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK /
PARA EL SECRETARIO OFICIAL
via electronic mail
por correo electrónico:

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

BEARD JR , JOHN
PO BOX 1033
PORT ARTHUR TX 77641-1033

DAVIS , MRS FREDERICK DWAYNE
6148 ROOSEVELT AVE
PORT ARTHUR TX 77640-2160

ESPREE SR , RICKY
1400 DANNY ST
PORT ARTHUR TX 77640-2124

RICHARD , GREGORY
309 47TH ST
PORT ARTHUR TX 77640-2465

TPDES Permit No. WQ0003057000

APPLICATION BY	§	BEFORE THE
MOTIVA ENTERPRISES LLC	§	TEXAS COMMISSION
FOR TPDES PERMIT NO.	§	ON ENVIRONMENTAL
WQ0003057000	§	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 (Response) on the application by Motiva Enterprises LLC (Applicant) for a renewal of Texas Pollutant Discharge Elimination System (TPDES) permit No. WQ0003057000 and the Executive Director’s preliminary decision on the application. As required by Title 30 of the Texas Administrative Code (30 TAC) Section (§) 55.156, before a permit is issued, the Executive Director prepares a response to all timely, significant or relevant and material comments. The Office of the Chief Clerk received timely comments from John Beard Jr., Frederick Dwayne Davis, Ricky Espree, and Gregory Richard. This response addresses all timely public comments received, whether or not withdrawn.

If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at the following website: www.tceq.texas.gov.

BACKGROUND

A. Description of Facility

Motiva Enterprises LLC (Applicant) submitted an application to the TCEQ for a renewal permit, TPDES Permit No. WQ0003057000, to authorize the discharge of non-process area stormwater runoff, hydrostatic test water, steam condensate, potable waterline flushing, other utility wastewaters, construction stormwater, and post-first flush stormwater on an intermittent and flow-variable basis via Outfall 001; and non-process area stormwater runoff, hydrostatic test water, steam condensate, potable waterline flushing, other utility wastewaters, and construction stormwater on an

intermittent and flow-variable basis via Outfall 002. The Applicant operates Motiva Enterprises Port Arthur Chemicals, which is a chemical manufacture facility.

Process wastewater and process area stormwater runoff are pre-treated on-site, then routed to the Motiva Port Arthur Refinery (TPDES Permit No. WQ0000414000) for further treatment and discharge. During periods of heavy rainfall, post-first flush stormwater runoff (excess stormwater runoff) is discharged via Outfall 001. Non-process area stormwater, hydrostatic test water, steam condensate, potable water line flushing, fire water system flushing, construction stormwater runoff and other utility wastewaters are discharged via Outfalls 001 and 002 without treatment. If issued, the permit will 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.

The facility is located at 4241 Savannah Avenue, in the City of Port Arthur, Jefferson County, Texas 77640.

If the draft permit is issued, the effluent is discharged to Jefferson County Drainage Ditch (JCDD) No. 7 Main Outfall Canal, thence to Alligator Bayou, thence to Intracoastal Waterway Tidal in Segment No. 0702 of the Neches-Trinity Coastal Basin. The unclassified receiving water uses are intermediate aquatic life use for JCDD No. 7 Main Outfall Canal and Alligator Bayou. The designated uses for Segment No. 0702 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.

Endangered Species Review

The discharge from this permit action 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) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System program (September 14, 1998; October 21, 1998 update). To make this determination for TPDES permits, TCEQ and 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 biological opinion. Though the piping plover, *Charadrius melodus* Ord, can occur in Jefferson County, the county is north of Copano Bay and not a watershed of high priority per Appendix A of the 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.

B. Procedural Background

The permit application was received on June 19, 2023, and declared administratively complete on August 16, 2023. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published in English on August 23, 2023, in the *Port Arthur News* and in Spanish on August 24, 2023, in the *El Perico Hispanic Newspaper*. The Notice of Application and Preliminary Decision (NAPD) was published in English on March 30, 2024, in the *Port Arthur News* and in Spanish on March 28, 2024, in the *El Perico Hispanic Newspaper*.

The public comment period ended on April 29, 2024. This application was filed on or after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill (HB) 801, 76th Legislature (1999), and Senate Bill (SB) 709, 84th Legislature (2015), both implemented by the Commission in its rules in 30 TAC Chapters 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:

- Secretary of State website: www.sos.state.tx.us;
- TCEQ rules in 30 TAC: www.sos.state.tx.us/tac;
- Texas statutes: www.statutes.legis.state.tx.us;
- TCEQ downloadable rules: www.tceq.texas.gov/rules/indxpdf.html;

- Federal rules in Title 40 of the Code of Federal Regulations: http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40tab_02.tpl; and
- Federal environmental laws: www.epa.gov/lawsregs.

Commission records for this application are available for viewing and copying and are located at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk). The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at the following location: the Port Arthur Public Library, Reference Section Bookshelf, 4615 9th Avenue, Port Arthur, Texas.

COMMENTS AND RESPONSES

COMMENT 1:

John Beard Jr., Frederick Dwayne Davis, Ricky Espre Sr., and Gregory Richard asked: if the proposed emissions will cause or contribute to exceedances of National Ambient Air Quality Standards; if the proposed emissions will exceed allowable Prevention of Significant Deterioration Increments; if the proposed emissions will cause nuisance conditions violating 30 Tex. Admin. Code § 101.4; whether Motiva's air quality analysis complies with TCEQ's rules and guidance; whether the new and modified sources will utilize Best Available Control Technology; whether greenhouse gas controls reflect the use of Best Available Control Technology; whether the emissions calculation methodologies used in the application are flawed or outdated; and whether proposed air monitoring and reporting requirements are adequate to ensure compliance with the Clean Air Act and protect local residents.

RESPONSE 1:

TCEQ is the agency responsible for enforcing air pollution laws. 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 the TCEQ rules in 30 TAC Section 106.532, wastewater treatment plants have undergone this review and are permitted by rule as long as the wastewater treatment plant only performs the functions listed in the rule.

COMMENT 2:

John Beard Jr., Ricky Espree Sr., Frederick Dwayne Davis, and Gregory Richard asked if the draft permit conditions are adequate to protect the public from cumulative risks in accordance with Tex. Water Code § 5.130.

RESPONSE 2:

The Texas Surface Water Quality Standards (TSWQS) in 30 TAC Chapter 307 require that discharges may not degrade the receiving waters and may not result in situations that impair existing, attainable or designated uses, and that surface waters not be toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals.¹ The effluent limits in the draft permit are set to maintain and protect the existing instream uses.

The proposed draft permit was developed in accordance with the TSWQS to be protective of water quality, provided that the Applicant operates and maintains the proposed facility according to TCEQ rules and the proposed permit's requirements. The methodology outlined in the *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010) is designed to ensure compliance with the TSWQS (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.

As part of the application process, TCEQ staff must determine the uses of the receiving waters and set effluent limits that are protective of those uses. In order to achieve the goal of maintaining a level of water quality sufficient to protect existing water body uses, the proposed permit contains several water quality specific parameter requirements that limit the potential impact of the discharge on the receiving waters.

¹ 30 TEX. ADMIN. CODE § 307.6(b)(4).

The Executive Director has made a preliminary determination that the draft permit, if issued, meets all statutory and regulatory requirements.

COMMENT 4:

John Beard Jr., Ricky Espree Sr., Frederick Dwayne Davis, and Gregory Richard asked if the project will be protective of welfare, including wildlife and the environment in the surrounding area.

RESPONSE 4:

The proposed permit was drafted in accordance with 30 TAC § 307.5 and the TCEQ *Procedures for the Implementation of the Texas Surface Water Quality Standards* (IPs; June 2010). The Texas Surface Water Quality Standards (TSWQS) provide that surface waters cannot be toxic to aquatic or terrestrial organisms.² While the TSWQS and the IPs do not specifically designate criteria for the protection of cattle or livestock, they do designate criteria for the protection of aquatic life that should preclude negative impacts to the health and performance of cattle or wildlife.

The Executive Director has determined that the proposed draft permit for the facility meets the requirements of the TSWQS, which are established to protect human health, terrestrial, and aquatic life. Aquatic organisms are more sensitive to water quality components than terrestrial organisms.

COMMENT 5:

John Beard Jr., Ricky Espree Sr., Frederick Dwayne Davis, and Gregory Richard asked whether Motiva and TCEQ supplied the public with adequate information to verify the bases for Motiva's claims and for TCEQ's decision to issue the permits.

RESPONSE 5:

TCEQ Technical Review: The Executive Director's technical review is summarized in the Statement of Basis (SOB)/Technical Summary and Executive Director's Preliminary Decision, which is available for viewing and copying at the TCEQ's Office of Chief Clerk. The SOB describes the findings of the Executive Director's technical review, and the basis for the draft permit. After reviewing the Motiva

² 30 TEX. ADMIN. CODE § 307.4.

application, the Executive Director made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements.

TCEQ Notice Information: There are two public notices regarding this permit action, the Notice of Receipt of Application and Intent to Obtain a Wastewater Permit (NORI) and the Notice of Application and Preliminary Decision (NAPD). TCEQ's notice rules require applicants to provide public notices for wastewater permits by publishing the NORI in a "newspaper of largest circulation in the county in which the facility is located or proposed to be located ... if the facility is located or proposed to be located in a municipality, the applicant [must] publish notice in any newspaper of general circulation in the municipality." After the Office of the Chief Clerk has mailed the preliminary decision and the NAPD to the applicant, they are required to publish the NAPD "at least once in a newspaper regularly published or circulated within each county where the proposed facility or discharge is located and in each county affected by the discharge."

In accordance with TCEQ's notice rules, two public notices were published for the submitted application. The Applicant published the NORI in English on August 23, 2023, in the *Port Arthur News* and in Spanish on August 24, 2023, in the *El Perico Hispanic Newspaper*. The NAPD was published in English on March 30, 2024, in the *Port Arthur News* and in Spanish on March 28, 2024, in the *El Perico Hispanic Newspaper*.

In addition, the application for this facility has been available for viewing and copying at the Port Arthur Public Library, Reference Section Bookshelf, 4615 9th Avenue, Port Arthur, Texas since publication of the NORI. The draft permit, the Statement of Basis/Technical Summary, and the Executive Director's preliminary decision have been available for viewing and copying at the same location since publication of the NAPD.

During regular business hours, the public may review or copy the public file for this application, which includes the application, its attachments, the comment letters, this Response to Public Comment, the Hearing Requests, the Responses to Hearing Requests, and any other communications made during the review of this application, at TCEQ's Office of the Chief Clerk located in Building F, 12100 Park 35 Circle, Austin, Texas.

COMMENT 6:

John Beard Jr., Ricky Espree Sr., Frederick Dwayne Davis, and Gregory Richard asked if the proposed emissions will threaten the health and safety of nearby residents.

RESPONSE 6:

Because this application is for a TPDES permit, the Executive Director's review was limited to the statutory and regulatory requirements governing TPDES permits. The term "emission" is typically associated with air permits, while the term "discharge" is typically associated with TPDES permits.

This Response to comments only addresses concerns with Motiva's TPDES application. The Executive Director determined that, as provided in the Texas Surface Water Quality Standards, Water in the State must 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 TSWQS will be maintained.

COMMENT 7:

John Beard Jr., Ricky Espree Sr., Frederick Dwayne Davis, and Gregory Richard asked if Motiva and TCEQ adequately considered the environmental justice impacts of the proposed pollution increases.

RESPONSE 7:

Motiva applied for a renewal of its existing permit without changes, thus, there will not be an increase in pollution. For additional information regarding Environmental Justice at TCEQ please visit:

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

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENTS:

In response to Public Comments, the Executive Director has made no changes to the draft permit.


Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel,
Executive Director

Erin Chancellor, Director
Environmental Law Division

Charmaine Backens, Deputy Director
Environmental Law Division



Kathy Humphreys, Staff Attorney
Environmental Law Division

State Bar No. 24006911

P.O. Box 13087, MC 173

Austin, Texas 78711-3087

Phone (512) 239-3417

Fax: (512) 239-0606

REPRESENTING THE EXECUTIVE DIRECTOR OF
THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY