

Jennifer Cox

From: PUBCOMMENT-OCC
Sent: Tuesday, June 11, 2024 4:18 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0016309001
Attachments: Brazoria County Request for CCH on Cullen RV Resort TPDES Application1.pdf

H

Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

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From: rfburk@bickerstaff.com <rfburk@bickerstaff.com>
Sent: Tuesday, June 11, 2024 2:56 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016309001

REGULATED ENTY NAME CULLEN RV RESORT WASTEWATER TREATMENT PLANT

RN NUMBER: RN111692489

PERMIT NUMBER: WQ0016309001

DOCKET NUMBER:

COUNTY: BRAZORIA

PRINCIPAL NAME: CULLEN RV RESORT LLC

CN NUMBER: CN605614767

NAME: Stefanie Albright

EMAIL: rfburk@bickerstaff.com

COMPANY: Bickerstaff Heath Delgado Acosta LLP

ADDRESS: TWO BARTON SKYWAY 1601 S MOPAC EXPWY STE C400
Austin TX 78746

PHONE: 5124728021



FAX:

COMMENTS: Please see attached letter.



June 11, 2024

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

Re: Application by Cullen RV Resort LLC to the Texas Commission on Environmental Quality for new Texas Commission Elimination System ("TPDES") Permit No. WQ0016309001

Dear Chief Clerk Gharis:

The Brazoria County, Texas (the "County") offers the below comments and formally requests a contested case hearing on the above-referenced application. Please direct all future correspondence on this application to the County's attorneys, Stefanie Albright and Emily Rogers, at Two Barton Skyway, 1601 S. MoPac Expressway, Suite C400, Austin, TX 78746. Our daytime phone number is (512) 472-8021 and fax number is (512) 320-5638.

Cullen RV Resort LLC ("Applicant") applied to the Texas Commission on Environmental Quality ("TCEQ") for new TPDES Permit No. WQ0016309001 (the "Application"), to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 8,000 gallons per day. The County is an affected person within the definition of that term by the Texas Administrative Code and opposes the issuance of the permit for the following reasons.

A. The County is an Affected Person

The County is an "affected person" entitled to a contested case hearing on the issues raised in this hearing request under 30 TEX. ADMIN. CODE § 55.203 because the County has interests related to legal rights, duties, privileges, powers, or economic interests affected by the Application that are not common to the general public. Local governmental entities, such as the County, with authority under state law over issues contemplated by an Application, may be considered affected persons under 30 TEX. ADMIN. CODE § 55.203. The Applicant proposes to discharge treated wastewater into a "roadside ditch" that is owned and maintained by the County as a component of the County's storm sewer system. The County has not provided consent to the Applicant to allow the proposed discharge into the County's stormwater facility.

Additionally, the County has authority over various functions – including but not limited to transportation, emergency services, police powers, and health and safety – that may be affected by the proposed wastewater treatment plant and associated discharge into Cowart Creek and Clear Creek Above Tidal, that the Application fails to properly address. Potential contamination of

surface water within the region may impact the County's ability to effectively provide emergency services, may impact health and safety by lowering water quality, and may negatively impact the County's infrastructure. Thus, the County has authority under state law over the issues contemplated by this Application and is therefore an affected person. 30 TEX. ADMIN. CODE § 55.203.

Moreover, as a local government entity, the County has the statutory authority to inspect the public water in its jurisdiction to assess whether the quality of the water standards, and to determine whether dischargers of wastewater are discharging in compliance with a TCEQ-issued permit. Tex. Water Code § 26.171. The County also has the authority to enter property to make inspections and investigations of conditions relating to water quality and the right to bring a civil suit against any person that violates or threatens to violate Chapter 26 of the Texas Water Code, or any permit issued thereunder. Tex. Water Code §§ 7.351, 26.173. As an inspector, investigator, and potential enforcer of a TCEQ-issued permit, the County is affected by the issuance of this permit and has a personal interest in ensuring that any permit issued by the TCEQ in this matter meets state law requirements, is protective of water quality, and is enforceable. This interest in the Applicant's proposed discharged within the County's jurisdiction is therefor unique to Brazoria County and is not common to the general public. Thus, the County has authority under state law over the issues contemplated by this Application and is therefore an affected person. 30 Tex. Admin. Code § 55.203.

For these reasons, the County requests that the Commission find that the County is an affected person and grant its request for a contested case hearing.

B. Comments

a. The County has not provided consent for Applicant to discharge into the roadside ditch owned and maintained by the County.

Applicant proposes to discharge 8,000 gallons per day of treated effluent into a "roadside ditch." However, what the Applicant characterizes as an unnamed ditch is a stormwater facility owned and maintained by the County to provide for drainage and flood protection. The Applicant did not request consent from the County to discharge into the County's stormwater facilities prior to submittal of the Application and failed to provide initial notice to the County relating to the Application. The County does not consent to Applicant's use of the County's stormwater roadside ditch to discharge treated wastewater in accordance with the Draft permit. Accordingly, the Applicant has not established a threshold issue required to complete the Application – the Applicant has not obtained the County's consent to discharge effluent into the County's stormwater facility as contemplated by the Application.

The County opposes the discharge of 8,000 gallons of treated water into its stormwater roadside drainage ditch. The ditch is a stormwater facility designed to mitigate damage from flood events in a coastal area prone to heavy rainfall, tropical weather, and flooding. The capacity of the drainage ditch does not allow for the discharge of wastewater from private developers but is instead committed entirely to flood protection and management of storm events. This stormwater

roadside ditch has limited capacity and discharges into a fully enclosed stormwater system for a distance of approximately 3.15 miles before discharging into an open stormwater system. The stormwater capacity in this proposed discharge location is limited and the full capacity is needed for storm events.

The TCEQ would not have known that the County's consent was not required, or provided because the Applicant incorrectly answers no to question in Section 10, Item C of the Application which asks if the proposed discharge will be "to a city, county, or state highway right-of-way...". Application, page 9-10. Because the Applicant incorrectly answered "no" to this question, it did not answer the next question to state whether authorization to the discharge into the County's stormwater facility had been granted or was pending. *See* Application, page 10. The Applicant could not have completed Section 10C of the Application because consent from the County was not requested.

The County does not consent to the discharge of treated wastewater into the County's roadside ditch stormwater facility. Authority for the proposed discharge to be placed in the stormwater drainage ditch is a threshold issue, and the Application should not be allowed to proceed. The County thus asks that the TCEQ deny the Application because the Applicant has not met the basic requirements to apply for a TPDES permit.

b. Issuance of the Draft permit could negatively affect water quality in the region.

The Applicant proposes to ultimately discharge to Cowart Creek and Clear Creek Above Tidal in Segment 1102. Clear Creek Above Tidal, which is in Segment 1102 of the San Jacinto-Brazos Coastal Basin. Cowart Creek Above Tidal is listed in the Texas Surface Water Quality Standards ("TSWQS") for primary contact recreation and high aquatic use. *See* 30 Tex. Admin. Code § 307.10.

Applicant proposes to discharge treated effluent of up to 8,000 more gallons per day into the receiving waters. This proposed discharge will have a negative impact on the fishable and swimmable uses of the receiving waters. The proposed discharge may negatively affect the water quality and designated uses of the receiving waters. The Draft permit does not fully contemplate the potential impacts of the direct discharge into the receiving waters, and their designated uses for human contact and recreation as well as a healthy ecosystem for aquatic life. Moreover, emerging contaminants that are often present in treated effluent – including pharmaceuticals, hormones, antibiotics, steroid, viruses, health care products, and many more – that are refractory during wastewater treatments, tend to persist in an aquatic environment.

C. Conclusion

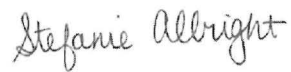
For these reasons, the County first requests that the Commission reject and deny the Application for failing to obtain consent from the County to discharge into the County's roadside ditch and stormwater drainage facility. Should the Application move forward over the County's objections to the discharge of treated waste into the County roadside stormwater drainage ditch,

June 11, 2024

Page 4

the County requests that the Commission find that the County is an affected person and grant its request for a contested case hearing.

Sincerely,

A handwritten signature in cursive script that reads "Stefanie Albright".

Stefanie P. Albright
Emily W. Rogers
Attorneys for Brazoria County

SPA/rfb

Vincent Redondo

From: PUBCOMMENT-OCC
Sent: Monday, March 4, 2024 5:13 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0016309001
Attachments: Brazoria County Comments on Cullen RV Resort TPDES Application.pdf

H

Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

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From: rfburk@bickerstaff.com <rfburk@bickerstaff.com>
Sent: Monday, March 4, 2024 2:20 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016309001

REGULATED ENTY NAME CULLEN RV RESORT WASTEWATER TREATMENT PLANT

RN NUMBER: RN111692489

PERMIT NUMBER: WQ0016309001

DOCKET NUMBER:

COUNTY: BRAZORIA

PRINCIPAL NAME: CULLEN RV RESORT LLC

CN NUMBER: CN605614767

NAME: Stefanie Albright

EMAIL: rfburk@bickerstaff.com

COMPANY: Bickerstaff Heath Delgado Acosta LLP

ADDRESS: 3711 S MOPAC EXPY STE 300
AUSTIN TX 78746-8013

PHONE: 5124728021

FAX:

COMMENTS: Please see attached letter.



March 4, 2024

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

Re: Application by Cullen RV Resort LLC to the Texas Commission on Environmental Quality for new Texas Commission Elimination System ("TPDES") Permit No. WQ0016309001

Dear Chief Clerk Gharis:

The Brazoria County, Texas (the "County") offers the below comments and formally requests a contested case hearing on the above-referenced application. Please direct all future correspondence on this application to the County's attorneys, Stefanie Albright and Emily Rogers, at 3711 S. MoPac Expressway, Building One, Suite 300, Austin, TX 78746. Our daytime phone number is (512) 472-8021 and fax number is (512) 320-5638.

Cullen RV Resort LLC ("Applicant") applied to the Texas Commission on Environmental Quality ("TCEQ") for new TPDES Permit No. WQ0016309001 (the "Application"), to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 12,000 gallons per day. The County is an affected person within the definition of that term by the Texas Administrative Code and opposes the issuance of the permit for the following reasons.

A. The County has not provided consent for Applicant to discharge into the roadside ditch owned and maintained by the County.

Applicant proposed to discharge 12,000 gallons per day of treated effluent into a "roadside ditch." However, what the Applicant characterizes as an unnamed ditch is a stormwater facility owned and maintained by the County to provide for drainage and flood protection. The Applicant did not request consent from the County to discharge into the County's stormwater facilities prior to submittal of the Application, and failed to provide notice to the County relating to the Application. The County has not provided consent to Applicant's use of the County's roadside ditch to discharge treated wastewater in accordance with the Draft Permit. Accordingly, the Applicant has not established a threshold issue required to complete the Application – the Applicant has not obtained the County's consent to discharge effluent into the County's stormwater facility as contemplated by the Application.

If the County had been asked for permission for the Applicant to discharge into the roadside ditch, the County would not have provided consent. The ditch is a stormwater facility designed to

mitigate damage from flood events in a coastal area prone to heavy rainfall, tropical weather, and flooding. The capacity of the drainage ditch does not allow for the discharge of wastewater from private developers, but is instead committed entirely to flood protection and management of storm events.

The County has not consented to the discharge of treated wastewater into the County's roadside ditch stormwater facility. Authority for the proposed discharge to be placed in the drainage ditch is a threshold issue, and the Application should not be allowed to proceed. The County thus asks that the TCEQ deny the Application because the Applicant has not met the basic requirements to apply for a TPDES permit.

B. The County is an Affected Person

Although the County believes that the Application should be denied because the Applicant does not have the authority to discharge into the County's ditch, the County protests other elements of the Draft Permit.

The County is an "affected person" entitled to a contested case hearing on the issues raised in this hearing request under 30 TEX. ADMIN. CODE § 55.203 because the County has interests related to legal rights, duties, privileges, powers, or economic interests affected by the application that are not common to the general public. Local governmental entities, such as the County, with authority under state law over issues contemplated by an application, may be considered affected persons under 30 TEX. ADMIN. CODE § 55.203. The Applicant proposes to discharge treated wastewater into a "roadside ditch" that is owned and maintained by the County as a component of the County's storm sewer system. The County has not provided consent to the Applicant to allow the proposed discharge into the County's stormwater facility.

Additionally, the County has authority over various functions – including but not limited to transportation, emergency services, police powers, and health and safety – that may be affected by the proposed wastewater treatment plant and associated discharge into Cowart Creek and Clear Creek, that the Application fails to properly address. Potential contamination of surface water within the region may impact the County's ability to effectively provide emergency services, may impact health and safety by lowering water quality, and may negatively impact the County's infrastructure. Thus, the County has authority under state law over the issues contemplated by this application and is therefore an affected person. 30 TEX. ADMIN. CODE § 55.203

For these reasons, the County requests that the Commission find that the County is an affected person and grant its request for a contested case hearing.

The Applicant proposes to ultimately discharge to Cowart Creek and Clear Creek Above Tidal in Segment 1102. Clear Creek Above Tidal, which is in Segment 1102 of the San Jacinto-Brazos Coastal Basin. Cowart Creek Above Tidal is listed in the Texas Surface Water Quality Standards ("TSWQS") for primary contact recreation and high aquatic use. *See* 30 Tex. Admin. Code § 307.10.

Applicant proposes to discharge treated effluent of up to 12,000 more gallons per day into the receiving waters. This proposed discharge will have a negative impact on the fishable and swimmable uses of the receiving waters.

C. Conclusion

For these reasons, the County first requests that the Commission reject and deny the Application for failing to obtain consent from the County to discharge into the County's roadside ditch and drainage facility. Should the Application move forward over the County's objections to the discharge of treated waste into the County roadside drainage ditch, the County requests that the Commission find that the County is an affected person and grant its request for a contested case hearing.

Sincerely,



Stefanie P. Albright
Emily W. Rogers
Attorneys for Brazoria County

SPA/rfb

Jennifer Cox

From: PUBCOMMENT-OCC
Sent: Monday, June 17, 2024 4:28 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0016309001

H
PM

Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

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From: wilson_sue_a@yahoo.com <wilson_sue_a@yahoo.com>
Sent: Sunday, June 16, 2024 11:18 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016309001

REGULATED ENTY NAME CULLEN RV RESORT WASTEWATER TREATMENT PLANT

RN NUMBER: RN111692489

PERMIT NUMBER: WQ0016309001

DOCKET NUMBER:

COUNTY: BRAZORIA

PRINCIPAL NAME: CULLEN RV RESORT LLC

CN NUMBER: CN605614767

NAME: Sue A Schmidt

EMAIL: wilson_sue_a@yahoo.com

COMPANY:

ADDRESS: 4703 KATHY DR
PEARLAND TX 77584-6045

PHONE: 7133042348

FAX:

COMMENTS: Mark E. and Sue A. Schmidt 4703 Kathy Dr. Pearland, TX 77584 Laurie Gharis, Chief Clerk Office of the Chief Clerk – MC-105 Texas Commission on Environmental Quality P.O. Box 13087 Austin, TX 78711-3087 Re: Application by Cullen RV Resort LLC to the Texas Commission on Environmental Quality for new Texas Pollutant Discharge Elimination System; Permit No. WQ0016309001 Dear Chief Clerk Gharis: The undersigned offer the below comments in opposition to issuance of the permit, formally request a public hearing, and join in Brazoria County's March 4, 2024 request for a contested hearing on the above-referenced application. Cullen RV Resort LLC ("Cullen RV") submitted their application for a new Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0016309001 ("Application"), to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 12,000 gallons per day. The Application has been amended to reflect a daily average discharge amount not to exceed 8000 gallons per day. We are opposed to the issuance of the permit for the following reasons: 1) Cullen RV does not meet the suitable site requirement mandated by 30 TAC § 309.13 (e)(1). 30 TAC § 309.13 (e)(1) clearly states a wastewater treatment plant, such as that proposed by Cullen RV, "may not be located closer than 150 feet to the nearest property line." By its own admission, evidenced by the "Buffer Zone Map" submitted with its Application, Cullen RV's proposed wastewater treatment plant will be located much closer to our property line as well as two others than is allowed by law. 2) Cullen RV does not meet the suitable site requirement mandated by 30 TAC § 309.13 (c). 30 TAC § 309.13 (c) states "A wastewater treatment plant unit may not be located closer than...250 feet from a private water well." Our water well, and more notably, of the home located on the southeastern corner of the Sandra Clapp property, is within 250 feet of the southeastern and western most components of Cullen RV's proposed treatment facility. 3) The discharge of Cullen RV's wastewater as proposed will further exacerbate drainage issues already negatively impacting us and our neighbors caused by the existence of Cullen RV's facility. Since the construction of Cullen RV, we have been experiencing significant delays in the drainage of rainwater from our property that are contrary to our experience in the past. Cullen RV has impeded the natural flow of water from properties to its south. We own the two and one-half acre tract directly adjacent to the proposed location of the proposed TPDES facility. The drainage of water from our property, and those surrounding it, naturally flows from the south to the north to the ditch on the south side of CR 101 (a/k/a Bailey Ave.). Cullen RV's property is adjacent to the north property line of our property. When constructing its property, Cullen RV raised the elevation of the property by more than 3 feet, thereby diverting the natural flow of water from our property in violation of Texas Water Code, 2 § 11.086. This has caused rainwater to be diverted into the roadway ditches along Kathy Drive and Joe Drive in excess of the drainage capability of those ditches which in turn causes water to stand on our property for prolonged periods of time. We requested the County to deepen the ditches along Kathy Drive and along the west side of Joe Drive In an attempt to alleviate the back up of water into the ditch along Kathy Drive in front of our property. We were informed by the County Drainage District that such an exercise would be futile because the elevation of the CR 101 ditch was too high to allow for complete drainage from deeper ditches. In other words, deepening the Joe Drive ditch and/or the Kathy Drive ditch would create pools of water at the intersections of the various ditches that would only empty by evaporation. The discharge of wastewater by Cullen RV will make worse the drainage issues affecting our and neighboring properties. For these reasons, the undersigned request the Commission reject and deny the Application, and if not, we request a public meeting. Further, we request notice of any contested case hearing. Best regards, Mark and Sue Schmidt

Jennifer Cox

From: PUBCOMMENT-OCC
Sent: Monday, June 17, 2024 4:29 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0016309001
Attachments: Cullen RV App Comments.pdf

PM
H

Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

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From: wilson_sue_a@yahoo.com <wilson_sue_a@yahoo.com>
Sent: Sunday, June 16, 2024 11:27 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016309001

REGULATED ENTY NAME CULLEN RV RESORT WASTEWATER TREATMENT PLANT

RN NUMBER: RN111692489

PERMIT NUMBER: WQ0016309001

DOCKET NUMBER:

COUNTY: BRAZORIA

PRINCIPAL NAME: CULLEN RV RESORT LLC

CN NUMBER: CN605614767

NAME: Sue A Schmidt

EMAIL: wilson_sue_a@yahoo.com

COMPANY:

ADDRESS: 4703 KATHY DR
PEARLAND TX 77584-6045

PHONE: 7133042348

FAX:

COMMENTS: Resubmitting comments as an attachment, since formatting was removed on prior submission making the comments hard to read.

Mark E. and Sue A. Schmidt
4703 Kathy Dr.
Pearland, TX 77584

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

Re: Application by Cullen RV Resort LLC to the Texas Commission on Environmental Quality
for new Texas Pollutant Discharge Elimination System; Permit No. WQ0016309001

Dear Chief Clerk Gharis:

The undersigned offer the below comments in opposition to issuance of the permit, formally request a public hearing, and join in Brazoria County's March 4, 2024 request for a contested hearing on the above-referenced application.

Cullen RV Resort LLC ("Cullen RV") submitted their application for a new Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0016309001 ("Application"), to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 12,000 gallons per day. The Application has been amended to reflect a daily average discharge amount not to exceed 8000 gallons per day. We are opposed to the issuance of the permit for the following reasons:

1) Cullen RV does not meet the suitable site requirement mandated by 30 TAC § 309.13 (e)(1).

30 TAC § 309.13 (e)(1) clearly states a wastewater treatment plant, such as that proposed by Cullen RV, "may not be located closer than 150 feet to the nearest property line." By its own admission, evidenced by the "Buffer Zone Map" submitted with its Application, Cullen RV's proposed wastewater treatment plant will be located much closer to our property line as well as two others than is allowed by law.

2) Cullen RV does not meet the suitable site requirement mandated by 30 TAC § 309.13 (c).

30 TAC § 309.13 (c) states "A wastewater treatment plant unit may not be located closer than...250 feet from a private water well." Our water well, and more notably, of the home located on the southeastern corner of the Sandra Clapp property, is within 250 feet of the southeastern and western most components of Cullen RV's proposed treatment facility.

3) The discharge of Cullen RV's wastewater as proposed will further exacerbate drainage issues already negatively impacting us and our neighbors caused by the existence of Cullen RV's facility. Since the construction of Cullen RV, we have been experiencing significant delays in the drainage of rainwater from our property that are contrary to our experience in the past.

Cullen RV has impeded the natural flow of water from properties to its south.

We own the two and one-half acre tract directly adjacent to the proposed location of the proposed TPDES facility. The drainage of water from our property, and those surrounding it, naturally flows from the south to the north to the ditch on the south side of CR 101 (a/k/a Bailey Ave.). Cullen RV's property is adjacent to the north property line of our property.

When constructing its property, Cullen RV raised the elevation of the property by more than 3 feet, thereby diverting the natural flow of water from our property in violation of Texas Water Code, 2 § 11.086. This has caused rainwater to be diverted into the roadway ditches along Kathy Drive and Joe Drive in excess of the drainage capability of those ditches which in turn causes water to stand on our property for prolonged periods of time.

We requested the County to deepen the ditches along Kathy Drive and along the west side of Joe Drive in an attempt to alleviate the back up of water into the ditch along Kathy Drive in front of our property. We were informed by the County Drainage District that such an exercise would be futile because the elevation of the CR 101 ditch was too high to allow for complete drainage from deeper ditches. In other words, deepening the Joe Drive ditch and/or the Kathy Drive ditch would create pools of water at the intersections of the various ditches that would only empty by evaporation.

The discharge of wastewater by Cullen RV will make worse the drainage issues affecting our and neighboring properties.

For these reasons, the undersigned request the Commission reject and deny the Application, and if not, we request a public meeting. Further, we request notice of any contested case hearing.

Best regards,



Mark E. Schmidt



Sue A. Schmidt

Jennifer Cox

From: PUBCOMMENT-OCC
Sent: Monday, October 21, 2024 6:19 PM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0016309001

ML

Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

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From: hcampbell@spencerfane.com <hcampbell@spencerfane.com>
Sent: Monday, October 21, 2024 2:05 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016309001

REGULATED ENTY NAME CULLEN RV RESORT WASTEWATER TREATMENT PLANT

RN NUMBER: RN111692489

PERMIT NUMBER: WQ0016309001

DOCKET NUMBER:

COUNTY: BRAZORIA

PRINCIPAL NAME: CULLEN RV RESORT LLC

CN NUMBER: CN605614767

NAME: Hanna Campbell

EMAIL: hcampbell@spencerfane.com

COMPANY: Spencer Fane LLP

ADDRESS: 816 CONGRESS AVE Suite 1200
AUSTIN TX 78701-2442

PHONE: 5128404557

FAX:

COMMENTS: Please add me to the mailing list for this matter.

Jennifer Cox

From: PUBCOMMENT-OCC
Sent: Wednesday, October 16, 2024 5:20 PM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0016309001

ML

Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

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From: cfaulk@spencerfane.com <cfaulk@spencerfane.com>
Sent: Wednesday, October 16, 2024 2:02 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016309001

REGULATED ENTY NAME CULLEN RV RESORT WASTEWATER TREATMENT PLANT

RN NUMBER: RN111692489

PERMIT NUMBER: WQ0016309001
132167

DOCKET NUMBER:

COUNTY: BRAZORIA

PRINCIPAL NAME: CULLEN RV RESORT LLC

CN NUMBER: CN605614767

NAME: Cody Faulk

EMAIL: cfaulk@spencerfane.com

COMPANY: Spencer Fane LLP

ADDRESS: 816 CONGRESS AVE Suite 1200
AUSTIN TX 78701-2442

PHONE: 5128404549

FAX:

COMMENTS: Please add me to the mailing list for this proceeding.

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Wednesday, June 14, 2023 1:13 PM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0016309001

ML

From: mchambers@spencerfane.com <mchambers@spencerfane.com>
Sent: Wednesday, June 14, 2023 12:54 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016309001

REGULATED ENTY NAME CULLEN RV RESORT WASTEWATER TREATMENT PLANT

RN NUMBER: RN111692489

PERMIT NUMBER: WQ0016309001

DOCKET NUMBER:

COUNTY: BRAZORIA

PRINCIPAL NAME: CULLEN RV RESORT LLC

CN NUMBER: CN605614767

NAME: Maris M Chambers

EMAIL: mchambers@spencerfane.com

COMPANY: Spencer Fane

ADDRESS: 816 CONGRESS AVE Suite 1200
AUSTIN TX 78701-2442

PHONE: 2146636792

FAX:

COMMENTS: Please add me to the mailing list for this matter. Thank you.

Jennifer Cox

From: PUBCOMMENT-OCC
Sent: Friday, May 24, 2024 2:14 PM
To: PUBCOMMENT-OCC2
Subject: CORRECTION FW: Public comment on Permit Number WQ0016309001
Attachments: Bickerstaff Heath Delgado Acosta LLP Notice of Change of Address letter (Cullen RV)1.pdf

ML

Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

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From: PUBCOMMENT-OCC
Sent: Friday, May 24, 2024 2:07 PM
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Subject: FW: Public comment on Permit Number WQ0016309001

Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

How is our customer service? Fill out our online customer satisfaction survey at:
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From: rfburk@bickerstaff.com <rfburk@bickerstaff.com>
Sent: Friday, May 24, 2024 12:17 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016309001

REGULATED ENTY NAME CULLEN RV RESORT WASTEWATER TREATMENT PLANT

RN NUMBER: RN111692489

PERMIT NUMBER: WQ0016309001

DOCKET NUMBER:

COUNTY: BRAZORIA

PRINCIPAL NAME: CULLEN RV RESORT LLC

CN NUMBER: CN605614767

NAME: Emily Rogers

EMAIL: rfburk@bickerstaff.com

COMPANY: Bickerstaff Heath Delgado Acosta LLP

ADDRESS: TWO BARTON SKYWAY 1601 S MOPAC EXPWY STE C400
Austin TX 78746

PHONE: 5124728021

FAX:

COMMENTS: Please see attached letter.



May 24, 2024

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

Re: Permit No. WQ001630901; Application by Cullen RV Resort LLC to the Texas
Commission on Environmental Quality for new Texas Commission Elimination System
("TPDES") Permit No. WQ0016309001

Dear Ms. Gharis:

Please be advised that effective May 20, 2024, the Firm address for Bickerstaff Heath Delgado Acosta
LLP has changed. This notice is to apprise all parties that the new Firm address is as follows:

Emily W. Rogers
erogers@bickerstaff.com
Joshua D. Katz
jkatz@bickerstaff.com
Stefanie Albright
salbright@bickerstaff.com
Kimberly Kelley
kkelley@bickerstaff.com

Bickerstaff Heath Delgado Acosta LLP
Two Barton Skyway
1601 S. MoPac Expy., Suite C400
Austin, Texas 78746
(512) 472-5021
(512) 320-5638 (Fax)

All communications with respect to the above-referenced matter, whether formal or informal, and all
pleadings and motions or other papers required to be served to counsel, shall be sent or served upon the
undersigned counsel at the mail addresses, email addresses, and telephone and telecopy numbers above.

Thank you for your attention to this matter.

Sincerely,
Emily W. Rogers
Emily W. Rogers

EWR/rfb

TPDES Permit No. WQ0016309001

APPLICATION BY	§	BEFORE THE
CULLEN RV RESORT LLC	§	TEXAS COMMISSION
FOR TPDES PERMIT NO.	§	ON ENVIRONMENTAL
WQ0016309001	§	QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response or RTC) on the application by Cullen RV Resort LLC (Applicant) for a new permit, Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016309001, 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 Stefanie Albright and Emily Rogers on behalf of Brazoria County, Texas, and Mark and Sue Schmidt. 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.

I. BACKGROUND

A. *Description of Facility*

The Cullen RV Resort LLC (Applicant) submitted an application to the TCEQ for a new permit, TPDES Permit No. WQ0016309001 to authorize discharge of treated domestic wastewater at a daily average flow not to exceed 8,000 gallons per day. The Applicant proposes to operate Cullen RV Resort WWTF, a proposed wastewater treatment facility (WWTF) that will serve the Cullen RV Resort.

The Cullen RV Resort WWTF will be an activated sludge process plant operated in the conventional aeration mode. Treatment units include a bar screen, an equalization basin, two aeration basins, a final clarifier, and a chlorine contact chamber. The facility has not been constructed.

If the draft permit is issued, the treated effluent will be discharged to an on-site detention pond, thence to a roadside ditch, thence through a storm sewer, thence to Cowart Creek, thence to Clear Creek Above Tidal in Segment No. 1102 of the San Jacinto-Brazos Coastal Basin. The designated uses for Segment No. 1102 are primary contact recreation and high aquatic life use. The effluent limits in the draft permit will maintain and protect the existing instream uses. All determinations are preliminary and subject to additional review and revisions.

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 at 3802 Joe Drive, in the City of Pearland, Brazoria County, Texas 77584.

Table 1. Outfall Coordinate Location

Outfall Number	Latitude	Longitude
001	29.528844	95.34333

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). 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. 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 (MGD)	0.008				
Carbonaceous Biochemical Oxygen Demand, 5-day (CBOD ₅)	0.33	5	10	20	30
Total Suspended Solids (TSS)	0.33	5	10	20	30
Ammonia Nitrogen (NH ₃ -N)	0.13	2	5	10	15
<i>E. coli</i> (CFU or MPN/100 mL)	126		N/A	N/A	399

The daily average flow of effluent shall not exceed 0.008 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 556 gpm. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per month by grab sample.

B. Procedural Background

The permit application was received on March 3, 2023, and declared administratively complete on April 20, 2023. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on April 28, 2023, in *The Facts*. The Combined NORI and Notice of Application and Preliminary Decision (NAPD) was published on May 16, 2024 in *The Facts*. The public comment period ended on June 17, 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;
- TCEQ rules in 30 TAC: www.sos.state.tx.us/tac;
- Texas statutes: www.statutes.legis.state.tx.us;
- TCEQ downloadable rules: www.tceq.texas.gov/rules/indxpdf.html;
- Federal rules in Title 40 of the Code of Federal Regulations: www.ecfr.gov/current/title-40; and
- Federal environmental laws: www.epa.gov/lawsregs.

Commission records for this application are available for viewing and copying and are located at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk). The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at the following location: Manvel Public Library, 20514B Highway 6, Manvel, Texas.

II. COMMENTS AND RESPONSES

COMMENT 1:

Brazoria County commented that in the permit application the proposed discharge route includes a "roadside ditch." The County claims that the unnamed ditch is a stormwater facility owned and maintained by the County to provide for drainage and flood protection. The Applicant did not request consent from the County to discharge into the County's stormwater facilities prior to the submittal of the permit application.

RESPONSE 1:

The draft 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. Also, 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 2:

Brazoria County commented that the Applicant incorrectly answers “no” to the question in Section 10, Item C of the Application which asks if the proposed discharge will be “to a city, county, or state highway right-of-way...”. Because the Applicant incorrectly answered “no” to this question, it did not answer the next question to state whether authorization to discharge into the County’s stormwater facility had been granted or was pending.

RESPONSE 2:

If the Applicant answered “no” to the question in Section 10 Item C, they are not required to answer the next question.

COMMENT 3:

Brazoria County commented that the proposed discharge will have a negative impact on the fishable and swimmable uses of the receiving waters and negatively affect the water quality. The County also commented that emerging contaminants that are often present in treated effluent, including pharmaceuticals, hormones, antibiotics, steroid, viruses, and health care products, tend to persist in an aquatic environment.

RESPONSE 3:

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

In this case, the designated uses for Segment No. 1102 are primary contact recreation 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 regulations. Additionally, the treated effluent will be disinfected prior to discharge to protect human health. The ED has made a preliminary determination that the draft permit, if issued, meets all statutory and regulatory requirements.

Concerning emerging contaminants, TCEQ has not investigated the potential effects of emerging contaminants, which includes pharmaceuticals, in effluent. Neither the TCEQ nor the EPA has promulgated rules or criteria limiting emerging contaminants in wastewater. EPA is currently investigating emerging contaminants and potential adverse human health effects from emerging contaminants in the environment. Removal of some emerging contaminants has been documented during municipal wastewater treatment; however, standard removal efficiencies have not been established. In addition, there are currently no federal or state effluent limits for emerging contaminants. Accordingly, neither the TCEQ nor the EPA has rules on the treatment of contaminants such as pharmaceuticals in domestic wastewater.

COMMENT 4:

Mark and Sue Schmidt commented that the Applicant does not meet the suitable site requirements mandated in 30 TAC § 309.13(e)(1) and 30 TAC § 309.13(c). They state that the proposed facility cannot be located closer than 150 feet to the nearest property line, and that the proposed facility will be much closer than 150 feet to their property. Further, they state that their private water well is within 250 feet of the proposed WWTF. They claim that the Applicant incorrectly completed the permit application with misrepresented data on the landowner adjacent map and excluded two water wells.

RESPONSE 4:

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. The Application indicates that there are no private water wells within 250 feet of the WWTF. Additionally, the Texas Water Development Board (TWDB) water well data viewer does not show a water well within 250 feet of proposed facility.

All wastewater treatment facilities have the potential to generate odors. To control and abate odors TCEQ rules require domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor according to 30 TAC § 309.13(e), which provides three options for applicants to satisfy the nuisance odor abatement and control requirements. The Applicant can comply with the rule by: 1) ownership of the buffer zone area; 2) restrictive easement from the adjacent property

owners for any part of the buffer zone not owned by the Applicant; or 3) providing nuisance odor control. The WWTF is only required to be 150 feet from the property boundary if the Applicant is meeting buffer zone requirements by ownership.

The Applicant intends to comply with the requirement to abate and control nuisance of odor by use of a nuisance odor prevention plan, including burying all the units of the WWTF. This requirement is incorporated in the draft permit. The nuisance odor prevention plan request must adhere to the requirements of 30 TAC § 309.13(e)(2). Therefore, nuisance odor is not expected to occur as a result of the permitted activities at the facility if the permittee operates the facility in compliance with TCEQ's rules and the terms and conditions of the draft permit.

COMMENT 5:

Mark and Sue Schmidt commented that the discharge from the proposed WWTF will further exacerbate drainage issues negatively impacting the surrounding properties.

RESPONSE 5:

TCEQ does not have jurisdiction to address flooding or erosion issues in 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. According to the application, the proposed facility is located above the 100-year flood plain. For additional protection, the proposed permit includes Other Requirement No. 4, which requires the permittee to provide protection for the facility from a 100-year flood.

For flooding concerns, please contact the Brazoria County Floodplain Management at 979-864-1272. If you need help finding the local floodplain administrator, please call TCEQ Resource Protection Team at 512-239-4691.

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

In response to Public Comments, the Executive Director changed the draft permit to clarify that the Applicant intends to meet the buffer zone requirements by including an Odor Prevention Plan instead of through ownership of the buffer zone area.

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



Aubrey Pawelka, Staff Attorney

Environmental Law Division

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REPRESENTING THE EXECUTIVE
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ON ENVIRONMENTAL QUALITY