

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

February 4, 2025

TO: All interested persons.

RE: Rainbow's End Park, Inc.  
TPDES Permit No. WQ0016513001

### **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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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](mailto: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 Livingston Municipal Library, Front Desk, 707 North Tyler Avenue, Livingston, 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](http://tceq.texas.gov)

How is our customer service? [tceq.texas.gov/customersurvey](http://tceq.texas.gov/customersurvey)  
printed on recycled paper

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

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

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

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

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

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

### **Deadline for Submitting Requests.**

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

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

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

### **Processing of Requests.**

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

### **How to Obtain Additional Information.**

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

Sincerely,

A handwritten signature in black ink that reads "Laurie Gharis". The signature is written in a cursive, flowing style.

Laurie Gharis  
Chief Clerk

LG/vr

Enclosure

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT  
for**

Rainbow's End Park, Inc.  
TPDES Permit No. WQ0016513001

The Executive Director has made the Response to Public Comment (RTC) for the application by Rainbow's End Park, Inc. for TPDES Permit No. WQ0016513001 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 (WQ0016513001) 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](mailto: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 Livingston Municipal Library, Front Desk, 707 North Tyler Avenue, Livingston, Texas.

MAILING LIST  
for  
Rainbow's End Park, Inc.  
TPDES Permit No. WQ0016513001

FOR THE APPLICANT:

Travis Carr, President  
Rainbow's End Park, Inc.  
100 Rainbow Drive  
Livingston, Texas 77351

Len Fairbanks, P.E., Owner  
Fairbanks & Associates  
677 Greer Road  
Livingston, Texas 77351

INTERESTED PERSONS:

See attached list

FOR THE EXECUTIVE DIRECTOR  
via electronic mail:

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

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

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

FOR PUBLIC INTEREST COUNSEL  
via electronic mail:

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  
via electronic mail:

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

DENHAM , DANIEL  
LIFE ESTATE OF CHERYL TEEL  
618 MYROW RD  
LIVINGSTON TX 77351-5443

EVANS , MISS ELAINA LEE  
620 MYROW RD  
LIVINGSTON TX 77351-5443

EVANS , MRS STEVIE ANN  
620 MYROW RD  
LIVINGSTON TX 77351-5443

LEBLANC , JAKE TYLER  
445 LONE STAR  
LIVINGSTON TX 77351-6353

REDDEN , LARRY  
546 MYROW RD  
LIVINGSTON TX 77351-5430

**TPDES Permit No. WQ0016513001**

<b>APPLICATION BY</b>	<b>§</b>	<b>BEFORE THE</b>
<b>RAINBOW'S END PARK, INC. FOR</b>	<b>§</b>	<b>TEXAS COMMISSION</b>
<b>TPDES PERMIT NO. WQ0016513001</b>	<b>§</b>	<b>ON ENVIRONMENTAL</b>
	<b>§</b>	<b>QUALITY</b>

---

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT**

---

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response or RTC) on the application by Rainbow's End Park, Inc. (the Applicant) for a new permit, Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016513001, and the Executive Director's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code (30 TAC) Section (§) 55.156, before a permit is issued, the Executive Director prepares a response to all timely, significant or relevant and material comments. The Office of the Chief Clerk received timely comments from Daniel Denham and Larry Redden. This response addresses all timely public comments received, whether or not withdrawn.

This application is subject to the requirements in Senate Bill (SB) 709, effective September 1, 2015. SB 709 amended the requirements for comments and contested case hearings. One of the changes required by SB 709 is that the Commission may not find that a "hearing requestor is an affected person unless the hearing requestor timely submitted comments on the permit application." Texas Water Code (TWC) § 5.115(a-1)(2)(B).

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

---

## I. BACKGROUND

---

### ***A. Description Of Facility***

The Applicant submitted an application to the TCEQ for a new permit, TPDES Permit No. WQ0016513001 to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 60,000 gallons per day. The Applicant proposes to operate Rainbow's End WWTP, to serve Escapees RV Club/RV Park.

The Rainbow's End Wastewater Treatment Facility is a submerged fixed bed biofilm reactor (SFBBR) packaged plant. Treatment units in the Interim phase will include an influent fine screen, an influent pump, an aeration tank, a tube settler final settling tank, a sludge holding tank, and a chlorine contact tank. Treatment units in the Final phase will include two influent fine screens, two influent pumps, two aeration tanks, two tube settler final settling tanks, two sludge holding tanks, and two chlorine contact tanks. The facility has not been constructed.

The facility will be located approximately 0.33 miles southwest of the intersection of Care Center Drive and Highway 146, in the City of Livingston, Polk County, Texas 77351.

If the draft permit is issued, the treated effluent will be discharged to a roadside ditch, thence to an unnamed tributary, thence to Copeland Creek, thence to Trinity River Below Lake Livingston in Segment No. 0802 of the Trinity River Basin. The designated uses for Segment No. 0802 are primary contact recreation, public water supply, and high aquatic life use. The effluent limits in the draft permit will maintain and protect the existing instream uses. All determinations are preliminary and subject to additional review and revisions.

Geographic coordinates of the outfall location in decimal degrees are provided in Table 1. If this permit is issued, the proposed facility will be located approximately 0.33 miles southwest of the intersection of Care Center Drive and Highway 146, in the City of Livingston, Polk County, Texas 77351.

**Table 1. Outfall Coordinate Location**

<b>Outfall Number</b>	<b>Latitude</b>	<b>Longitude</b>
001	30.639910 N	-94.872410 W



The draft permit includes the following proposed effluent limitations and monitoring requirements. All flows, except the two-hour peak flow, are expressed in [million gallons per day (MGD) / gallons per day (gpd)]. The two-hour (2-hr) peak flow is expressed in gallons per minute (gpm). All pH values are expressed in standard units (SU). Concentration values are expressed in milligrams per liter (mg/L). Mass-based values are expressed as pounds per day (lbs/day). Bacteria values are expressed in colony-forming units (CFU) or most probable number (MPN) per 100 milliliters (CFU or MPN/100 mL).

**Table 2. Interim Effluent Limitations: Outfall 001**

Parameter/Pollutant	Daily Average		7-day Average	Daily Maximum	Single Grab
	lbs/day	mg/L	mg/L	mg/L	mg/L
Flow	Report		N/A	Report	N/A
Carbonaceous Biochemical Oxygen Demand, 5-day (CBOD <sub>5</sub> )	2.5	10	15	25	35
Total Suspended Solids (TSS)	3.8	15	25	40	60
Ammonia Nitrogen (NH <sub>3</sub> -N)	0.8	3	6	10	15
<i>E. coli</i> (CFU or MPN/100 mL)	126		N/A	N/A	399
pH	6.0 - 9.0				

**Table 3. Final Effluent Limitations: Outfall 001**

Parameter/Pollutant	Daily Average		7-day Average	Daily Maximum	Single Grab
	lbs/day	mg/L	mg/L	mg/L	mg/L
Flow	Report		N/A	Report	N/A
Carbonaceous Biochemical Oxygen Demand, 5-day (CBOD <sub>5</sub> )	5.0	10	15	25	35
Total Suspended Solids (TSS)	7.5	15	25	40	60
Ammonia Nitrogen (NH <sub>3</sub> -N)	1.5	3	6	10	15
<i>E. coli</i> (CFU or MPN/100 mL)	126		N/A	N/A	399
pH	6.0 - 9.0				

## ***B. Procedural Background***

The permit application was received on March 29, 2024, and declared administratively complete on May 3, 2024. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on May 16, 2024, in the *Polk County Enterprise*. The Notice of Application and Preliminary Decision (NAPD) was published on October 6, 2024, in the *Polk County Enterprise*.

The public comment period ended November 5, 2024. This application was filed on or after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill (HB) 801, 76th Legislature (1999), and Senate Bill (SB) 709, 84th Legislature (2015), both implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55. The Texas Legislature enacted SB 709, effective September 1, 2015, amending the requirements for comments and contested case hearings. This application is subject to those changes in the law.

### ***C. Access to Rules, Laws, and Records***

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

- Secretary of State website: [www.sos.state.tx.us](http://www.sos.state.tx.us);
- TCEQ rules in 30 TAC: [www.sos.state.tx.us/tac](http://www.sos.state.tx.us/tac);
- Texas statutes: [www.statutes.legis.state.tx.us](http://www.statutes.legis.state.tx.us);
- TCEQ downloadable rules: [www.tceq.texas.gov/rules/indxpdf.html](http://www.tceq.texas.gov/rules/indxpdf.html);
- Federal rules in Title 40 of the Code of Federal Regulations: [www.ecfr.gov/current/title-40](http://www.ecfr.gov/current/title-40); and
- Federal environmental laws: [www.epa.gov/lawsregs](http://www.epa.gov/lawsregs).

Commission records for this application are available for viewing and copying and are located at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk). The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at the following location: Livingston Municipal Library, Front Desk, 707 North Tyler Avenue, Livingston, Texas.

---

## **II. COMMENTS AND RESPONSES**

---

### **Comment 1:**

Daniel Denham and Larry Redden expressed general opposition to the permit.

### **Response 1:**

The Executive Director acknowledges these comments.

### **Comment 2:**

Daniel Denham and Larry Redden commented to express concern that the discharge will impact the health and safety of families and children that use Copeland Creek for recreational activities, including camping, swimming, and hunting.

**Response 2:**

The draft permit was developed to protect human health and existing recreational uses in accordance with the Texas Surface Water Quality Standards (TSWQS) and was established to be protective of human health and the environment provided the Applicant operates and maintains the facility according to TCEQ rules and the requirements in the draft permit. As part of the permit application process, TCEQ must determine the uses of the receiving water and set effluent limits that are protective of those uses. The effluent limits in the draft permit are set to maintain and protect the existing instream uses.

In this case, the receiving stream uses for Copeland Creek are minimal aquatic life. The designated uses for Segment No. 0802 of the Trinity River basin, where the effluent eventually flows, are primary contact recreation, public water supply, and high aquatic life use. The Executive Director determined that these uses should be protected if the facility is operated and maintained as required by the proposed permit and applicable regulations.

**Comment 3:**

Daniel Denham and Larry Redden commented to express concern about the effects of the wastewater on properties along the discharge route, including their own.

**Response 3:**

TCEQ has delegated authority to issue TPDES permits for the discharge of waste or pollutant into or adjacent to water in the state. The State is authorized to use the bed and banks to transport water, and TCEQ has the authority to authorize a discharge of treated domestic wastewater into water in the state through a TPDES permit. The proposed draft permit includes effluent limitations and monitoring requirements to ensure that the proposed wastewater treatment plant meets water quality standards for the protection of surface water quality, groundwater, and human health according to TCEQ rules and policies. The Executive Director has determined that the proposed draft permit is protective of the environment, water quality, and human health and that it meets TCEQ rules and requirements.

Additionally, if the permit is issued, it does not grant the permittee the right to use private or public property for the conveyance of wastewater along the discharge route. Also, the permit does not authorize any invasion of personal rights or any

violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire all property rights necessary to use the discharge route. Additionally, the draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

**Comment 4:**

Daniel Denham and Larry Redden commented to express concern about the effects of the wastewater on water bodies along the discharge route, including Copeland Creek and the Trinity River.

**Response 4:**

The technical review performed in accordance with the TSWQS in 30 TAC Chapter 307 looks at the discharge route, or the entire distance to the classified segment. In this case, the treated effluent will be discharged to a roadside ditch, thence to an unnamed tributary, thence to Copeland Creek, thence to Trinity River Below Lake Livingston in Segment No. 0802 of the Trinity River Basin.

The technical review considers the impact the proposed discharge will have on each portion of the discharge route. In this case, the review has preliminarily determined that existing water quality uses will not be impaired by this permit action. While this is a relatively small discharge, the technical review ensures that all receiving waterbodies throughout the discharge route, including Copeland Creek and the Trinity River, will be protected and not degraded.

**Comment 5:**

Larry Redden commented expressing concern about the impact of the wastewater on well-water supply in the area.

**Response 5:**

TWC § 26.401(b) provides that “it is the goal of groundwater policy in this state that the existing quality of groundwater not be degraded. This goal of non-degradation does not mean zero-contaminant discharge.” Under TWC § 26.401(c)(1), it is the State of Texas’s policy that “discharges of pollutants, disposal of wastes, or other activities subject to regulation by state agencies be conducted in a manner that will maintain

present uses and not impair potential uses of groundwater or pose a public health hazard.” The TCEQ has the responsibility to regulate the discharges of pollutants into water in the state. The Executive Director has determined that if a permit is protective of surface water quality, groundwater quality in the vicinity will not be impacted by the discharge. The permit application went through a rigorous technical review, that takes into account both short and long-term effects of the discharge, which resulted in protective permit limits to ensure the discharge would not degrade the existing water quality.

Also 30 TAC § 309.13(c) states that a wastewater treatment plant unit may not be located closer than 500 feet from a public water well nor 250 feet from a private water well. Public water supply systems in Texas are regulated by TCEQ’s Water Supply Division. Please contact the Water Supply Division at 512-239-4691 for more information. In addition, groundwater monitoring wells are not required under current applicable rules pertaining to wastewater discharge TPDES permits, under TWC Chapter 26 and 30 TAC Chapters 217, 305, 307 and 309. Therefore, groundwater testing is not conducted prior to or after a proposed wastewater discharge as part of the permitting process.

**Comment 6:**

Larry Redden commented to express concern about the impact of the chlorinated discharge on wildlife, including birds, mammals, and aquatic life. Additionally, Larry Redden expressed concern about the impact of the proposed discharge on livestock drinking from stock ponds along the discharge route.

**Response 6:**

Regarding concern for wildlife and cattle, the proposed permit was drafted in accordance with the antidegradation policy found in 30 TAC § 307.5, the toxic criteria for surface water found in 30 TAC § 307.6, and the TCEQ *Procedures for the Implementation of the Texas Surface Water Quality Standards* (IPs; June 2010). These regulations provide that water in the state must be maintained to protect existing uses and to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, or domestic animals. While the TSWQS and the IPs do not specifically designate criteria for the protection of cattle or livestock, they do designate criteria for the protection of aquatic life that should preclude negative impacts to the health and performance of

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

Regarding concerns pertaining to the effect of chlorine on wildlife and the aquatic environment, the draft permit includes a requirement that the chlorine residual must not exceed 4.0 mg/L after a detention time of at least 20 minutes based on peak flow. This is designed to be protective against both acute and chronic toxicity due to chlorine.

**Comment 7:**

Larry Redden asked whether the permit will be based on a discharge volume of 30,000 gallons per day or 60,000 gallons per day.

**Response 7:**

The effluent limitations and monitoring requirements in the draft permit are based on a maximum daily average flow of either 30,000 gallons per day or 60,000 gallons per day, depending on the phase. The draft permit provides for both an Interim Phase and a Final Phase.

If the permit is issued, then beginning upon the date of issuance and lasting through completion of expansion to the 60,000 gallons per day facility, the Applicant is authorized to discharge from its facility with a daily average flow not to exceed 30,000 gallons per day. This is the Interim Phase. Upon expansion, the permit provides that in the Final Phase, the daily average flow of effluent shall not exceed 60,000 gallons per day.

**Comment 8:**

Larry Redden asked what will happen to the land where the wastewater was previously discharged and whether it will be made into additional RV spots.

**Response 8:**

TCEQ does not have the authority to address these types of issues as part of the wastewater permitting process. The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters.

**Comment 9:**

Larry Redden asked whether the residents of Rainbow's End have been formally notified.

**Response 9:**

For new permit applications, the Applicant must provide a list of affected landowners and a map showing their location(s). Affected landowners are landowners located adjacent to the wastewater treatment plant site and landowners with property on either side of the receiving stream for approximately one mile downstream from the point of discharge. The TCEQ mails notice of the application to the affected landowners and others on the mailing list for the application, which is maintained by the Office of Chief Clerk.

Rainbow's End Escapees RV Park is adjacent to the proposed site. However, mailed notice is required only to adjacent or downstream landowners. Adjacent or downstream residents who are not landowners may request to be added to the Office of Chief Clerk's mailing list for this permit application by submitting a comment, a request for a contested case hearing, or a reconsideration of the Executive Director's decision. In addition, they may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. These requests can be made via the following link: [TCEQ e-Comments](#).

Additionally, for all applications, the agency prepares two public notices, the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) and the Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD). The Applicant is required to publish these notices in a local newspaper and to provide a copy of the application, proposed draft permit and Executive Director's Preliminary Decision in a public place for viewing and copying.

Copies of these notices and the dates they were sent can be found by entering the permit number (WQ0016513001) for this application into the Commissioner's Integrated Database, located at the following link:

[Search TCEQ Data - Texas Commission on Environmental Quality - www.tceq.texas.gov.](#)

**Comment 10:**

Larry Redden asked how the Applicant will be governed to ensure compliance with the permit.

**Response 10:**

The Applicant is required to analyze the treated effluent prior to discharge and to provide monthly reports to the TCEQ that include the results of the analyses. The Applicant may either collect and analyze the effluent samples itself, or it may contract with a third party for either or both the sampling and analysis. However, all samples must be collected and analyzed according to 30 TAC Chapter 319, Subchapter A, Monitoring and Reporting System. The Applicant is required to notify the agency if the effluent does not meet the permit limits according to the requirements in the permit.

Additionally, TCEQ regional offices conduct both periodic and regular inspections of wastewater facilities based on complaints received. To report complaints about the facility, please contact the TCEQ at 1-888-777-3186 to reach the appropriate TCEQ regional office or by e-mail at [cmplaint@TCEQ.state.tx.us](mailto:cmplaint@TCEQ.state.tx.us). Noncompliance with TCEQ rules or the permit may result in an enforcement action.

**Comment 11:**

Larry Redden commented to express concern about system failure during heavy rains.

**Response 11:**

The Applicant is required to take certain steps to minimize the possibility of an accidental discharge of untreated wastewater. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by TCEQ. The draft permit includes effluent limits and other requirements that the Applicant must meet even during rainfall events and periods of flooding.

The operational requirements included in the proposed draft permit state that when the flow reaches 75 percent of the permitted daily average flow for three consecutive months, the Applicant must initiate engineering and financial planning for expansion or upgrade of the domestic wastewater treatment or collection facilities. When the flow reaches 90 percent of the permitted daily average flow for three consecutive months, the Applicant must obtain authorization from TCEQ to begin



constructing the necessary additional treatment or collection facilities. These permit provisions are designed to help prevent unauthorized discharges of raw sewage. If an unauthorized discharge occurs, the Applicant is required to report it to TCEQ within 24 hours. The Applicant is subject to potential enforcement action for failure to comply with TCEQ rules or the permit.

Additionally, the draft permit states that the permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood. For flooding concerns, please contact the local floodplain administrator for this area. If you need help finding the local floodplain administrator, please call the TCEQ Resource Protection Team at 512-239-4691.

**Comment 12:**

Larry Redden expressed concern that the facility will affect his property value.

**Response 12:**

TCEQ does not have the authority to address these types of issues as part of the wastewater permitting process. TWC Chapter 26 and applicable wastewater regulations do not authorize TCEQ to consider issues such as property values as part of the review process of TPDES permit applications.

However, the permit does not limit the ability of an individual to seek legal remedies against the Applicant regarding 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 may interfere with the normal use and enjoyment of property.

---

**III. CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENTS**

---

No changes to the proposed permit have been made in response to public comments.

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

*Maricela Zertuche*

---

Maricela Zertuche, Staff Attorney  
Environmental Law Division  
State Bar No. 24138349  
P.O. Box 13087, MC 173  
Austin, Texas 78711-3087  
Phone (512) 239-5424  
Fax: (512) 239-0606

REPRESENTING THE EXECUTIVE DIRECTOR OF  
THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY