



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

DEC 18 2009

Ms. L'Oreal W. Stepney, Director
Office of Water
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Re: Texas Pollutant Discharge Elimination System (TPDES) Permits on Hold for Issues
Related to Whole Effluent Toxicity (WET) Requirements

Dear Ms. Stepney:

This correspondence updates EPA's position concerning the nine (9) draft TPDES permits listed below. In each case, the facility's history of WET test failures indicates significant lethal and/or sublethal effects.

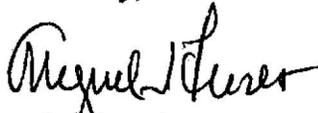
ACTION DATE	NPDES PERMIT NO	FACILITY NAME	FAIL RATE
03.02.07	TX0064734	Langham Creek MUD	67%
06.28.07	TX0075388	TDC (Beto Unit)	43%
07.23.07	TX0057029	White Oak Joint Powers Board	31%
09.28.07	TX0092789	TDC (Estelle Unit)	76%
10.01.07	TX0063029	Houston Homestead	36%
12.21.07	TX0003689	Goodyear	40%
01.24.08	TX0091715	SJRA Woodlands #2	60%
03.05.08	TX0081337	NW Harris County MUD #20	39%
03.25.08	TX0126152	NW Harris County MUD #9	47%

When EPA initially reviewed the draft permits in question, our agencies were hoping to soon resolve the issues between us with respect to reasonable potential and sublethal limits. That being the case, EPA did not at that time insist that the permits be revised to include toxicity (lethal and sublethal) limits. Instead, EPA required that each of the listed draft permits be revised to require a sublethal effect toxicity reduction evaluation (TRE) under certain conditions. However, since the WET issues between EPA and TCEQ remain unresolved, EPA must now require each of the listed permits to be revised to include toxicity limits for both lethal and sublethal endpoints.

It is regrettable that this step is necessary, however TCEQ has not yet provided EPA an approvable method to assess reasonable potential for WET, nor has TCEQ independently required a single TRE or WET limit based on sublethal toxicity. While EPA will continue to work with TCEQ to arrive at permit conditions that are mutually acceptable, we are providing this notice to ensure that any revisions of the subject permits will meet all requirements of the State water quality standards, the Clean Water Act (CWA), and the federal NPDES permitting regulations at 40 CFR §122.44(d)(1).

If you have any questions regarding this issue please contact me or Claudia Hosch at 214/665-6464 [e-mail: hosch.claudia@epa.gov].

Sincerely,



Miguel I. Flores
Director
Water Quality Protection Division

cc: Charles Maguire, Director (MC-145)
Water Quality Division, TCEQ
P.O. Box 13087
Austin, Texas 78711-3087