

NPDES PERMIT NO. TX0133994
STATEMENT OF BASIS

FOR THE DRAFT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
(NPDES) PERMIT TO DISCHARGE TO WATERS OF THE UNITED STATES

APPLICANT:

Panda Temple Pipeline
4100 Spring Valley Rd, Suite 1001
Dallas, TX 75244

ISSUING OFFICE:

U.S. Environmental Protection Agency
Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

PREPARED BY:

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DATE PREPARED:

May 13, 2013

PERMIT ACTION

It is proposed that the facility be issued an NPDES permit for a 5-year term in accordance with regulations contained in 40 Code of Federal Regulations (CFR) 122.46(a).

40 CFR CITATIONS: Unless otherwise stated, citations to 40 CFR refer to promulgated regulations listed at Title 40, Code of Federal Regulations, revised as of May 3, 2013.

RECEIVING WATER – BASIN

North Elm Creek, thence to Big Elm Creek, thence to Little River, Segment No. 1213A, Little River of the Brazos River Basin.

DOCUMENT ABBREVIATIONS

For brevity, Region 6 used acronyms and abbreviated terminology in this Statement of Basis document whenever possible. The following acronyms were used frequently in this document:

| | |
|------------------|---|
| BAT | Best Available Technology Economically Achievable) |
| BOD ₅ | Biochemical oxygen demand (five-day unless noted otherwise) |
| BPJ | Best professional judgment |
| CFR | Code of Federal Regulations |
| cfs | Cubic feet per second |
| COD | Chemical oxygen demand |
| COE | United States Corp of Engineers |
| CWA | Clean Water Act |
| DMR | Discharge monitoring report |
| ELG | Effluent limitation guidelines |
| EPA | United States Environmental Protection Agency |
| ESA | Endangered Species Act |
| F&WS | United States Fish and Wildlife Service |
| GPD | Gallon per day |
| HT | Hydrostatic Testing |
| IP | Procedures to Implement the Texas Surface Water Quality Standards |
| µg/l | Micrograms per liter (one part per billion) |
| mg/l | Milligrams per liter (one part per million) |
| MGD | Million gallons per day |
| MSGP | Multi-Sector General Permit |
| NPDES | National Pollutant Discharge Elimination System |
| MLQ | Minimum quantification level |
| O&G | Oil and grease |
| RRC | Railroad Commission of Texas |
| RP | Reasonable potential |
| SIC | Standard industrial classification |
| s.u. | Standard units (for parameter pH) |
| TAC | Texas Administrative Code |
| TCEQ | Texas Commission on Environmental Quality |
| TDS | Total dissolved solids |
| TMDL | Total maximum daily load |
| TOC | Total Organic Carbon |
| TRC | Total residual chlorine |
| TSS | Total suspended solids |
| TSWQS | Texas Surface Water Quality Standards |
| WET | Whole effluent toxicity |
| WQMP | Water Quality Management Plan |
| WQS | Water Quality Standards |

I. APPLICANT LOCATION and ACTIVITY

The proposed permit allows only the hydrostatic test discharge water from new pipeline.

Under the SIC code 4922, Natural Gas Transmission, the applicant plans to transport natural gas from a regional distribution pipeline to fuel a gas fired 758 MW electric generation facility. The facility will provide electricity for area consumption.

II. DISCHARGE LOCATION

The discharge points showing Outfall number, discharge coordinates: latitude and longitude, county, average flow rate in millions gallons per day (MGD), receiving water, and the waterbody identification numbers are shown in the following table:

| Outfall Reference Number | Discharge Coordinates Latitude Deg° Min' Sec" Longitude Deg° Min' Sec" | County | Average Flow MGD | Receiving Water | Segment # |
|--------------------------|--|--------|------------------|--|---|
| 001 | 31° 00' 52" N 97° 6' 29" W | Bell | 0.179 | North Elm Creek, thence to Big Elm Creek, thence to Little River | Segment No. 1213A, Little River of the Brazos River Basin |

III. DISCHARGE DESCRIPTION

This will be a new facility and no discharge has occurred. Therefore, no effluent data are available.

Discharges from Outfall 001 are to North Elm Creek, thence to Big Elm Creek, thence to Little River, Segment No. 1213A.

The designated uses of Segment 1213, Little River primary contact recreation, high aquatic life, and public water supply.

IV. REGULATORY AUTHORITY/PERMIT ACTION

In November 1972, Congress passed the Federal Water Pollution Control Act establishing the NPDES permit program to control water pollution. These amendments established technology-based or end-of-pipe control mechanisms and an interim goal to achieve "water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water;" more commonly known as the "swimmable, fishable" goal. Further amendments in 1977 of the CWA gave EPA the authority to implement pollution control programs such as setting wastewater standards for industry and established the basic structure for regulating pollutants discharges into the waters of the United States. In addition, it made it unlawful for any person to discharge any pollutant from a point source into navigable waters, unless a permit was obtained under its provisions. Regulations governing the EPA administered NPDES permit program are generally found at 40 CFR §122 (program requirements & permit conditions), §124 (procedures for decision making), §125 (technology-based standards) and §136 (analytical procedures). Other parts of 40 CFR provide guidance for specific activities and may be used in this document as required.

It is proposed that the permit be issued for a 5-year term following regulations promulgated at 40 CFR 122.46(a). This is a first- time permit issuance. An NPDES Application for a Permit to

Discharge (Form 1 & 2E) dated March 20, 2013, was received on March 28, 2013, and was deemed administratively complete on April 30, 2013.

V. DRAFT PERMIT RATIONALE AND PROPOSED PERMIT CONDITIONS

A. OVERVIEW of TECHNOLOGY-BASED VERSUS WATER QUALITY STANDARDS-BASED EFFLUENT LIMITATIONS AND CONDITION FOR PERMIT ISSUANCE

Regulations contained in 40 CFR §122.44 NPDES permit limits are developed that meet the more stringent of either technology-based effluent limitation guidelines, numerical and/or narrative water quality standard-based effluent limits, on best professional judgment (BPJ) in the absence of guidelines, and/or requirements pursuant to 40 CFR 122.44(d), whichever are more stringent.

B. TECHNOLOGY-BASED EFFLUENT LIMITATIONS/CONDITIONS

Regulations promulgated at 40 CFR §122.44 (a) require technology-based effluent limitations to be placed in NPDES permits based on ELGs where applicable, on BPJ in the absence of guidelines, or on a combination of the two. In the absence of promulgated guidelines for the discharge, permit conditions may be established using BPJ procedures. EPA establishes limitations based on the following technology-based controls: BPT, BCT, and BAT. These levels of treatment are:

BPT - The first level of technology-based standards generally based on the average of the best existing performance facilities within an industrial category or subcategory.

BCT - Technology-based standard for the discharge from existing industrial point sources of conventional pollutants including BOD, TSS, fecal coliform, pH, and O&G.

BAT - The most appropriate means available on a national basis for controlling the direct discharge of toxic and non-conventional pollutants to navigable waters. BAT effluent limits represent the best existing performance of treatment technologies that are economically achievable within an industrial point source category or subcategory.

There are no published ELG's for this type of activity. Permit limits are proposed based on BPJ. Since hydrostatic test water discharges are batch discharges of short term duration, limits in this Permit will be expressed in terms of daily maximum concentrations rather than in terms of mass limitations, as allowed by 40 CFR 122.45(e) and (f). Limitations for Oil & Grease, TSS, and pH are proposed in the permit. The proposed limitations for TSS are 45 mg/l daily maximum, and Oil & Grease is 15 mg/l daily maximum. Narrative standards for oil, grease, or related residue have been placed in the proposed permit. A technology-based limit of 15 mg/l for Oil and Grease should assure that the narrative criterion is maintained. Concentration limits will be protective of the stream uses.

C. WATER QUALITY BASED LIMITATIONS

1. General Comments

Water quality based requirements are necessary where effluent limits more stringent than technology-based limits are necessary to maintain or achieve federal or state water quality limits. Under Section 301(b)(1)(C) of the CWA, discharges are subject to effluent limitations based on federal or state WQS. Effluent limitations and/or conditions established in the draft permit are in compliance with applicable State WQS and applicable State water quality management plans to assure that surface WQS of the receiving waters are protected and maintained, or attained.

2. Implementation

The NPDES permits contain technology-based effluent limitations reflecting the best controls available. Where these technology-based permit limits do not protect water quality or the designated uses, additional water quality-based effluent limitations and/or conditions are included in the NPDES permits. State narrative and numerical water quality standards are used in conjunction with EPA criteria and other available toxicity information to determine the adequacy of technology-based permit limits and the need for additional water quality-based controls.

3. State Water Quality Standards

The Clean Water Act in Section 301 (b) requires that effluent limitations for point sources include any limitations necessary to meet water quality standards. Federal regulations found at 40 CFR 122.44(d) state that if a discharge poses the reasonable potential to cause an in-stream excursion above a water quality criterion, the permit must contain an effluent limit for that pollutant. If the discharge poses the reasonable potential to cause an in-stream violation of narrative standards, the permit must contain prohibitions to protect that standard. Additionally, the TWQS found at 30 TAC Chapter 307 states that "surface waters will not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life." The methodology outlined in the "Procedures to Implement the Texas Surface Water Quality Standards" (IP) is designed to ensure compliance with 30 TAC Chapter 307. Specifically, the methodology is designed to ensure that no source will be allowed to discharge any wastewater which: (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 which threatens human health.

The IP document is not a state water quality standard, but rather, a non-binding, non-regulatory guidance document. See IP at page 2 stating that "this is a guidance document and should not be interpreted as a replacement to the rules. The TWQS may be found in 30 TAC Sections (§§) 307.1-.10."). EPA does not consider the IP to be a new or revised water quality standard and has never approved it as such. EPA did comment on and conditionally "approve" the IP as part of the Continuing Planning Process (CPP) required under 40 CFR §130.5(c) and the Memorandum of Agreement between TCEQ and EPA, but this does not constitute approval of the IP as a water quality standard under CWA section 303(c). Therefore, EPA is not bound by the IP in establishing limits in this permit – but rather, must ensure that the limits are consistent with the EPA-approved state WQS. However, EPA has made an effort, where we believe the IP procedures are consistent with all applicable State and Federal regulations, to use those

procedures.

The general criteria and numerical criteria which make up the stream standards are provided in the 2010 EPA-approved Texas Water Quality Standards, Texas Administrative Code (TAC), 30 TAC Sections 307.1 - 307.9, effective August 24, 2012.

4. Reasonable Potential- Procedures

EPA develops draft permits to comply with State WQS, and for consistency, attempts to follow the IP where appropriate. However, EPA is bound by the State's WQS, not State guidance, including the IP, in determining permit decisions. EPA performs its own technical and legal review for permit issuance, to assure compliance with all applicable State and Federal requirements, including State WQS, and makes its determination based on that review. Waste load allocations (WLA's) are calculated using estimated effluent dilutions, criteria outlined in the TWQS, and partitioning coefficients for metals (when appropriate and designated in the implementation procedures). The WLA is the end-of-pipe effluent concentrations that can be discharged and still meet instream criteria after mixing with the receiving stream. From the WLA, a long term average (LTA) is calculated, for both chronic and acute toxicity, using a log normal probability distribution, a given coefficient of variation (0.6), and either a 90th or a 99th percentile confidence level. The 90th percentile confidence level is for discharges to rivers, freshwater streams and narrow tidal rivers with upstream flow data, and the 99th percentile confidence level is for the remainder of cases. For facilities that discharge into receiving streams that have human health standards, a separate LTA will be calculated. The implementation procedures for determining the human health LTA use a 99th percentile confidence level, along with a given coefficient of variation (0.6). The lowest of the calculated LTA; acute, chronic and/or human health, is used to calculate the daily average and daily maximum permit limits.

Procedures found in the IP for determining significant potential are to compare the reported analytical data either from the DMR history and/or the application information, against percentages of the calculated daily average water quality-based effluent limitation. If the average of the effluent data equals or exceeds 70% but is less than 85% of the calculated daily average limit, monitoring for the toxic pollutant will usually be included as a condition in the permit. If the average of the effluent data is equal to or greater than 85% of the calculated daily average limit, the permit will generally contain effluent limits for the toxic pollutant. The permit may specify a compliance period to achieve this limit if necessary.

Procedures found in the IP require review of the immediate receiving stream and effected downstream receiving waters. Further, if the discharge reaches a perennial stream or an intermittent stream with perennial pools within three-miles, chronic toxicity criteria apply at that confluence.

For Outfall 001, the hydrostatic test water will be drawn from a public source and be discharged into North Elm Creek, thence to Big Elm Creek, thence to Little River, Segment No. 1213. Intake credits are not allowed for Outfall 001, since the discharge will be obtained from a public source and be discharged into North Elm Creek, thence to Big Elm Creek, thence to Little River.

5. Permit-Action - Water Quality-Based Limits

Regulations promulgated at 40 CFR §122.44(d) require limits in addition to, or more stringent than effluent limitation guidelines (technology based). State WQS that are more stringent than effluent limitation guidelines are as follows:

a. pH

Daily minimum and daily maximum permit limits of 6.0 standard units to 9.0 standard units are typically used on hydrostatic test general permits developed by other EPA Regions and States. TAC 307.10 states, "The pH criteria are listed as minimum and maximum values expressed in standard units at any site within the segment."

However, wastewater discharges from the facility will flow into North Elm Creek, thence to Big Elm Creek, thence to Little, Segment No. 1213, which has Texas WQS of 6.5 – 9.0 s.u. pH shall be limited to 6.5 – 9.0 s.u., the criteria listed for Segment 1213.

b. Total Residual Chlorine

TRC shall be limited to 0.033 mg/l in Outfall 001 because the source water is from public water supply.

c. Narrative Limitations

Narrative protection for aesthetic standards will require that surface waters shall be maintained so that oil, grease, or related residue will not produce a visible film or globules of grease on the surface or coat the banks or bottoms of the watercourse; or cause toxicity to man, aquatic life, or terrestrial life.

The following narrative limitations in the proposed permit represent protection of water quality for Outfall 001.

"The effluent shall contain no visible film of oil or globules of grease on the surface or coat the banks or bottoms of the watercourse."

e. Toxics

The CWA in Section 301 (b) requires that effluent limitations for point sources include any limitations necessary to meet water quality standards. Federal regulations found at 40 CFR §122.44 (d) state that if a discharge poses the reasonable potential to cause an in-stream excursion above a water quality criteria, the permit must contain an effluent limit for that pollutant.

The applicant proposes to draw water from a municipal water supply, to conduct its hydrostatic testing. Hydrostatic test water will contact only new pipe, and no chemicals or additives will be added. As a result, no contaminants are expected to be present in the hydrostatic test water discharge at amounts that would pose a reasonable potential to exceed State WQS.

Solids and Foam

The prohibition of the discharge of floating solids or visible foam in other than trace amounts is proposed in the draft permit. In addition, there shall be no discharge of visible films of oil, globules of oil, grease or solids in or on the water, or coatings on stream banks.

D. MONITORING FREQUENCY FOR LIMITED PARAMETERS

Regulations require permits to establish monitoring requirements to yield data representative of the monitored activity, 40 CFR §122.48(b), and to assure compliance with permit limitations, 40 CFR §122.44(i)(1). The monitoring frequencies are based on BPJ, taking into account the nature of the facility.

For Outfall 001, monitoring for flow, TSS, Oil & Grease, total residual chlorine and pH shall be daily by grab sample, when discharging.

E. WHOLE EFFLUENT TOXICITY LIMITATIONS

There are no chemical specific limitations in the draft permit and the applicant has stated that no chemical additives such as corrosion inhibitors are being added to the HT water. There does not appear that the discharge will have a potential for toxicity. The draft permit does not propose any biomonitoring of the HT water.

F. FINAL EFFLUENT LIMITATIONS

See the draft permit for limitations.

VI. FACILITY OPERATIONAL PRACTICES

A. WASTE WATER POLLUTION PREVENTION REQUIREMENTS

The permittee shall institute programs directed towards pollution prevention. The permittee will institute programs to improve the operating efficiency and extend the useful life of the treatment system.

B. OPERATION AND REPORTING

The permittee must submit Discharge Monitoring Report's (DMR's) quarterly, beginning on the effective date of the permit, lasting through the expiration date of the permit or termination of the permit, to report on all limitations and monitoring requirements in the permit.

VII. IMPAIRED WATER - 303(d) LIST AND TMDL

According to the 2010 State of Texas 303(d) List for Assessed River/Stream Reaches Requiring Total Maximum Daily Loads (TMDLs), the receiving stream for Outfall 001, North Elm Creek, thence to Big Elm Creek, thence to Little River, Segment No. 1213 is listed for bacteria in the 2010 State of Texas 303(d) List for Assessed River/Stream Reaches Requiring Total Maximum Daily Loads (TMDLs). In light of the nature of the system, the discharger is not likely to contribute to bacteria. The discharge water will not be treated with biocides or other additives. Therefore, no additional requirements beyond the previously described technology-based or

water quality-based effluent limitations and monitoring requirements, are established in the proposed permit.

VIII. ANTIDegradation

The Texas Commission on Environmental Quality, Texas Surface Water Quality Standards, Antidegradation, Title 30, Part 1, Chapter 307, Rule §307.5 sets forth the requirements to protect designated uses through implementation of the State WQS. The limitations and monitoring requirements set forth in the proposed permit are developed from the State WQS and are protective of those designated uses. Furthermore, the policy sets forth the intent to protect the existing quality of those waters, whose quality exceeds their designated use. The permit requirements are protective of the assimilative capacity of the receiving waters, which is protective of the designated uses of that water.

IX. ANTIBACKSLIDING

This is a first-time permit issuance.

X. ENDANGERED SPECIES

According to the most recent county listing available at US Fish and Wildlife Service (USFWS), Southwest Region 2 website, http://www.fws.gov/southwest/es/ES_Lists_Main.cfm, three species are listed as threatened or endangered in Bell County. They are black-capped Vireo (*Vireo atricapilla*), golden-cheeked warbler (*Dendroica chrysoparia*), and whooping crane (*Grus Americana*). A description of the species and its effects to the proposed permit follows:

BLACK-CAPPED VIREO (*Vireo atricapilla*)

The Black-capped Vireo is a small bird native to the United States and Mexico. The smallest vireo that occurs regularly in the United States, the Black-capped Vireo inhabits low scrublands of Oklahoma, Texas, and northern Mexico.

Black-capped vireos nest in Texas during April through July, and spend the winter on the western coast of Mexico. They build a cup-shaped nest in the fork of a branch 2 to 4 feet above the ground. Nests are usually built in shrubs such as shin oak or sumac. Females lay 3-4 eggs, which hatch in 14-17 days. Both parents incubate the eggs and feed the chicks. Their diet consists of insects. Black-capped vireos have a lifespan of 5-6 years. Males sing to attract mates and defend territories, which are usually 2 to 4 acres in size. Vireos return year after year to the same area to nest.

Black-capped Vireos are endangered because the low growing woody cover they need for nesting has been cleared or overgrazed by livestock and deer. Also, range fires, which used to keep the land open and the shrubs growing low to the ground, are not as frequent today as in the days before people settled Texas. Another problem is that brown-headed cowbirds lay their eggs in vireo nests, causing the vireos to abandon their nest. Habitat changes and nest parasitism by Brown-headed Cowbirds have caused Black-capped Vireo populations to vanish across much of the northern part of its historic range.

WHOOPING CRANE (*Grus americana*)

The tallest bird in North America, the Whooping Crane breeds in the wetlands of Wood Buffalo National Park in northern Canada and spends the winter on the Texas coast at Arkansas National Wildlife Refuge near Rockport. Cranes live in family groups made up of the parents and 1 or 2 offspring. In the spring, Whooping Cranes perform courtship displays (loud calling, wing flapping, and leaps in the air) as they get ready to migrate to their breeding grounds. Whooping Cranes are endangered because much of their wetland habitat has been drained for farmland and pasture. Whooping Cranes are nearly 5 feet tall. They eat Blue crabs, clams, frogs, minnows, rodents, small birds, and berries. They are found in large wetland areas. Cranes are considered sacred in many parts of the world. In China, they are a symbol of long life.

GOLDEN-CHEEKED WARBLER (*Dendroica Chrysoparia*)

The Golden-cheeked Warbler is a small, migratory songbird, 4.5 to 5 inches long, with a wingspan of about 8 inches. The male has a black back, throat, and cap; and yellow cheeks with a black stripe through the eye. Females are similar, but less colorful. The lower breast and belly of both sexes are white with black streaks on the flanks.

Typical nesting habitat is found in tall, dense, mature stands of Ashe juniper (blueberry cedar) mixed with trees such as Texas (Spanish) oak, lacey oak, shin (scalybark) oak, live oak, post oak, Texas ash, cedar elm, hackberry, bigtooth maple, sycamore, Arizona walnut, escarpment cherry, and pecan. This type of woodland generally grows in relatively moist areas such as steep-sided canyons, slopes, and adjacent uplands. A mix of juniper and deciduous trees on the slopes, along drainage bottoms, and in creeks and draws provide an ideal mix of vegetation for these birds. Warblers can also be found in drier, upland juniper-oak (i.e., Texas oak, live oak, post oak, blackjack oak) woodlands over flat topography.

Warblers feed almost entirely on caterpillars, spiders, beetles, and other insects found in foliage. The birds are thought to take advantage of insect blooms associated with different plants as the growing season progresses. The female does most of the work of nest building and incubating the eggs.

Historically, some warbler habitat was lost as a result of clearing juniper/oak woodlands for increased livestock production or improved livestock handling. Stands of large juniper trees were also cut for sale as fence posts and other timber products, especially before 1940. Overbrowsing by white-tailed deer, goats, and exotic ungulates is believed to contribute to habitat degradation by reducing the survival of seedling oaks and other deciduous trees, which are a vital component of warbler habitat. Also, many of the deeper and more fertile soils in much of the Hill Country are found in small floodplains along creeks or intermittent streams associated with hillside drainage. Many of these areas, some of them supporting a variety of deciduous trees, were cleared and converted to forage crops and pasture, often resulting in a decrease in the amount of warbler habitat. Habitat loss may be obscured by the increase in juniper on rangeland throughout central Texas. The invasion of juniper on upland sites is often the result of fire suppression, overgrazing, or a combination of both. These young juniper stands invading open rangelands generally lack the kinds and numbers of hardwood trees required by warblers. Poor grazing management practices and fire suppression result in a decline in the diversity and productivity of rangeland. The decline in range condition associated with improper management has led to increases in juniper throughout the Hill Country

Determination

Many of the threats to listed threatened or endangered species are related to the low growing of the woody cover the birds need for nesting which has either been cleared or overgrazed by livestock and deer, habitat changes and nest parasitism by Brown-headed Cowbirds, poor grazing management practices and fire suppression has resulted in a decline in the diversity and productivity of rangeland. The discharges proposed to be authorized by the permit issuance will not affect those threats to threatened or endangered species.

The Environmental Protection Agency has evaluated the potential effects of issuance of this permit upon listed endangered or threatened species. After review, EPA has determined that the issuance of this permit will have “*no effect*” on listed threatened and endangered species nor will adversely modify designated critical habitat. EPA makes this determination based on the following:

1. No pollutants are identified by the permittee-submitted application at levels which might affect species habitat or prey species. Issuance of this permit is found to have no impact on the habitats of these species.
2. Based on information described above, EPA Region 6 has determined that discharges proposed to be authorized by the proposed permit will have no effect on the listed species in Bell County.

The standard reopener clause in the permit will allow EPA to reopen the permit and impose additional limitations if it is determined that changes in species or knowledge of the discharge would require different permit conditions.

XI. HISTORICAL AND ARCHEOLOGICAL PRESERVATION CONSIDERATIONS

In an email from the facility’s representative to EPA, dated May 6, 2013, the facility stated that cultural resource survey was completed for the proposed Panda Temple Pipeline. The pipeline will not affect any cultural resources eligible for the National Register of Historic Places (NRHP) or State Archeological Landmarks (SAL) listing. Antiquities Planning & Consulting (APC) performed cultural resources survey of plowed fields and wooded drainages. APC recommends that the Panda Temple power plant utility project proceed, as planned, without additional field survey work with conditions. Archival research related to the grave and cemetery is needed to document association with important Czech settlers and results should be added to the final report. If the pipeline plans should change, new alignments should be examined by archeologists. APC also recommends that if unexpected archeological deposits are exposed during construction, digging should stop at the discovery location and Archeology Division of the Texas Historical Commission (THC) should be notified, by telephone at (512) 463-6100. APC concludes that no significant cultural resources eligible for listing in the National Register of Historic Places (NRHP) and/or as State Archeological Landmarks (SALs) will be affected by the proposed activity.

XII. PERMIT REOPENER

The permit may be reopened and modified during the life of the permit if relevant portions of the Texas WQS are revised or remanded. In addition, the permit may be reopened and modified during the life of the permit if relevant procedures implementing the WQS are either revised or

promulgated. Should the State adopt a new WQS, and/or develop a TMDL, this permit may be reopened to establish effluent limitations for the parameter(s) to be consistent with that approved State standard and/or water quality management plan, in accordance with 40 CFR §122.44(d). Modification of the permit is subject to the provisions of 40 CFR §124.5.

XIII. VARIANCE REQUESTS

No variance requests have been received.

XIV. COMPLIANCE HISTORY

This is a first-time permit issuance.

XV. CERTIFICATION

This permit is in the process of certification by the State agency following regulations promulgated at 40 CFR 124.53. A draft permit and draft public notice will be sent to the District Engineer, Corps of Engineers; to the Regional Director of the U.S. Fish and Wildlife Service and to the National Marine Fisheries Service prior to the publication of that notice.

XVI. FINAL DETERMINATION

The public notice describes the procedures for the formulation of final determinations.

XVII. ADMINISTRATIVE RECORD

The following information was used to develop the proposed permit:

A. APPLICATION

NPDES Application for Permit to Discharge, Form 1 & 2E, received on March 28, 2013.

B. State of Texas References

The State of Texas Water Quality Inventory, 13th Edition, Publication No. SFR-50, Texas Commission on Environmental Quality, December 1996.

"Procedures to Implement the Texas Surface Water Quality Standards via Permitting," Texas Commission on Environmental Quality, January 2003.

Texas Surface Water Quality Standards, 30 TAC Sections 307.1 - 307.9, effective August 24, 2012.

C. Endangered Species References

http://www.fws.gov/southwest/es/ES_Lists_Main.cfm

http://www.allaboutbirds.org/guide/Black-capped_Vireo/id

http://www.tpwd.state.tx.us/publications/pwdpubs/media/pwd_bk_w7000_0013_golden_cheeked_warbler.pdf

<http://www.tpwd.state.tx.us/huntwild/wild/species/bcv/>

D. 40 CFR CITATIONS

Sections 122, 124, 125, 133, and 136

E. MISCELLANEOUS CORRESPONDENCE

Letter from Dorothy Brown, EPA, to Mr. Richard Evans, Senior Vice President, Engineering and Construction, Panda Temple Pipeline, dated April 30, 2013, informing applicant that its' NPDES application received March 28, 2013, is administratively complete.

Email from Robert Kirkland, EPA, to Maria Okpala, EPA, dated April 29, 2013, on critical condition information.