

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

November 19, 2024

TO: All interested persons.

RE: Dow Hydrocarbons and Resources, LLC and Union Carbide Corporation
TPDES Permit No. WQ0000447000

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 Calhoun County Public Library, 200 West Mahan Street, Port Lavaca, 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

- (2) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (3) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."
- (4) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group;
 - (B) the comments on the application submitted by the group that are the basis of the hearing request; and
 - (C) by name and physical address one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.

Additionally, your request must demonstrate that you are an **"affected person."** An affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application that were raised **by you** during the public comment period. The request cannot be based solely on issues raised in comments that you have withdrawn.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to **your** comments that you dispute; 2) the factual basis of the dispute; and 3) list any disputed issues of law.

How to Request Reconsideration of the Executive Director's Decision.

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be **received by** the Chief Clerk's office no later than **30 calendar days** after the date

of this letter. You may submit your request electronically at www.tceq.texas.gov/agency/decisions/cc/comments.html or by mail to the following address:

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

Processing of Requests.

Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the TCEQ's Alternative Dispute Resolution Program and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

How to Obtain Additional Information.

If you have any questions or need additional information about the procedures described in this letter, please call the Public Education Program, toll free, at 1-800-687-4040.

Sincerely,



Laurie Gharis
Chief Clerk

LG/erg

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
Dow Hydrocarbons and Resources, LLC and Union Carbide Corporation
TPDES Permit No. WQ0000447000

The Executive Director has made the Response to Public Comment (RTC) for the application by Dow Hydrocarbons and Resources, LLC and Union Carbide Corporation for TPDES Permit No. WQ0000447000 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 (WQ0000447000) 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 Calhoun County Public Library, 200 West Mahan Street, Port Lavac, Texas.



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas reduciendo y previniendo la contaminación

19 de noviembre de 2024

TO: Todas las personas interesadas.

RE: Dow Hydrocarbons and Resources, LLC y Union Carbide Corporation
TPDES Permiso No. WQ0000447000

Decisión del Director Ejecutivo.

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

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

del Condado de Calhoun, 200 West Mahan Street, Port Lavaca, Texas.

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

Cómo solicitar una audiencia de caso impugnado.

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

La solicitud debe incluir lo siguiente:

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

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

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

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

Cómo solicitar la reconsideración de la decisión del Director Ejecutivo.

A diferencia de una solicitud de audiencia de caso impugnado, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Una solicitud de reconsideración debe contener su nombre, dirección, número de teléfono durante el día y, si

es posible, su número de fax. La solicitud debe indicar que está solicitando la reconsideración de la decisión del director ejecutivo, y debe explicar por qué cree que la decisión debe ser reconsiderada.

Fecha límite para la presentación de solicitudes.

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

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

Procesamiento de solicitudes.

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

Cómo obtener información adicional.

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

Atentamente,



Laurie Gharis
Secretaria Oficial

LG/erg

Recinto

**RESPUESTA DEL DIRECTOR EJECUTIVO AL COMENTARIO DEL PÚBLICO
para
Dow Hydrocarbons and Resources, LLC y Union Carbide Corporation
TPDES Permiso No. WQ0000447000**

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de Dow Hydrocarbons and Resources, LLC y Union Carbide Corporation del permiso de TPDES No. WQ0000447000. 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 (WQ0000447000) 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 la Biblioteca Pública del Condado de Calhoun, 200 West Mahan Street, Port Lavaca, Texas.

MAILING LIST / LISTA DE CORREO
Dow Hydrocarbons and Resources, LLC and/y Union Carbide Corporation
TPDES No. WQ0000447000 / TPDES No. WQ0000447000

FOR THE APPLICANT /
PARA EL SOLICITANTE:

Miguel Salazar, Environmental Specialist
Dow Hydrocarbons and Resources, LLC
and/y Union Carbide Corporation
P.O. Box 186
Port Lavaca, Texas 77979

INTERESTED PERSONS /
PERSONAS INTERESADAS:

See attached list. / Ver lista adjunta.

FOR THE EXECUTIVE DIRECTOR /
PARA EL DIRECTOR EJECUTIVO
via electronic mail /
por correo electrónico:

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

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

Monica Valin-Baez, 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

BROYLES , DANIELLE
EARTHJUSTICE
STE 200
845 TEXAS ST
HOUSTON TX 77002-2858

DANIEL , JOHN
1714 FM 2235
PORT LAVACA TX 77979-5937

KELLY III , MARTY
TEXAS PARKS AND WILDLIFE DEPARTMENT
4200 SMITH SCHOOL RD
AUSTIN TX 78744-3218

KIER , LORI G
ENVIRONMENTAL INTEGRITY PROJECT
STE 810
888 17TH ST NW
WASHINGTON DC 20006-3939

KREBS , CLAIRE
EARTHJUSTICE
STE 200
845 TEXAS ST
HOUSTON TX 77002-2858

MACNAMARA , JULIE NATIONAL WATER
PROJECTS COORDINATOR
CLEAN WATER ACTION
STE 400
1444 I ST NW
WASHINGTON DC 20005-2210

POWIS , JENNIFER
EARTHJUSTICE
STE 200
845 TEXAS ST
HOUSTON TX 77002-2858

TRAN , ANH QUOC
VIETNAMESE AMERICAN COMMUNITY OF USA INC
4003 PORTOFINO CT
MISSOURI CITY TX 77459-6987

TPDES PERMIT NO. WQ0000447000

APPLICATION BY	§	BEFORE
DOW HYDROCARBONS &	§	THE TEXAS
RESOURCES, LLC AND UNION	§	COMMISSION ON
CARBIDE CORP. FOR TPDES	§	ENVIRONMENTAL
PERMIT NO. WQ0000447000	§	QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENTS

I. INTRODUCTION

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission), files this Response to Public Comments, on the application by Dow Hydrocarbons and Resources, LLC and Union Carbide Corporation, (UCC) (collectively, "Applicant") for a Major Amendment without Renewal to Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0000447000. As required by the TCEQ's Administrative Process and its rules, found in Title 30 of the Texas Administrative Code (30 TAC), section (§) 55.156, before a permit is issued, the ED prepares a response to all timely, relevant, and material, or significant comments that addresses the comments received, whether withdrawn. The TCEQ's Office of the Chief Clerk received timely comments from John Daniel, Mauricio Blanco, Curtis Miller, Danielle Broyles, Claire Krebs, San Antonio Bay Estuarine Waterkeeper (SABEW); Environmental Integrity Project (EIP), Clean Water Action (CWA), the Texas Parks and Wildlife Department (TPWD); and the Vietnamese American Community of the USA (VACUSA).

II. ACCESS TO INFORMATION, LAWS, TCEQ RULES & RECORDS, AND REQUIRED NOTICES PROVIDED AND PUBLISHED IN SPANISH & ENGLISH

For information about this permit application or the environmental permitting process, please contact the TCEQ's Public Education Program at (800) 687-4040.

➤ www.tceq.texas.gov/agency/decisions/participation/permitting-participation

Additionally, TCEQ's community outreach initiatives, which aim to educate the public about pollution prevention and water conservation, can be found on the Take Care of Texas Program's website below.

➤ <https://takecareoftexas.org/>

For the "TCEQ Rules," otherwise known as Title 30 of the Texas Administrative Code, use the link below (select TAC Viewer, then Title 30 Environmental Quality).

➤ <https://www.sos.texas.gov/tac/>

The TCEQ Rules can also be accessed on the TCEQ's website below (for downloadable rules in WordPerfect or Adobe PDF formats, select "Rules, Policy, & Legislation," then "Current TCEQ Rules," then "Download TCEQ Rules").

➤ <https://www.tceq.texas.gov>

Texas Laws or Statutes, otherwise known as “Codes,” can be accessed through the link below (select “Water Code” at the bottom).

➤ www.statutes.capitol.texas.gov

Federal rules or regulations and environmental laws can be accessed through the link to Title 40 of the Code of Federal Regulations (40 C.F.R.) and the United States Environmental Protection Agency’s (EPA) website below.

➤ <https://www.ecfr.gov/current/title-40>

➤ <https://www.epa.gov/laws-regulations>

Commission records for the proposed facility are available for viewing and copying at TCEQ’s main office in Austin at 12100 Park 35 Circle, Building F, 1st Floor in the OCC, for the current application until final action is taken). Some documents located at the OCC may also be found in the TCEQ Commissioners’ Integrated Database.

➤ www.tceq.texas.gov/goto/cid

If individuals wish to file a complaint about the Seadrift facility concerning its compliance with the provisions of its permit or with TCEQ rules, the TCEQ’s Office of Compliance and Enforcement (OCE) should be contacted. Specifically, the TCEQ’s Regional Office (Region 14) in Corpus Christi, Texas may be contacted at (361) 881-6900 or the statewide toll-free number at 1-888-777-3186 to address potential permit violations. In addition, complaints may be filed electronically through the link to the TCEQ’s compliance website below or by sending an email to the “complaint” email address below. If an inspection by the TCEQ finds that the Applicant is not complying with all requirements of the proposed permit, or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.

➤ <https://www.tceq.texas.gov/compliance/complaints>.

As referenced above, the TCEQ’s Administrative Process and its rules related to the TPDES permitting process, require two fundamental public notices of the application. The first occurs after application submittal and is referred to as the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI). The TCEQ’s Administrative Process requires the NORI to be published in a certain newspaper after the ED has reviewed the application and declared it “administratively complete.” The next notice is required after the ED finishes her Technical Review (Tech Review) and prepares a draft permit. This second notice is referred to as the Notice of Application and Preliminary Decision (NAPD) and is required to be published in the same certain newspaper as the NORI was published in.

However, during the ED’s Tech review, if there are changes to an application, or errors are discovered after the NORI was published, the TPDES permitting process allows the Applicant to publish a Combined NORI-NAPD (CO-NORI-NAPD) to correct any errors or to acknowledge changes in the application or deliver other important details about the application.

Alternative language notice in Spanish is available at; El aviso de idioma alternativo en español está disponible en:

➤ <https://www.tceq.texas.gov/permitting/wastewater/pending-permits/application-details#Document-Summary>.

For this application the required notices were published in Calhoun County, Texas in English in *the Port Lavaca Wave* and in Spanish in *Revista de Victoria*. The application's relevant Administrative Procedural history is below. The application was:

- Received on **12-27-2022**.
- Declared Administratively Complete on **03-21-2023**.
- Publicized by NORI in English on **03-29-2023**/ Spanish on **04-05-2023**.
- Publicized by CO-NORI-NAPD in English on **04-10-2024**/ Spanish on **03-28-2024**.
- Declared Technically Complete and the draft permit prepared on **11-14-23**.
- Publicized by CO-NORI-NAPD in English on **06-26-2024**/ Spanish on **06-28-2024**.

The TCEQ's Administrative Process for TPDES permits includes a public comment period, which gives the opportunity for the public to comment on the application for thirty (30) days after publication of the NAPD or CO-NORI-NAPD was published. For this application the public comment period ended on July 29, 2024.

The permit application has been available for viewing and copying at the Calhoun County Public Library, 200 West Mahan Street, Port Lavaca, Texas, since publication of the NORI. The final permit application, proposed permit, Fact Sheet/Technical Summary and the ED's preliminary decision have been available for viewing and copying at the same location since publication of the first CO-NORI-NAPD.

Because the application was received after September 1, 2015, and declared administratively complete after September 1, 1999, it is subject to both the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999, and the TCEQ rules in 30 TAC Chapters 39, 50, and 55, which implement the procedural requirements of Senate Bill 709, 84th Legislature, 2015.

III. BACKGROUND

A. Description of the Existing Facility and Authorization

The Applicant operates a chemical manufacturing facility (EPA I.D. No. TX0002844), producing glycol, oxide derivatives, and polyethylene and polypropylene plastics located at 7501 State Highway 185 North, near the City of Seadrift in Calhoun County, Texas 77983, called Seadrift Operations (Seadrift facility).

The existing permit authorizes the discharge of effluent, otherwise known as the waste streams or wastewater (effluent) that include remediated groundwater, domestic wastewater, utility wastewater, hydrostatic test water, process wastewater from UCC, and stormwater at a daily average dry-weather flow limitation or "limit" not to exceed 5.80 million gallons per day (MGD) via Outfall 001, and cooling water blowdown, water treatment waste, boiler blowdown, resin pad wash water, resin container rinse water, steam condensate, stormwater from Union Carbide, hydrostatic test water, firewater, and de minimis quantities of process wastewater at a daily average dry-weather flow not to exceed 12 MGD via Outfall 002; and stormwater on an intermittent and flow-variable basis via Outfalls 003, 004, 005, 006, 007, 008, 009, 010, 012, 014, 015 and 016. A more detailed description is provided in the Fact Sheet and Executive Director's Preliminary Decision (Fact Sheet) which is included within the draft permit package.

The Seadrift facility also receives and treats wastewater generated from the Braskem (third party on-site facility) that also discharges wastewater to the Wastewater Transfer Ditch. Given that Braskem manufactures polypropylene, as does UCC, its wastewaters are compatible with the wastewater treatment system at the Seadrift facility.

The wastewater generated at the Seadrift facility is managed by three separate sewer systems: High Strength Sewer (HSS) System, Low Strength Sewer (LSS) System, and a sanitary sewer system. The wastewater from these systems joins at various points in a combined system for additional treatment. Additional description on each of these systems is provided in the Fact Sheet in the draft permit package.

B. Application Requests to be Granted

The Major Amendment without Renewal application, (the application) for proposed TPDES Permit No. WQ0000447000 (draft permit) seeks to authorize the discharge of stormwater from the Seadrift facility on an intermittent and flow-variable basis via Outfalls 003, 004, 005, 006, 012, 014, 015 and 016.

Via Outfall 001, the application seeks to authorize the discharge of process wastewater from the Seadrift facility, remediated groundwater, domestic wastewater, utility wastewater, hydrostatic test water, and stormwater at a daily average dry-weather flow limit not to exceed 5,800,000 Gallons Per Day (GPD).

Via Outfall 002 and during Interim Phase I of the draft permit, cooling water blowdown, water treatment wastes, boiler blowdown, resin pad wash water, resin container rinse water, steam condensate, stormwater from the Seadrift facility, hydrostatic test water, firewater, and *de minimis* quantities of process wastewater at a daily average dry-weather flow limit not to exceed 12,000,000 GPD, are proposed to be authorized. Additionally, via Outfall 002 and during the Final Phase, cooling water blowdown, water treatment waste, boiler blowdown, resin pad wash water, resin container rinse water, steam condensate, stormwater from the Seadrift facility, hydrostatic test water, firewater, and *de minimis* quantities of process wastewater at a daily average flow limit not to exceed 17,000,000 GPD, are proposed to be authorized.

The new transfer pipeline allows pumping of 3,800 Gallons Per Minute (GPM) of the clarifier effluent to the Secondary Pond. The new weir system in the Wastewater Transfer Ditch allows processing of wastewater from Semicon, LP-2, and HP-2 through the clarifiers, thus bypassing the Wastewater Transfer Ditch. This diversion from the Wastewater Transfer Ditch minimizes/eliminates the formation of hydrogen sulfide.

The new system includes a new lift box pump station to collect the discharge from the clarifiers and three 50-horsepower pumps (HPP) to accommodate the range in clarifier flow. The new system also includes a 10-HP pump to pump the HP-2, LP-2, and Semicon process sewer from the weir system into the clarifier lift box.

The new system leaves the current open ditch system in place for the collection and transfer of stormwater and cooling pond blowdown water, while the new closed transfer system handles all the low strength sewer water processed by the clarifier.

The wastewater generated at the Seadrift facility is managed by three separate sewer systems: High Strength Sewer (HSS) System, Low Strength Sewer (LSS) System, and a sanitary sewer system. The wastewater from these systems joins at various points in a combined system for additional treatment. Please see the Fact Sheet for additional details on each of these systems.

The two new Acclaim Catalyst production lines will use the same technology and raw material as the existing production lines. Wastewater from the new production lines is expected to be less than 612 GPM and will be routed to the on-site wastewater treatment system. Wastewaters will include process wastewater (Acid K.O. Ot, Washpot), cooling water, stormwater, used potable water, and tempered water. Wastewater will be routed to a sump. Water from the sump will typically be routed to the LSS System but may be also routed to the HSS System.

The new Prodigy Catalyst production line is not only new technology, new to the Seadrift facility is new raw materials like toluene, Isopar C, and an MAO solution. Wastewater from the new production line is expected to include tempered water with a volume of less than 0.74 GPM and will be routed to an on-site wastewater treatment system. Wastewater will be routed to a sump. Water from the sump will typically be routed to the LSS System but may be also routed to the HSS System.

i. SANITARY WASTEWATER TREATMENT SYSTEM

The sanitary wastewater is routed via its own separate collection and conveyance system to the Enterococci Treatment System. Routing of the treated sanitary wastewater through the WWTR anaerobic reactor is the normal operations pathway for this stream; however, there may be times where the treated sanitary wastewater is routed to the Wastewater Stabilization Pond System via the wastewater transfer ditch or Low Strength Process Wastewater Pipeline. The transfer of the stream to the WWTR or Wastewater Stabilization Pond System will only occur after complete treatment (disinfection) of the sanitary wastewater stream.

ii. OUTFALL 002 CURRENT SYSTEM

Outfall 002 is equipped with a continuous pH monitoring system. If any material leaks are detected, they are immediately responded to, and the area is quickly cleaned up. Small amounts of pollutants originating from fugitive emissions from areas that are adjacent to and from roofs within process, construction, and maintenance areas could be present in the stormwater runoff.

Waters discharged through Outfall 002 are not treated. However, there is a floating underflow baffle and diversion pond to stop any floating material from entering the Victoria Barge Canal. At the gated outfall structure to the Victoria Barge Canal, a screen mesh protects the outfall pipes and serves as an additional barrier to prevent the release of solid material. Floating material is periodically removed and landfilled on-site.

Most of the Seadrift facility's secondary containments drain to the wastewater treatment system; however, some secondary containments have the capability of draining to the Storm Water Sewer System. On some occasions, the stormwater that is collected in these containments would be sent to the Storm Water System only after the collected waster is inspected for organics.

During periods of high stormwater runoff, overflows from the Sanitary Sewer system, LSS System, and HSS System can enter the Storm Water Sewer System and be discharged with stormwater through Outfall 002. These overflows would normally be of short duration and Outfall 002 discharge would contain very low levels of contaminants. The sources of these overflows could include resin recovery pits, sumps, manhole and grating covers, and secondary containment structures. Other rare events such as stopped up lines, mechanical failures, and power failures could also

cause process wastewater to enter the Storm Water Sewer System. Additionally, when a deluge system is tested or in a very rare instance when there is a need to use water during a fire emergency, the resulting firewater could be discharged through Outfall 002 and/or Outfall 001.

If a bypass and/or overflow occurs, the site's response would be to keep these process waters from entering the Storm Water Sewer System. If it does enter this sewer system, then the gates at the Victoria Barge Canal would be closed. Pumps, which can be remotely operated, would be turned on and the waters in the Storm Water Ditch would be pumped to the Secondary Pond for subsequent treatment. The gates would remain closed until waters at Outfall 002 and at the gates show no elevation of total organic carbon.

iii. SYSTEM MODIFICATIONS

The Seadrift facility will be undergoing several modifications for the system related to Outfall 002 as part of its SDO C3PO project. The SDO C3PO project will install improved solids filtering and management equipment along the conveyance channel, which runs from the existing Outfall 002 at State Highway 185 down to the combined Outfall 001-002 discharge point into the Victoria Barge Canal. The improved solids filtering and management equipment will be designed to provide reliable solids removal from stormwater flows through the conveyance channel up to and including stormwater flows resulting from a 25-year/24-hour storm event. Civil improvements to increase the conveyance capacity of the channel and manage peak stormwater flows will also be constructed to ensure the performance of the system. Conveyance capacity of the channel will be improved by removing existing vegetation, widening the channel, installing a partial cement lining, and increasing the embankment height where needed. The management of peak flows during larger storm events will be achieved with the construction of a stormwater surge basin just upstream of the new proposed location of Outfall 002.

Other changes include routing stormwater runoff from Outfall 006 drainage area to Outfall 002's system. There will be a new transformer yard and stormwater from this area will also be routed to the Outfall 002 system. Stormwater from the C3PO new transformer containment area in the new Outfall 002 pond area will be routed to the conveyance ditch at Outfall 002.

iv. CONVEYANCE CHANNEL CAPACITY IMPROVEMENTS AND STORMWATER FLOW MANAGEMENT

Conveyance channel improvements will begin downstream of the existing Outfall 002, just south of SH-185. Capacity of the channel will be increased by removing the existing vegetation and trees, widening the channel, installing a partial cement lining, and increasing the embankment height where needed on the western end, down to the combined Outfalls 001/002 discharge to the Victoria Barge Canal. The cement lining will begin just downstream of the box culvert under the road to the raw water pump station and continue to the combined outfall headwall. The section of the channel just upstream of the box culvert under the road to the raw water pump station will be designed as a silt basin with a reinforced concrete bottom and side slopes. A 54-inch HDPE pipe will be installed in addition to the three current 48-inch diameter pipes at the end of the conveyance channel at the combined outfall to the Victoria Barge Canal.

The conveyance channel improvements will be designed to a capacity of 160,000 GPM to manage a significant amount of rain events. However, to manage peak stormwater flows entering the conveyance channel up to and including a 25-year/24-hour storm event, a 45-acre-foot (14.7 million gallon) capacity stormwater surge basin will be constructed immediately north of the silt basin. The surge basin is designed to allow short term accumulation of flow to trim the peak of the storm hydrograph and to allow unrestrained release back to the conveyance channel as the storm flow passes. The surge basin will include an emergency spillway back to the conveyance channel to ensure that extreme event flows greater than the 25-year/24-hour storm flow will not overtop the crest of the basin embankment. The emergency spill way elevation is designed at elevation 18.0 feet and the top of the surge basin embankment is elevation 20.0 feet, allowing for 2 feet of freeboard. The surge basin will have a clay liner. Technical specifications for the liner were approved by the ED on November 2, 2022.

Off-site drainage currently coming into the conveyance channel from the roadside ditch north along SH-185 will be rerouted to a new ditch. This ditch will be constructed immediately north of the new surge basin and will discharge immediately upstream of the wetlands area north of the project site. The wetlands area will provide storage to reduce peak flows in the conveyance channel and also have the added benefit of potentially improving wetlands hydrology. The stored flow will eventually drain back into the conveyance channel downstream of the new Outfall 002 through an existing 30-inch culvert equalization pipe with flap gate.

v. OUTFALL 002 FLOW MEASUREMENT AND MONITORING POINT RELOCATION

The monitoring point for Outfall 002 will be relocated from its current location immediately north of SH-185 to immediately downstream of the silt basin and the surge basin emergency spillway. The monitoring point will be near the box culvert under the road to the raw water pump station and will include all flows entering the channel from the Outfall 002 system.

vi. SOLIDS FILTERING AND MANAGEMENT EQUIPMENT

Solids filtering equipment will be installed at both the new Outfall 002 location and at the combined Outfalls 001/002 discharge structure immediately upstream of the discharge pipes to the Victoria Barge Canal. The dewatering and solids management equipment will all be installed near the new Outfall 002 location.

The filtering equipment at the new Outfall 002 location will include various screens and filters. Solids collected from the filtering system will be dewatered and taken to an authorized landfill. The dewatering system will require small amounts of a treatment chemicals such as surfactants and polymers.

The filtering at the combined Outfalls 001/002 discharge will be supplied with vertical drum screens. The screens will be installed immediately upstream of the discharge pipes to the Victoria Barge Canal, including the fourth pipe being added for this project. The solids filtered by the screens will be collected in two sumps and will be pumped via an 8-inch underground HDPE pipe back to the silt basin. These solids will then be filtered and dewatered in Outfall 002 filtering system as described above.

vii. REROUTING OF OUTFALL 006 STORMWATER TO OUTFALL 002 SYSTEM

As part of the SDO C3PO project modifications, stormwater from the Outfall 006 drainage area will be rerouted to the Outfall 002 system, entering the conveyance

channel downstream of the current Outfall 002 location and continuing to the silt basin where it will commingle with other flows in the Outfall 002 system. Once the new Outfall 002 is started up, Outfall 006 will be discontinued because flows from its drainage area will now be part of the Outfall 002 discharge. However, Outfall 006 will not be discontinued in this permit action.

viii. STORMWATER OUTFALLS

Outfalls 003, 004, 006, 012, 014, 015, and 016 are authorized to discharge stormwater. As part of the system modifications to Outfall 002, stormwater from Outfall 006 drainage area will be routed to the new Outfall 002 system. Geographic coordinates of the outfalls locations in decimal degrees are provided in the Fact Sheet.

C. Application Requests Not Granted

As discussed in the Fact Sheet, the ED did not grant the application requests to add and identify flow as “total flow” at Outfall 001; to add monitoring and reporting requirements for the daily average and daily maximum for “total flow” at Outfall 001; to apply the mass loading and concentration effluent limits for biochemical oxygen demand, 5-day (BOD₅) and Total Suspended Solids (TSS) to the “total flow” at Outfall 001; to revise Other Requirement No. 1 so that it will be consistent with requested changes for flow, BOD₅, and TSS for Outfall 001; and to move the compliance point for floating solids, visible foam and visible oil for Outfalls 001, 002, 006, and 012.

IV. EXECUTIVE DIRECTOR’S TECHNICAL REVIEW

The basis for the ED’s Tech Review of TPDES applications is the TCEQ’s Water Quality Control (WQC) established by the Texas Legislature’s passage of Chapter 26 of the Texas Water Code ((*Ch.26*) and (TWC)) that gives the TCEQ primary authority over Water Quality (WQ), or control of WQ in Texas. The TCEQ’s WQC combines the WQ authority from Ch.26 with federally delegated CWA WQ authority for the TPDES program, which controls discharges of pollutants into Texas’ waterbodies, otherwise defined by the TWC as “WITS.”

The TCEQ implements its WQC through the grant of authority from both the Clean Water Act (CWA) and Ch.26 to issue permits for discharges of waste or pollutants into, or adjacent to WITS if, after the ED’s Tech Review, a proposed permit complies with the WQ provisions of the CWA, Ch.26, the Texas Surface Water Quality Standards (TSWQS), and the TCEQ’s Procedures to Implement the Texas Surface Water Quality Standards-June 2010 (IPs) (collectively the “TSWQS & the IPs”). In the same way, the ED recommends issuance or denial of an application based on whether the information contained in the application complies with the WQ provisions of the CWA, Ch.26, and the TSWQS & the IPs. Through the ED’s Tech review, the staff in the ED’s Water Quality Division (WQD) evaluate a TPDES application as an authorization to discharge to WITS and must determine that the provisions and conditions established in a proposed permit comply with the CWA, Ch.26, and the TSWQS & the IPs.

The TSWQS, specifically the word “standards,” is defined in TCEQ rule as desirable uses such as existing, attainable, designated, or presumed uses, otherwise known as WQ-related uses, and the necessary, narrative, and numerical WQ conditions to support and protect those WQ-related uses in WITS. Conversely, the TCEQ may refuse to issue a permit when the ED’s Tech Review finds that issuing the permit would

violate the provisions of any state or federal law or rules or regulations derived from those laws or when it finds that issuing the permit would interfere with TCEQ's WQC.

According to the TSWQS, WITS are assigned WQ-related uses that are known as Designated Uses (DUs) from Appendix A, D, or G of the TSWQS (30 TAC § 307.10). Typical uses that may be designated for specific water bodies include domestic water supply, categories of aquatic life use, recreation categories, and aquifer protection.

To maintain a level of WQ sufficient to protect the existing DUs of WITS in the route of effluent discharges requires WQD staff on the Standards and Water Quality Assessment (WQA) Teams, when performing multiple WQ-specific analyses, to review data from the application and employ it according to the TSWQS & TCEQ IPs. This practice ensures compliance with the TSWQS because WQD staff follow the prescribed methodology in the TCEQ IPs when drafting limits and conditions in TPDES permits.

The TCEQ IPs is a regulatory guidance document written specifically for permits to comply with the TSWQS. Correspondingly, within the regulatory framework of the TSWQS, a subset of DUs known as Aquatic Life Uses (ALUs), govern the Dissolved Oxygen (DO) criteria for the water body, which refers to the 24-hour minimum DO level required to support ALUs in WITS. DO concentrations are critical for the overall health of WITS, and in the case of ALUs, are necessary to protect aquatic life in WITS.

Thus, the WQD staff and the ED's Tech Review are responsible for evaluating impacts of effluent discharges on the DUs of WITS in the route of effluent discharges starting at the outfall and then establishing appropriate limits to protect the DUs as the TSWQS & the IPs require.

A. Description of Discharge Route

The effluent is discharged via Outfalls 001, 002, 005, 006, 007, 008, 009, 010, and 012 directly to Victoria Barge Canal Tidal in Segment No. 1701 of the Lavaca-Guadalupe Coastal Basin; via Outfall 003 to a ditch, to West Coloma Creek, then to Coloma Creek; via Outfalls 014 and 015 to West Coloma Creek, then to Coloma Creek; via Outfall 016 to West Coloma Creek Lateral No. 17, to West Coloma Creek, to Coloma Creek, then to Matagorda Bay/Powderhorn Lake in Segment No. 2451 of the Bays and Estuaries; via Outfall 004 to an unnamed ditch, then to the San Antonio Bay/Hynes Bay/Guadalupe Bay/Mission Lake in Segment No. 2462 of the Bays and Estuaries.

Segment Nos. 1701 and 2451 are not currently listed in the state's inventory of impaired and threatened waters, known as the 2022 Clean Water Act Section 303(d) list. Segment No. 2462 does appear on the 303(d) list for bacteria in oyster waters for San Antonio Bay/Hyne Bays/Guadalupe Bay/Mission Lake at the mean high tide line (Assessment Unit 2462_01). However, as more fully described below, the issuance of this permit amendment is not anticipated to cause any additional adverse impact to the receiving waters with respect to the listed impairment at Segment No. 2462.

B. Texas Surface Water Quality Standards Review

An Antidegradation (Anti-Deg) Review of effluent discharges is the first WQ-analysis conducted on the application by the Standards Team after it reviews and verifies the classifications, descriptions, and DUs of the WITS in the route of effluent discharges. More specifically, the TSWQS & the TCEQ IPs require the Standards Team, for all new or amended discharges, such as the discharges proposed in the application, to perform an Antidegradation Review to assess the impacts on WITS in the area of

impact from the proposed discharges for a certain distance from the outfall based on the volume of the discharge, otherwise known as the “impact zone.” The customary practice of the Standards Team is to assess the first 3.0 miles of a stream or to the confluence with a classified segment to ensure the discharge is thoroughly vetted.

Next, the Standards Team assigned ALUs according to the TSWQS, and then reviews the information from the application consistent with the provisions of the TSWQS (30 TAC Chapter 307). The Standards Team determined the DUs and ALUs and assigned the corresponding DO criteria specified by the TSWQS & IPs for the WITS in the route of the discharges. The DUs assigned to receiving streams of the discharge route were in accordance with the TCEQ IPs and as stated in Appendix A of the TSWQS (30 TAC § 307.10) are primary contact recreation, oyster water use, an “exceptional” ALU designation, and a 5.0 milligrams per liter (mg/L) dissolved oxygen (DO) criterion for Segment Nos. 2451 and 2462. The DUs for Segment No. 1701 are non-contact recreation, a “high” ALU designation, and a 4.0 mg/L DO criterion.

The Tier 1 Anti-Deg Review of the proposed discharges and their impact zones preliminarily determined that there is no expectation of impairment of existing DUs because the draft permit has limits and conditions designed to maintain numerical and narrative criteria to protect the DUs of WITS in the discharge routes.

Because the ALU designation for Segment Nos. 2451, 2462, and 1701 were “exceptional” and “high,” the Tier 2 Anti-Deg review policy from the TCEQ IPs applies, and states that when WITS with “exceptional,” “high,” or “intermediate” ALU designations are within the impact zone of the discharge routes, a Tier 2 Anti-Deg review was required, and preliminarily determined that no significant degradation of water quality is expected in Segment Nos. 1701, 2451, and 2462 because the existing DUs will be maintained and protected by the limits and conditions of the draft permit.

The existing, amended, or new discharges from the Seadrift facility are not expected to negatively impact 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 TPDES permitting program (*eff.* 9/14/98; 10/21/98 *update*) from the United States Environmental Protection Agency (EPA). 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.

The Piping Plover (*Charadrius melodus Ord*) can occur in Segment Nos. 2451 and 2462 within Calhoun County; however, the County is north of Copano Bay and not a watershed of high priority per Appendix A of the biological opinion. This determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. With respect to the presence of endangered or threatened species, the proposed permit does not require EPA’s review.

The Whooping Crane (*Grus Americana*), also an endangered aquatic dependent species, has been determined to occur in Calhoun County in Segment No. 2462 of the Bays and Estuaries, and just as with the Piping Plover occurring in a watershed that is not listed in Appendix A of the biological opinion, Segment No. 2462 is not a watershed of critical concern, per Appendix A.

C. Water Quality Assessment

The second analysis of the ED's Technical Review involves the WQA Team reviewing the information from the application against stream standards as established in the TSWQS that may be applicable to the WITS receiving the proposed discharge and performing DO modeling (analyses) using a mathematical model. Conventional limits such as those for DO and BOD₅ are based on stream standards and Waste Load Allocations (WLAs) for WQ-limited streams established in the TSWQS and the Water Quality Management Plan of Texas (WQMP). However, coefficients and kinetics used in the analyses come from site specific, standardized default, and estimated values.

Because Outfall 001 is routed directly into Segment No. 1701 and is expected to discharge significant concentrations of oxygen demanding constituents, or potential sources for bacteria (i.e., domestic sewage), an uncalibrated QUAL-TX model was used for the analyses of DO impacts from the discharge at Outfall 001 at a flow of 5.8 MGD. Based on the analyses, the current permit limit of 34.8 mg/L (1187 pounds/day) of BOD₅ is predicted to be adequate to maintain DO levels above the criteria assigned by the Standards Team for Victoria Barge Canal Tidal (4.0 mg/L DO). Even though Segment No. 1701 is not impaired currently for bacteria, Outfall 001 also includes effluent limits for Enterococci (the designated indicator bacteria for marine waters) that are set at the segment criteria from the TSWQS.

Additionally, because the only potential source for bacteria across all Outfalls (i.e., domestic sewage) is authorized to be discharged in the draft permit at Outfall 001, and not Outfall 004, which is the only Outfall authorized to discharge to Segment No. 2462, the issuance of draft permit is not anticipated to cause any additional adverse impacts to bacteria impairment of Segment No. 2462. Similarly, due to the low concentrations of oxygen demanding constituents expected in the types of wastewaters authorized at the remaining Outfalls, no significant DO impacts are expected from discharges at Outfall 002 or the remaining stormwater Outfalls.

In consideration of the TCEQ's WQC data-centric approach, all determinations, reviews, or analyses related to the ED's Tech Review of this application can be reexamined and subsequently modified upon receipt of newer information or information that conflicts with the bases employed in the applicable review or analysis

As the above describes staff from the WQD provide appropriate limits to maintain and protect the existing instream uses through the ED's Tech Review, and for those reasons, the ED has determined that the draft permit, if issued, meets all statutory and regulatory requirements and is protective of the environment, WQ, and human health.

V. COMMENTS AND RESPONSES

COMMENT 1:

SABEW and VACUSA requested a public meeting with simultaneous interpretation in Spanish and Vietnamese and all future notices translated into Vietnamese.

RESPONSE 1:

The provisions of the TCEQ's Public Meeting rules, found at 30 TAC § 55.154, subsection (c), contain the three-water quality-relevant factors for the ED to consider when determining whether a public meeting should be held. The first and second factors, subsections (c)(1) and (2), provide that a public meeting must be held if the ED determines that there is a substantial or significant degree of public interest in an application, and when a member of the legislature who represents the general area in which the facility is located, or proposed to be located, requests that a public meeting be held. Subsections (c)(3) and (4) apply only to air quality permits and are irrelevant for water quality applications purposes. The last factor, subsection (c)(5), provides that a public meeting must be held if otherwise required by law.¹

While the ED acknowledges these requests, none of the three provisions noted above are applicable to the application and therefore, a TCEQ Public Meeting was not scheduled. However, as requested, subsequent notices regarding this application, including this document (RTC), will be provided in Vietnamese.

COMMENT 2:

SABEW commented that the TCEQ policies should be updated to allow electronic access to the application and draft permit documents; and identify newspapers used for notice publication for determination of public comment periods.

RESPONSE 2:

The ED acknowledges this comment. The TCEQ is currently implementing electronic posting of applications and draft permits on the TCEQ website. TPDES applications declared administratively complete on or after 5/1/24 are available on the TCEQ website.

Regarding identifying newspapers used in publishing notices about water quality applications, the TCEQ rules, found at 30 TAC § 39.405(f) (relating to published notice), state that it is the Applicant's responsibility to publish the notices in a newspaper of largest circulation in the county in which the facility is located or proposed to be located or, 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.

Applicable public comment periods are governed by the TCEQ rules, found at 30 TAC § 39.551(c)(3), which state that the second public notice referenced above, the NAPD, must set a deadline to file public comment with the OCC that is not less than 30 days after the NAPD is published in a newspaper of largest circulation in the county in which the facility is located or proposed to be located.

¹ 30 TAC § 55.154(c)(1)-(2), and (5).

COMMENT 3:

SABEW commented expressing concerns over electronic access to permit-required monitoring data reports.

RESPONSE 3:

The ED notes that the public may obtain monitoring data reports for the Seadrift facility via the online resource from the United States Environmental Protection Agency (EPA), known as the EPA's Enforcement and Compliance History Online (ECHO) system. Permit limits and discharge monitoring reports (DMRs) are available to the public in national files on the ECHO data downloads page at echo.epa.gov/tools/data-downloads/icis-npdes-dmr-and-limit-data-set; however, the TCEQ does not require Applicants to notify interested parties of publicly available permit data.

COMMENT 4:

SABEW and John Daniel commented that the Application is incomplete.

RESPONSE 4:

The ED acknowledges the comments but notes that it is unclear as to what specifically about the application and its contents or components Mr. Daniel and SABEW believe is lacking, missing, or incomplete.

WQD staff conducted an administrative review of the application according to the requirements for wastewater discharge permit applications in the TCEQ rules, found at 30 TAC Chapter 281 (Applications Processing (281 rules)) and Chapter 305, Subchapter C (Application for Permit (305 rules)), ensuring that all required aspects of the application were provided; thereafter the application was determined to be administratively complete. WQD staff then conducted the ED's Tech review of the application to ensure that all required aspects of the application had been sufficiently addressed to ensure protection of human health and the environment. These reviews determined that a complete application was submitted and processed.

The timing mechanism for ensuring complete applications, includes not only administrative information, but also the technical data required in an application, as the TCEQ's application rules, found at 30 TAC § 281.19, requires WQD staff to promptly notify an applicant of any additional technical material as may be necessary for a complete review. If the additional, necessary information is not received by WQD prior to expiration of the technical review, and the information is considered essential to the ED for making recommendations to the Commission on a particular matter, the ED may return the application to the applicant. The ability of the ED to return an incomplete application is an inherent mechanism to ensure complete applications.

Another inherent mechanism of the TCEQ's application rules, specifically the 305 rules, are the rules' requirements related to who can submit and sign applications like the 281 rules, and the requirements for who can prepare an application and gather its required data. Found at 30 TAC § 305.44(b), the TCEQ's application rules require that all Applicants sign a statement certifying, under penalty of law, that the application and all attachments were prepared in accordance with a system to assure that qualified personnel properly gathered and evaluated the information submitted. This highlights the theme of another inherent mechanism in the application rules, that the

requirements of the application rules instruct that multiple, certain individuals are required for different components of an application.

Providing specificity around the individuals participating in the application process and their specific roles makes it more likely that incomplete portions of an application will be readily identified, as there is a specific individual focusing on a specific portion of the application. Related to the application's data, this theme of the application rules is evident in the requirement that only qualified personnel gather information for an application. By requiring data for the application is gathered only by qualified personnel, it makes it more likely that a complete set of data is in the application as qualified individuals will be familiar with what information is required in an application, and what, if any, information is missing from the application.

Similarly, the application rules allow WQD staff to reasonably require other information to complete the processing of the application which is another example of an inherent mechanism. In the case of other information required by the ED, when the information is in the form maps or map information, the additional maps or other map information must be prepared by a Texas licensed professional engineer, Texas licensed professional geoscientist, or a registered surveyor. The qualified individuals described above for providing maps or map information are more likely to provide accurate information because of their qualifications.

The application's certification statement and the authority or discretion of the ED and the Commission to request and reasonably require any other information considered essential by the Executive Director to make recommendations to the Commission on a particular matter, or by the Commission to make a final decision on an application, found at 30 TAC §§ 305.45(a)(6)(E) ensures only complete applications are processed to issuance.

COMMENT 5:

SABEW, VACUSA, TPWD, and John Daniel commented that the antidegradation review related to the application is insufficient, and the proposed discharge may negatively impact human health, the environment and WQ-related uses of San Antonio Bay including fishing, shrimping, and oyster harvesting. SABEW and John Daniel commented that that discharge from the Seadrift facility may include microplastics, chlorinated solvents, 1-4 dioxane, vinyl chloride, toluene; and may lead to bioaccumulation of contaminants in wildlife that may be consumed (game, fish, and seafood) by the public.

TPWD, SABEW, and VACUSA commented further about the negative impacts the Seadrift facility will have on commercial (oyster and shrimp) and recreational fisheries within San Antonio Bay. SABEW commented that the permit will lead to a violation of the TSWQS and that the draft permit does not sufficiently protect impaired waters

RESPONSE 5:

The ED acknowledges these comments and the significance of protecting human health, the WQ-related uses, and the quality of WITS and gives that significance due consideration in deciding whether to issue a TPDES permit. As discussed in this document, the ED's Tech Review of TPDES applications carefully considers the impacts to WITS from the proposed discharge.

As mentioned above, the federal CWA, the TWC, *Ch.26*, and the TSWQS all contain standards and requirements that any TPDES-permitted discharge, and its method of achieving that quality, must meet, colloquially referred to as “Water Quality goals” (WQ goals) Equally important, WQD staff evaluated the application as an authorization to discharge treated wastewater into WITS, which requires adherence to the same WQ goals. In the same way, the TSWQS, *Ch.26*, and the TCEQ IPs were established for the protection of human health resulting from contact recreation and consumption of aquatic organisms, existing surface and groundwater quality, the environment, the health of aquatic and animal life, and specifically, existing DUs of WITS, all of which are the same WQ goals. In the same way, the policy of the TSWQS and *Ch.26* is:

to maintain the quality of water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, and the operation of existing industries, taking into consideration the economic development of the state; to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy.²

The TSWQS is a primary mechanism for the TCEQ to implement its Water Quality Control (WQC) to achieve WQ goals, such as protection of human health, existing surface and groundwater quality, the environment, the health of aquatic and animal life, and specifically, existing DUs of WITS, which involves meeting and maintaining numerical and narrative WQ conditions. The TSWQS require discharges not cause WITS to be toxic to any form of life, not degrade WITS, and not result in impairments of existing, attainable, or DUs. Similarly, TCEQ’s WQC mandates discharges adhere to the TSWQS by use of the TCEQ IPs for drafting TPDES permits.

As specified in the TCEQ’s IPs methodologies, TPDES permits must maintain WQ in the state 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. Additionally, the TSWQS require that TPDES-permitted discharges not cause surface waters to be toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals, not degrade receiving waters, and not result in situations that impair existing, attainable, or DUs.

The job of WQD staff is to design permits that meet the TSWQS for the protection of existing uses of waterbodies, human health, the environment, and animal, aquatic, terrestrial, and wildlife. These standards include specific numeric and narrative WQ criteria applicable to the waterbodies receiving the discharge. WQD staff designed the draft permit to be protective of the uses of all water bodies that could be potentially affected by the proposed discharge.

To fulfill the WQ goals referenced above and to ensure permits are protective of the receiving water uses, including consumption of fish and shellfish, the TCEQ has established numerical criteria in the TSWQS for the protection of aquatic life and for the protection of human health.³ Where adequate toxicity information is available, and the substance has the potential for exerting adverse impacts on WITS, numerical criteria for toxic substances are established based on ambient water quality criteria

² Texas Water Code § 26.003 and 30 TAC § 307.1.

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

documents published by the EPA. These criteria, established in Tables 1 and 2 of the TSWQS,⁴ are incorporated into the calculations of WQBELs, as are recommendations from the Water Quality Assessment Team's critical conditions memorandum and are incorporated in Appendix A of the Fact Sheet (WQBELs).

In addition to WQBELs, TPDES permits contain technology-based limits (TBELs) reflecting the best controls available. Where these TBELs do not protect water quality or the DUs, WQBELs or conditions are included. There was no analytical data available for screening against WQBELs for Outfall 001 and Outfall 002 (now Interim Outfall 002) because this is a major amendment without renewal to include a Final phase for Outfall 002. No new waste streams were requested to be added to Outfall 002 (Final Phase); therefore, a re-test requirement was not required to be added to the Other Requirement section of the draft permit. However, existing effluent limitations at Outfall 001 and Outfall 002 (Interim Phase) were screened against the newly calculated WQBELs (Appendix A), and the more protective limits were included in the draft permit.

The DUs and associated criteria in Appendix A of the TSWQS for Segment Nos. 1701, 2451, 2462 (Victoria Barge Canal Tidal, Matagorda Bay/Powderhorn Lake, San Antonio Bay/Hynes Bay/Guadalupe Bay) were used to evaluate the permit application. Segment No. 1701 has WQ-related uses of non-contact recreation, high aquatic life use, and a corresponding 4.0 mg/L DO criterion. Segment Nos. 2451 and 2462 have WQ-related uses of primary contact recreation, oyster waters, exceptional aquatic life use, and a corresponding 5.0 mg/L DO criterion.

WQD Staff determined that the draft permit complies with the TSWQS, ensuring that the effluent discharged is protective of existing water quality. This is because WQD Staff drafted the draft permit with provisions ensuring the TSWQS are maintained, which ensures that the proposed discharge is protective of human health, existing WQ, the environment, and animal, aquatic, terrestrial, and wildlife. Because WITS 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, WQD Staff must determine that the draft permit's provisions ensure that the TSWQS will be maintained by the proposed discharge resulting in protection of human health, aquatic life, and the environment.

Likewise, the draft permit's effluent limits will protect the WQ-related uses and WQ of the waterbodies in the route of the proposed discharge for the benefit of the aquatic life and terrestrial wildlife that depend on it. WQD Staff designed the proposed permit to preclude degradation of WQ in Victoria Barge Canal Tidal, Matagorda Bay/Powderhorn Lake, and the San Antonio Bay/Hynes Bay/Guadalupe Bay/Mission Lake in Segment Nos. 1701, 2451, and 2462, respectively, by including effluent limits and monitoring requirements designed to ensure protection of the waterbodies according to the TSWQS and the TCEQ IPs. Similarly, the proposed discharge will not cause degradation of WQ in waterbodies that exceed fishable/swimmable quality, such as Matagorda Bay/Powderhorn Lake, and the San Antonio Bay/Hynes Bay/Guadalupe Bay/Mission Lake. Fishable/swimmable waters are defined as waters that have quality sufficient to support propagation of indigenous fish, shellfish, terrestrial life, and

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

recreation in or on the water. The proposed permit's effluent limits and conditions were derived from a rigorous technical review to ensure compliance with the TSWQS.

WQD staff, when evaluating this application, incorporated pertinent site-specific factors to reduce uncertainty and bolster confidence in the results of the analyses of the ED's Technical Review. The effluent or discharge limitations at Outfall 001 for some of the major constituents were evaluated with a mathematical model of the receiving waters, and results indicated that for the Seadrift facility to discharge to the receiving streams of the proposed discharge route in compliance with all rules, regulations and WQ goals, the existing limit of 1187 lbs/day (34.8 mg/L) BOD₅ is required to maintain dissolved oxygen (DO) levels above the criterion specified by the Standards Team for the Victoria Barge Canal Tidal (4.0 mg/L DO). This is due to the low concentrations of oxygen demanding constituents expected in the types of wastewaters authorized in the remaining outfalls. Significant impacts on DO are not expected from the discharges from Outfall 002 or the remaining stormwater outfalls.

An added level of protection for WQ goals from the draft permit exists in the form of the provisions related to Whole Effluent Toxicity (WET) testing. WET testing is designed to protect the receiving water quality from the aggregate toxic effect of a mixture of pollutants in the effluent. WET tests measure the degree of response of exposed aquatic test organisms to an effluent. If a WET test shows that the effluent has the potential to cause lethal effects in the receiving stream, the permittee is required to identify the toxicant or toxicants and reduce the toxicity of the effluent.

COMMENT 6:

SABEW commented expressing concerns over the draft permit's water quality-based effluent limitations (WQBELs) for hexachlorobenzene and hexachlorobutadiene.

RESPONSE 6:

The application requested the addition of a new phase for Outfall 002, which required that the existing WQBELs for hexachlorobenzene and hexachlorobutadiene (1st-WQBELs) be recalculated. Based on the Critical Conditions recommendations during the Interim and Final Phases for Outfall 002, the new WQBELs for hexachlorobenzene and hexachlorobutadiene (2nd-WQBELs) were compared to the 1st-WQBELs for Outfalls 001 and 002. The 2nd-WQBELs were included in the draft permit for protection of human health during the Interim and Final Phases because the 2nd-WQBELs were more protective.⁵

COMMENT 7:

SABEW commented that the draft permit language about Toxicity Reduction Evaluations (TRE) does not give TCEQ sufficient authority to protect the environment. SABEW commented further that the TCEQ should consult with TPWD and USFWS regarding TRE requirement to ensure there is adequate protection for the aquatic life in the Bay.

⁵ For greater detail on the WQBELs, please see Appendix A of the Fact Sheet.

RESPONSE 7:

The TRE procedures have been in place since the early 1990s when Whole Effluent Toxicity (WET) testing was included in TCEQ's permits. The TCEQ's TRE procedures were developed according to those of EPA Region 6. After a TRE is final, three options exist for the draft permit which includes modifying the draft permit at the next renewal to add a WET limit, to add a specific chemical limit, or lastly, to add a Best Management Practices (BMPs) that eliminates the toxicant from ever being introduced into the effluent to be later treated. All three options will protect the aquatic life in the receiving waters.

COMMENT 8:

SABEW, VACUSA TPWD, EIP, and CWA all commented expressing concerns that the draft permit does not sufficiently address the discharge of plastic pollutants or management of plastic pollution through use of stormwater BMPs.

RESPONSE 8:

The Application did not request an increase in production or an increase in effluent limitations, and the draft permit was developed according to the TSWQS to be protective of human health, water quality, and the environment. The TSWQS, at 30 TAC § 307.4(d), mandates that surface waters must 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 IPs is designed to comply with the TSWQS (30 TAC Chapter 307), which require that 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.⁶ 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 draft permit does not authorize any discharge of plastic pellets into receiving waters. Other Requirement No. 18 in the existing permit and continued in the draft permit identifies the compliance monitoring point concerning visible plastics for Outfalls 001, 002, 006, 012, 003, 004, 005, 014, 015, and 016.

Item No. 18 is also continued in the draft permit and states that the permit may be reopened after the development of any new requirements concerning plastics, and that according to the TCEQ's 305 rules, at 30 TAC § 305.62, if needed the permit may be amended, to include additional requirements as necessary to protect human health and the environment.

Additionally, the TCEQ's OCE conducts routine inspections of facilities to ensure compliance with applicable authorizations and that all authorizations are obtained properly. Any observance of complaints about discharges from the facility can be reported for investigation to OCE's Region 14 at (361)-825-3100, by using the statewide toll-free number at (888)-777-3186, or the electronic methods described in Section II.

⁶ 30 TAC § 307.6(b)(3).

COMMENT 9:

SABEW, CWA, EIP, and John Daniel all commented expressing concerns about the proposed increase in flow limit for Outfall 001.

RESPONSE 9:

The Application did not request an increase of flow at Outfall 001. Instead, the Application requested, for consistency with how it is reported on the discharge monitoring report (DMR) for Outfall 001, that “Flow” be identified for clarity as “Flow (dry weather)” at Outfall 001.

The Application did request that monitoring and reporting requirements for “total flow” be included at Outfall 001, and that the mass loading and concentration effluent limitations for biochemical oxygen demand, 5-day (BOD₅) and Total Suspended Solids (TSS) only be required for “total flow,” which was denied by the ED because during normal operating conditions (dry-weather) mass loadings for BOD₅ and TSS are more representative of the discharge.

However, during wet-weather conditions (heavy storm events) concentrations are more representative of the discharge effluent limits for BOD₅ and TSS. Mass loading and concentration effluent limits for BOD₅ and TSS are continued in the proposed permit from the existing permit.

COMMENT 10:

SABEW commented expressing concerns over the removal of the monitoring and reporting requirement for dissolved oxygen at Outfall 001.

RESPONSE 10:

The monitoring and reporting requirement for dissolved oxygen at Outfall 001 is continued in the draft permit.

COMMENT 11:

CWA, EIP, and John Daniel all commented expressing the need for the ED to analyze the permit’s proposed limits. CWA, EIP, and John Daniel request that the ED analyze whether the Applicant’s proposed increase in flow violates the prohibition against backsliding contained in the Clean Water Act § 402(o) (33 U.S.C. § 1342(o)) and 40 C.F.R. § 122.44(d)(1)).

RESPONSE 11:

The requirements of Clean Water Act (CWA) §§402(o)(1) and 303(d)(4) prohibit reissuing permits with less stringent permits, referred to as “backsliding.” The prohibition of § 402(o)(1) is a general prohibition for all TPDES permits.

The prohibition of § 303(d)(4) applies specifically to WQBELs that were calculated because TBELs were not stringent enough to restore the water quality of a waterbody to the requirements of the TSWQS. However, currently, there are no impairment listings or total maximum daily load (TMDL) projects for Segments 1701 and 2451, meaning there are not any applicable limits subject to the § 303(d)(4) prohibition.

Despite Segment No. 2462 being currently listed as impaired for bacteria in oyster waters for San Antonio Bay/Hyne Bays/Guadalupe Bay/Mission Lake at the mean high tide line,⁷ the discharges in the draft permit are not anticipated to cause any additional adverse impact to the receiving waters with respect to the listed bacteria impairment. This is because Outfall 004 is the only outfall that discharges into Segment No. 2462, stormwater is the authorized waste stream for Outfall 004, and domestic wastewater that is high in bacteria levels is not authorized to be discharged via Outfall 004.

Outfall 001 is authorized to discharge domestic wastewater to Segment No. 1701. Still, current TCEQ practice is to impose effluent limitations and monitoring requirements for the appropriate indicator bacteria for the discharge of domestic wastewater. Enterococci is the indicator bacteria designated for the saltwater portion of Segment No. 1701 in 30 TAC § 307.10. Effluent limitations for Enterococci are continued in the draft permit from the existing permit, daily average limitation of 35 Enterococci colony forming units (CFU) or most probable number (MPN) per 100 mL and daily maximum of 104 Enterococci CFU or MPN per 100 ml. Monitoring will occur once per week.

The general prohibition of §402(o)(1) is implemented through the regulations at 40 C.F.R. § 122.44(l)(1), that mirror the § 402(o)(1) prohibition that a permit cannot be reissued to contain a less stringent effluent limitation, except in certain narrowly defined circumstances. However, the comment by CWA, EIP, and Mr. Daniel referenced the increase in flow requested by the application and not a limit that has been relaxed, so the ED is unclear how the prohibitions of §§ 402(o)(1) and 303(d)(4) would apply.

If the commenters were referencing a specific limit, the limited circumstances for backsliding found at § 402(o)(2) and 40 C.F.R. § 122.44(l)(2)(i), specifically § 402(o)(2)(A) and § 122.44(l)(2)(i)(A) may apply. Those circumstances involve material and substantial alterations or additions to a facility that occurred after permit issuance, and that justify the application of a less stringent effluent limitation.

The applicant provided justification for the flow increase requested at Outfall 002 (Final Phase) in the application for Major Amendment without Renewal received by TCEQ on December 27, 2022. As detailed above in the Background section above (III.B.) flow increase was justified because of the construction of a stormwater surge basin, silt basin, and filtering and solids management system; rerouting stormwater from Outfall 006 drainage area; and an increase in cooling water blowdown. Updated treatment systems that produce higher quality effluent can justify a greater volume of discharge.

COMMENT 12:

SABEW commented that the TCEQ's assumptions about the Victoria Barge Canal's mixing zones and other pollutant dispersion models are not conservative enough.

RESPONSE 12:

To address the comment, WQD staff re-evaluated both its assumptions about the discharge mixing zones in the Victoria Barge Canal and its assumptions about the dispersion modeling of dissolved oxygen (DO) demanding pollutants to confirm the

⁷ Aquatic Unit No. AU 2462_01.

assumptions used in the critical conditions review and the assumptions used in the DO modeling review for the Application.

WQD Staff determined that TCEQ's assumptions about mixing zones were consistent with relevant rules, the TSWQS, the TCEQ's IPs, the Standard Operating Procedures (SOPs) for the Critical Conditions Review and were conservative. WQD Staff also determined that TCEQ's assumptions about the dispersion modeling of DO-demanding pollutants were consistent with the TSWQS, the TCEQ's IPs, the SOPs for the QUAL-TX DO model, the WQD's modeling review guidance, and were also conservative.

COMMENT 13:

SABEW commented expressing concerns over the oil and grease limits, analytical methods, and reporting requirements in the draft permit.

RESPONSE 13:

The draft permit has a daily maximum effluent limit of 15 mg/L for Oil and Grease at Outfalls 003, 004, 005, 006, 012, 014, 015, and 016, as well as a once-per-six months measurement and reporting requirement. Other Requirement No. 2 in the draft permit requires a minimum analytical level (MAL) sensitivity from 1.5 mg/L to 5 mg/L using approved analytical methods. According to the provisions in Part 40 of the Code of Federal Regulations (40 C.F.R.) 40 C.F.R. § 122.44(i)(1)(iv)(A)(1), a method is "sufficiently sensitive" when the method minimum level (ML) is at or below the level of the effluent limit established in the permit for the measured pollutant, which is also consistent with the definition of MAL in 30 TAC § 307.3(40).

The effluent limit violations reporting requirement in Item 2 of the Other Requirement Section is applicable to constituents with effluent limits in the proposed permit that are included in the Priority Pollutant List at 40 C.F.R. Part 423, Appendix A. Oil and Grease is not a priority pollutant and therefore is not subject to the effluent limit violations reporting requirement.

COMMENT 14:

SABEW commented expressing concerns over WQD Staff's use of incorrect units in the calculation of mass limits and the use of older numeric criteria for toxic materials.

RESPONSE 14:

To address the comment, WQD staff re-evaluated the calculation of the limits described by the commenter and identified a typographical error resulting in the wrong units, milligrams per liter (mg/L), used in the calculations instead of micrograms per liter (µg/L). To correct the error, WQD staff re-calculated the human health water quality-based mass limits in Appendix A of the Fact Sheet. More specifically, the proposed daily average mass loading effluent limit for hexachlorobutadiene for Outfall 001 (Final Phase) was incorrect and should have been at a limit of 0.291 lbs/day, and not 0.0291 lbs/day.

The correct daily average effluent limit for hexachlorobutadiene at Outfall 001 (Final Phase) is still more protective than the existing daily average effluent limit and has been included in the draft permit. The Fact Sheet and draft permit have been revised to correct this typographical error.

The proposed 237 µg/L human health criterion for tetrachloroethylene in the 2022 Texas Surface Water Quality Standards (TSWQS) in 30 TAC Chapter 307 is under EPA review. However, the 280 µg/L tetrachloroethylene value in the 2018 TSWQS is approved by EPA and is the applicable criterion. All water quality-based effluent limits (WQBELS) in Appendix A of the Fact Sheet are calculated based on the most recent EPA-approved criteria in the 2018 TSWQS.

For verification purposes, the 237 µg/L criterion for tetrachloroethylene was entered in the newly calculated water quality-based effluent limitations. Please see the table below for the comparison of the calculated water quality-based effluent limitations using both criteria. Even though the 237 ug/L criterion is more protective than the 280 ug/L criterion, the effluent limitations in the existing permit and draft permit are more protective than any of these two criteria (Table 1).

Table 1. Calculated WQBELs and Proposed Tetrachloroethylene Effluent Limitations

Outfall	Calculated WQBELS			Draft Effluent Limits Outfall 001		Draft Effluent Limits Outfall 002	
	Criteria (µg/L)	Daily Average	Daily Maximum	Daily Average	Daily Maximum	Daily Average	Daily Maximum
				lbs/day		mg/L	
001 & 002 (Interim)	280	9569 µg/L 9.569 mg/L 463 lbs/day	20246 µg/L 20.246 mg/L 979 lbs/day	0.70	1.78	0.022	0.056
001 & 002 (Final)	280	7655 µg/L 7.655 mg/L 371 lbs/day	16196 µg/L 16.196 mg/L 784 lbs/day	0.70	1.78	0.022	0.056
001 & 002 (Interim)	237	8100 µg/L 8.100 mg/L 392 lbs/day	17136 µg/L 17.136 mg/L 829 lbs/day	---	---	---	---
001 & 002 (Final)	237	6480 µg/L 6.480 mg/L 314 lbs/day	13709 µg/L 13.709 mg/L 664 lbs/day	---	---	---	---

COMMENT 15:

SABEW and John Daniel commented expressing concerns over the method detection limits (MDL), method analytical limits (MALs), and method quantification limits (MQL) that produce monitoring results that measure above the level of effect for monitored chemicals.

RESPONSE 15:

According to provisions of 40 C.F.R. Part 136, the federal Guidelines Establishing Test Procedures for the Analysis of Pollutants, Applicants may use any analytical method approved in 40 C.F.R. Part 136 that is sufficiently sensitive to produce an analytical result that demonstrates the discharge complies with the permit's effluent limits. A sufficiently sensitive analytical result is either 1) below the appropriate regulatory level for a specific discharge to make a regulatory decision like determine compliance or 2) at the established MAL for the respective analyte.

COMMENT 16:

SABEW commented that comingling stormwater from Outfall 006 with the discharge at Outfall 002 is not protective of the receiving streams.

RESPONSE 16:

The discharge via Outfall 002 includes TBELs, and where the TBELs do not protect water quality or the designated uses, additional WQBELs or conditions are included. State narrative and numerical water quality standards are used in conjunction with EPA criteria and other toxicity databases to determine the adequacy of TBELs and the need for any additional water quality-based controls.

The effluent limits in the existing permit for total copper at Outfall 002 were compared to the calculated WQBELs to determine whether the existing limits are still protective. The existing effluent limits for total copper at Outfall 002 are more protective than the newly calculated WQBELs and are continued in the draft permit. These permit requirements serve to ensure protection of aquatic life in WITS.

COMMENT 17:

EIP, CWA, and SABEW commented raising concerns over monitoring frequency and the monitored compliance point locations.

RESPONSE 17:

The Fact Sheet has been revised to include a summary of the discharge's descriptions for flow, BOD₅, TSS, and Enterococci for Outfall 001, and Flow and total residual chlorine (TRC) for Outfall 002. Based on the self-reported data reviewed for BOD₅ and TSS at Outfall 001 the facility has been complying with the effluent limitations for BOD₅ and TSS; therefore, the monitoring frequency for BOD₅ and TSS was changed from once per day to three times per week.

The summary of the discharge description for oil and grease and pH in the Fact Sheet from the permit issued on July 8, 2021, is still accurate for these parameters and can be found as an attachment to the Fact Sheet drafted for the draft permit.

COMMENT 18:

EIP, CWA, SABEW, and TPWD raised concern of the Applicant's request to increase the daily maximum effluent limitation for TRC and the potential impacts on freshwater, estuarine, and marine life from the presence of chlorinated water.

RESPONSE 18:

The applicant requested a daily maximum increase for TRC from 0.2 mg/L to 2.0 mg/L at Outfall 002. The maximum chlorine residual for domestic wastewater discharges is set at 4.0 mg/L.⁸ Based on best professional judgement a daily maximum of 2.0 mg/L total residual chlorine shall be protective of aquatic life, human health, and the environment. In addition, a daily maximum of 0.1 mg/L TRC was added to Outfall 001 and must be sampled if the effluent at Outfall 002 for TRC is at or greater

⁸ 30 TAC §309.3(g)(2).

than 0.2 mg/L. The permittee must meet a daily maximum of 0.1 mg/L total residual chlorine at Outfall 001.

COMMENT 19:

EIP and CWA commented that more stringent limits overall are needed, and specifically, that more stringent TBELs for chloride, sulfate, phosphorus, nitrogen, and chemical oxygen demand.

Additionally, EIP, CWA, SABEW, and John Daniel commented that the draft permit's effluent limitations should include limits from the Facility-reported Toxic Release Inventory (TRI).

RESPONSE 19:

Because the application was for a Major Amendment without Renewal, only the details related to the Major Amendment were evaluated during the ED's Tech Review. This means that the TBELs in the draft permit were not re-calculated during the ED's Tech Review because the application did not request any production increases and the existing TBELs were calculated according to the effluent limitation guidelines (ELGs) applicable to the Seadrift facility, found in 40 C.F.R. Part 414.

The ED has made a preliminary determination that the draft permit, if issued, meets all statutory and regulatory requirements. Therefore, the existing, calculated, TBELs listed in the fact sheet for the permit issued on July 8, 2021, are still applicable.

COMMENT 20:

EIP, CWA, SABEW, VACUSA commented with concerns over discharges of per- and polyfluoroalkyl substances (PFAS) from the Seadrift facility and their impact to the environment and drinking water supplies.

RESPONSE 20:

The TCEQ has not developed or proposed, nor has the EPA approved, numeric criteria for PFAS chemicals for inclusion in the TSWQS.

The EPA continues to work to develop nationally recommended criteria to protect human health from ingestion of drinking water and consuming fish. Early drafts of national aquatic life criteria for PFAS chemicals, specifically PFOA and PFOS, published by EPA in May 2022, focused on acute and chronic criteria for freshwaters for protecting aquatic life with chronic criteria expressed as tissue-based concentrations to protect aquatic life from PFOA and PFOS bioaccumulation.

Currently, PFAS criteria for wastewater discharges has not been finalized by the EPA. However, for Clean Water Act purposes, when the PFAS criteria are established, adopted, and incorporated into the TSWQS by the TCEQ, the criteria can be implemented through the applicable wastewater permits issued by TCEQ.

Similarly, EPA is currently revising its ELGs through *Effluent Guidelines Plan 15* for a variety of categorical guidelines, including but not limited to Electroplating, Metal Finishing, and Organic Chemicals, Plastics and Synthetic Fibers regulated by 40 C.F.R. Parts 413, 433, and 414, respectively. Once these categorical ELGs are promulgated, the TCEQ will implement the ELGs, along with any other necessary restrictions for PFAS in TPDES permits, as needed.

COMMENT 21:

TPWD, SABEW, and VACUSA raised concern of the referenced thermal plume study and temperature gradients. TPWD requests to be included in any correspondence related to the thermal requirements for this facility.

RESPONSE 21:

Other Requirement No. 14 (formerly No. 15) has been revised to remove the thermal plume characterization study plan submittal requirement, as it has been satisfied, and to include notification to the permittee that the executive director of the TCEQ will be initiating changes to evaluation procedures and/or rulemaking that may affect thermal requirements for this facility. Temperature limitations may be revised at a future date.

To address thermal discharge from Outfall 002 associated with boiler blowdown, TCEQ staff performed a thermal screening in accordance with TCEQ's draft thermal screening procedures which were authorized for use as standard operating procedure by EPA on April 1, 2020. There are two thermal criteria applicable to this proposed discharge - thermal maximum and maximum temperature differential (rise over ambient). Thermal screening calculations (Attachment 1) demonstrate that at the maximum permitted effluent temperature of 100 degrees F, all temperature criteria will be met at the edge of the chronic aquatic life mixing zone.

COMMENT 22:

SABEW and John Daniel commented that the draft permit is not consistent with the Coastal Management Program (CMP).

RESPONSE 22:

As indicated above, the ED's Technical review begins with the WQA Section, which reviewed the application for consistency with the Texas CMP goals and policies according to the regulations of the General Land Office and determined that the application is consistent with the applicable CMP goals and policies. The draft permit was developed to protect aquatic life and human health in accordance with the TSWQS 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.

In addition, as referenced above, the WQA section's review includes an analysis of the existing uses of the receiving waters under the TSWQS (30 TAC § 307.7), which aids in establishing the appropriate discharge limitations, which in turn plays a vital part in determining the quality of the water discharged to WITS. In accordance with 30 TAC § 307.5 and the TCEQ IPs (June 2010), the WQA Section performs an antidegradation review of the receiving waters, determines the critical conditions for the receiving waters, and develops limitations, if needed, to ensure the dissolved oxygen criteria will be met.

COMMENT 23:

SABEW and John Daniel commented with concerns about excessive stormwater discharges from the Seadrift facility.

RESPONSE 23:

The following system modifications, as part of the Seadrift facility's SDO C3PO project, include stormwater management improvements, as proposed in the application for Outfall 002.

System Modifications

The SDO C3PO project will install improved solids filtering and management equipment along the conveyance channel, which runs from the existing Outfall 002 at SH-185 down to the combined Outfall 001-002 discharge point into the Victoria Barge Canal. The improved solids filtering, and management equipment will be designed to provide reliable solids removal from stormwater flows through the conveyance channel up to and including stormwater flows resulting from a 25-year/24-hour storm event. Civil improvements to increase the conveyance capacity of the channel and manage peak stormwater flows will also be constructed to ensure the performance of the system. Conveyance capacity of the channel will be improved by removing existing vegetation, widening the channel, installing a partial cement lining, and increasing the embankment height where needed. The management of peak flows during larger storm events will be achieved with the construction of a stormwater surge basin just upstream of the new proposed Outfall 002 location.

Other changes include routing stormwater runoff from the Outfall 006 drainage area to the Outfall 002 system. There will be a new transformer yard and stormwater from this area will also be routed to the Outfall 002 system. Stormwater from the C3PO new transformer containment area in the new Outfall 002 pond area will be routed to the conveyance ditch at Outfall 002.

Conveyance Channel Capacity Improvements and Stormwater Flow Management

Conveyance channel improvements will begin downstream of the existing Outfall 002, just south of SH-185. Capacity of the channel will be increased by removing the existing vegetation and trees, widening the channel, installing a partial cement lining, and increasing the embankment height where needed on the western end, down to the combined Outfalls 001/002 discharge to the Victoria Barge Canal. The cement lining will begin just downstream of the box culvert under the road to the raw water pump station and continue to the combined outfall headwall. The section of the channel just upstream of the box culvert under the road to the raw water pump station will be designed as a silt basin with a reinforced concrete bottom and side slopes. A 54-inch HDPE pipe will be installed in addition to the three current 48-inch diameter pipes at the end of the conveyance channel at the combined outfall to the Victoria Barge Canal.

The conveyance channel improvements will be designed to a capacity of 160,000 GPM to manage a significant amount of rain events. However, to manage peak stormwater flows entering the conveyance channel up to and including a 25-year/24-hour storm event, a 45-acre-foot (14.7 million gallon) capacity stormwater surge basin will be constructed immediately north of the silt basin. The surge basin is designed to allow short term accumulation of flow to trim the peak of the storm hydrograph and to allow unrestrained release back to the conveyance channel as the storm flow passes. The surge basin will include an emergency spillway back to the conveyance channel to ensure that extreme event flows greater than the 25-year/24-hour storm flow will not overtop the crest of the basin embankment. The emergency spillway elevation is

designed at elevation 18.0 feet, and the top of the surge basin embankment is elevation 20.0 feet, allowing for 2 feet of freeboard. The surge basin will have a clay liner. Technical specifications for the liner were approved by TCEQ on November 2, 2022.

Off-site drainage currently coming into the conveyance channel from the roadside ditch north along SH-185 will be rerouted to a new ditch. This ditch will be constructed immediately north of the new surge basin and will discharge immediately upstream of the wetlands area north of the project site. The wetlands area will provide storage to reduce peak flows in the conveyance channel and also have the added benefit of potentially improving wetlands hydrology. The stored flow will eventually drain back into the conveyance channel downstream of the new Outfall 002 through an existing 30-inch culvert equalization pipe with flap gate.

COMMENT 24:

John Daniel raised concern of the Facility's impact to groundwater and use of private drinking water wells in the vicinity of the Facility.

RESPONSE 24:

The ED's Tech review of a TPDES application focuses on controlling the discharge of pollutants into WITS, which includes both navigable and non-navigable water bodies. TWC *Ch.26* defines "water in the state" or "WITS" to mean groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.⁹

WQD staff determined that the proposed permit fully complies with the TSWQS, ensuring that the proposed discharge is protective of human health, WQ, aquatic life, and the environment. Further, the WQD has made the determination that if the surface water quality is protected, groundwater quality in the vicinity will not be impacted by the discharge. Thus, the limits of the proposed permit intended to maintain the existing uses and preclude degradation of the surface waters, protect against degradation of groundwater.

The TCEQ rules, found at 30 TAC § 309.13(c), state that a treatment unit at the proposed facility may not be located closer than 500 feet from a public water well nor 250 feet from a private water well. For public water sources, the provisions of 30 TAC § 309.13(c) bolster the safeguards from TCEQ's Groundwater Rule (GWR) that protect drinking water quality against disease-causing microorganisms.

The legislature has determined that "the goal of groundwater policy in this state is that the existing quality of groundwater is not degraded. This goal of non-degradation does not mean zero-contaminant discharge."¹⁰ Chapter 26 of the Texas Water Code further states, "discharges of pollutants, disposal of wastes, or other activities subject to regulation by state agencies must be conducted in a manner that will maintain

⁹ Texas Water Code § 26.001(5).

¹⁰ Texas Water Code § 26.401(b)

present uses and not impair potential uses of groundwater or pose a public health hazard (TWC § 26.401(c)(2)).

However, the Ground Water Rule does not address private wells because they are not under the jurisdiction of the Safe Drinking Water Act and thus are not subject to TCEQ regulation. TCEQ does recommend that well owners periodically test their water for microbial and chemical contaminants and properly maintain their well. It is the responsibility of the private well owner to take steps to have his or her water quality tested at least annually for possible constituents of concern or more often if the well is thought to have a surface water connection.

For further details about the information discussed in this paragraph, please see the Ground Water Links section below. For more information on total coliform and *E. coli* compliance related to the Revised Total Coliform Rule and the GWR, please see TCEQ's guidance, *Coliform Monitoring, Analyzing, and Reporting Guide* (RG-421). If your well tests positive for fecal coliform bacteria, please see Texas A&M AgriLife Extension's guidance, *What to Do About Coliform Bacteria in Well Water*, or TCEQ's guidance, *Disinfecting Your Private Well*. For more information about testing private water wells, please see the National Ground Water Association's *Water Testing*. For more information on groundwater contamination or reporting groundwater contamination, please see the Texas Groundwater Protection Committee's (TGPC) webpages, *Ground Water Contamination and Reporting Contamination*.

The TGPC may be contacted through email at tgpc@tceq.texas.gov, through the TGPC website, or at (512) 239-4600. However, for groundwater emergencies, please contact the OCE's Region 11 at (512) 339-3795, or 1-888-777-3186.

Ground Water Links

Coliform Monitoring, Analyzing, and Reporting Guide (RG-421)

➤ www.tceq.texas.gov/downloads/drinking-water/microbial/rg-421.pdf

Water Testing - National Ground Water Association's webpage

➤ www.wellowner.org/water-quality/water-testing/

What to Do About Coliform Bacteria in Well Water

➤ www.twon.tamu.edu/wp-content/uploads/sites/3/2021/06/what-to-do-about-coliform-in-well-water.pdf

Disinfecting Your Private Well

➤ www.tceq.texas.gov/publications/gi/gi-432.html

Texas Groundwater Protection Committee (TGPC)

➤ www.tgpc.texas.gov/

TGPC's Groundwater Contamination and Reporting Contamination webpages

➤ www.tgpc.texas.gov/groundwater-contamination/

➤ www.tgpc.texas.gov/groundwater-contamination/#3

COMMENT 25:

SABEW commented with concern about nutrients in the proposed discharge causing negative effects to water quality.

RESPONSE 25:

The discharges proposed in the draft permit are not considered a significant source or amount of nutrients to the receiving waters that would normally involve adding nutrient control requirements. For this reason, WQD staff did not recommend nutrient limits in the draft permit; this is consistent with the TCEQ's IPs nutrient screening procedures that were developed with stakeholder input and approved by EPA.

COMMENT 26:

SABEW, CWA, EIP, and John Daniel all commented expressing concern about the Applicant's Compliance History (CH) and ability to comply with the limits and requirements of the draft permit.

RESPONSE 26:

Related to the Applicant's CH, the ED acknowledges the comment and explains that a CH includes multimedia compliance-related components about the site under review and include enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emissions events, investigations, notices of violations, audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs and early compliance.

According to the TCEQ rules, found in 30 TAC Chapter 60 (Compliance History), during the ED's Tech review, WQD staff review the CH for the five-year period prior to the date the application was received by the TCEQ of an applicant for the company or entity, and the proposed site for the five-year period prior to the date the application was received by the TCEQ, which for permit applications received after September 1, 2002, include a rating for both an Applicant and a proposed or existing site with classifications and ratings including:

1. ***High Performer classification***, a rating of fewer than 0.10 points, considered to have an above-satisfactory compliance record.
2. ***Satisfactory Performer classification***, a rating between 0.10 points to 55 points and is considered to generally comply with environmental regulations.
3. ***Unsatisfactory performer classification*** has a rating above 55 points and is considered to perform below minimal acceptable performance standards established by the commission.

A CH is created for (1) the Applicant, the owner or operator of a wastewater facility, which can be an individual, a company, a governmental agency, or any of several other kinds of entities, and (2) the site or facility. The Owner-Operator rating and classification is the average of the ratings for all sites the Applicant owns or operates.

Related to the CH check performed by the ED for this Application, the Applicant and site were rated and classified pursuant to 30 TAC Chapter 60, the application was received after September 1, 2002, the ED reviewed the compliance history for both the Applicant and site for the five-year period before the TCEQ received the permit application (12/27/2022), and as an existing entity in the TCEQ's CH database, the Applicant has a classification and rating that corresponds with 'Satisfactory Performer' (12.51 points) above, the site rating is also of a Satisfactory Performer (6.36 points).

Related to the Applicant's CH over the last five years, there was one administrative order (Docket No. 2020-0062-IWD-E) for Industrial Wastewater Discharge (IWD-E) issued for the discharge of floating solids (plastic pellets) through Outfall 002. As such, the Application's request to move the compliance monitoring point for floating solids, visible foam and visible oil for Outfalls 001, 002, 006, and 012 was not granted. However, the documented ratings and classifications of Satisfactory Performer do not indicate to the ED that the Applicant does not have the ability to comply with the applicable limitations and requirements specified in the draft permit.

COMMENT 27:

TPWD and SABEW commented the application does not address potential impacts on endangered species and the receiving waters' ecology from the Seadrift facility.

RESPONSE 27:

The draft permit was prepared according to the TSWQS, which included incorporation of permit limits where necessary to ensure protection of aquatic life. An endangered species review was performed and concluded that discharges related to the draft permit are not expected to have an effect on any federally proposed or endangered or threatened aquatic or aquatic-dependent species or their critical habitat.

COMMENT 28:

TPWD raised concern that Outfalls 003, 004, 006, 012, 014, 015, and 016 discharge to West Coloma and Coloma creeks which flow to Powderhorn Lake along the northern border of Powderhorn Wildlife Management Area (WMA), a portion of which is earmarked as a future site of a state park.

RESPONSE 28:

The ED acknowledges this comment in opposition to the proposed permitting action because of its proximity to the Powderhorn WMA, which may be the site of a future state park. TCEQ does not have the authority to mandate a different discharge location or wastewater treatment plant location if the applicant's proposed location and discharge route comply with the applicable rules. TCEQ does not have jurisdiction over zoning.

If the Applicant updates its application with a different location or a different discharge route, the ED will reevaluate the discharge route to make sure that the draft permit contains appropriate limits and conditions for the revised discharge location or route. Additionally, new landowners may need to be notified of a change of the facility location or the discharge route.

Additionally, the TCEQ's issuance of a permit does not authorize injuries to other persons, their property, or an invasion of their property rights. Similarly, the proposed permit's provisions do not, nor does the scope of TCEQ's regulatory jurisdiction, limit nearby landowners' ability to use a court of law's remedies if anyone experiences nuisance conditions or any other suspected incidents of noncompliance with the permit or TCEQ rules. The proposed permit does not limit an affected individual's ability to seek legal remedies against the Applicant for any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to

human health or property or that interfere with the normal use and enjoyment of property.

The Applicant has a duty to comply with all conditions of the proposed permit. Failure to comply with any permit condition is grounds for enforcement actions, permit amendments, revocations, suspensions, denial of permit renewal applications, or even an application for a permit for another facility.

The TCEQ's OCE plays an important role in protecting the public against unintended impacts from the proposed permit because it ensures that the Applicant, its operator, and the proposed facility follow applicable state and federal regulations. OCE's Region 14 is required to conduct a mandatory Comprehensive Compliance Investigation at a specified frequency defined in the TCEQ rules. Additional mandatory investigations can be required if the proposed facility is classified as Significantly Non-Complaint (SNC). SNC is determined by the Compliance Monitoring Section of the TCEQ's OCE and is based on self-reported effluent violations.

As provided by Chapter 7 of the TWC (Enforcement), the Applicant is subject to applicable administrative (TWC §§ 7.051 - 7.075), civil (TWC §§ 7.101 - 7.111), and criminal penalties (TWC §§ 7.141 - 7.202) for violations including, but not limited to, negligently or knowingly violating the federal CWA §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under CWA § 402, or any requirement imposed in a pretreatment program approved under CWA §§ 402 (a)(3) or 402 (b)(8); *Ch.26, 27, and 28* of the TWC; and *Ch. 361* of the Texas Health and Safety Code including but not limited to knowingly making any false statement, representation, or certification on any report, record, or other document submitted or required to be maintained under a permit, including monitoring reports or reports of compliance or noncompliance, or falsifying, tampering with or knowingly rendering inaccurate any monitoring device or method required by a permit or violating any other requirement imposed by state or federal regulations.

COMMENT 29:

SABEW commented about air quality concerns associated with the Seadrift facility.

RESPONSE 29:

The 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 § 106.532, wastewater treatment facilities have undergone this review, and their air emissions are permitted by rule, provided the facility performs only the functions listed in the rule. The Applicant indicated in its application that the treatment process of the Seadrift facility would 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.

For information related to air quality applications please contact the TCEQ Air Permits Division Office at 512-239-1250, or by e-mail at airperm@tceq.texas.gov.

COMMENT 30:

SABEW and John Daniel commented about the Seadrift facility's impact on flooding.

RESPONSE 30:

The ED acknowledges the significance of these comments; however, TCEQ does not have jurisdiction to regulate flooding in the context of a wastewater discharge permit. The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes and coastal waters. However, to the extent that an issue related to flooding also involves water quality, the Applicant is required to comply with all the numeric and narrative effluent limitations and other conditions in the proposed permit at all times, including during flooding conditions.

According to the application, the proposed facility will be located above the 100-year flood plain.

For flooding concerns, members of the public may contact the Calhoun County Floodplain Administrator's office by calling (361) 553-4455 8:00 a.m. - 5:00 p.m., Monday through Friday, sending an email to:

- ladonna.thigpen@calhouncotx.org, or through visiting the following:
- www.calhouncotx.org/flood-plain-administration/

Additionally, the TCEQ Resource Protection Team can be contacted for aid in identifying and contacting the appropriate county officials or offices, by calling (512) 239-4600 8:00 a.m. - 5:00 p.m., Monday through Friday sending an email to:

- wcp@tceq.texas.gov.

Additionally, the Federal Emergency Management Agency has programs designed to mitigate damage caused by flooding, that can be found at the following website:

- www.fema.gov/floodplain-management.

VI. CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENTS

In response to comments, the ED has corrected a typographical error in the draft permit. The daily average limit at Outfall 001 (Final Phase) for Hexachlorobutadiene, which read "0.0291 lbs/day," has been corrected to read "0.291 lbs/day." The Fact Sheet and draft permit were revised to reflect this correction (pages 5-6, and 29 of the Fact Sheet/Appendix A-pages: 38, 41, 45, 48-50, and page 2d of the draft permit).

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, Executive Director

Phillip Ledbetter, Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division



Michael T. Parr II, Staff Attorney
Environmental Law Division
State Bar No. 24062936
P.O. Box 13087, MC 173
Austin, Texas 78711 3087
Telephone No. 512-239 0611
Facsimile No. 512-239-0626

REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

VII. CERTIFICATE OF SERVICE

I certify that on November 12, 2024, the Executive Director's Response to Public Comment for Permit No. WQ0000447000 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



Michael T. Parr II, Staff Attorney
State Bar No. 24062936