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Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
MC 105
P.O. Box 13087
Austin, Texas 78711-3087

Via: TCEQ Online Comment Form

Re: Comments Regarding Application of DTB Investments, L.P. for a major amendment to TPDES Permit No. WQ0015092001.

These comments are submitted on behalf of Bulverde Neighborhoods for Clean Water (“BNCW”) regarding the above-referenced application.

DTB Investments, L.P. (“the Applicant”) has applied for a major amendment to its wastewater disposal Permit No. WQ0015092001 to authorize a change in the method of effluent disposal from irrigation to discharge at a volume not to exceed a daily average flow of 0.30 MGD. The draft permit proposes to discharge treated effluent to an unnamed tributary, thence to Indian Creek, thence to Upper Cibolo Creek, in Segment No. 1908 of the San Antonio River Basin.

Notice was deficient.

Based on the description of the property in the application, several adjacent property owners to the north did not receive notice of the application as required.

The TCEQ should treat this as an application for a new permit.

This application for a major amendment required the Applicant to transfer the existing permit from the previous permittee, C D Reed, Trustee. The application also requested a change in disposal method and a significant increase in discharge volume. The property boundaries and description of the property has changed. No facility was ever constructed under the previous permit. The TCEQ should require the Applicant to submit an application for a “new” permit.

The Applicant did not meet deadlines imposed by the TCEQ and cannot demonstrate sufficient compliance history.

The Applicant did not respond to TCEQ's administrative Notice of Deficiency (NOD) within the thirty-day deadline, nor did the Applicant respond within the ten-day extension. After missing two deadlines, the TCEQ should have returned the application. The Applicant has demonstrated a disregard for compliance with the TCEQ's permitting procedures, and thus, cannot demonstrate sufficient compliance history to justify the requested permit amendment. At a minimum, the Applicant's lack of experience justifies greater monitoring requirements and operational requirements, such as more frequent monitoring, as well as the requirement for the use of a Class A operator at the plant.

The characterization of the discharge route is improper and the Applicant can demonstrate no "water of the state" into which it can lawfully discharge.

The proposed discharge is described as into an unnamed tributary, thence to Indian Creek, thence to Upper Cibolo Creek, in Segment No. 1908 of the San Antonio River Basin. However, the map and the information provided of the discharge route contained in the application shows that the discharge will be piped to a discharge point in what the Applicant admits is a "man-made ditch or channel." Applicant also attempts to classify the man-made ditch as a "tributary" despite the fact that the ditch does not currently exist, but will be created for the purposes of discharging wastewater effluent.

The map of the discharge route shows the discharge will run off of the south side of the Applicant's property, approximately 1.5 miles downstream, but the application provides no explanation for how and where it will flow beyond that, how and where it will flow into Indian Creek and whether there is an existing conveyance that would need to cross several private properties and at least one road in order to reach Indian Creek. Nor does the Application show the route to Cibolo Creek.

Similarly, the Applicant's assertion that downstream characteristics do not change three miles downstream of the discharge point is false, since there is no information about the discharge route beyond the applicant's property boundary approximately 1.5 miles downstream of the identified discharge point.

The Applicant's description of the discharge point is improper. The northernmost segment of the Applicant's property, as described in the application, has since been transferred to a different owner, Southerland Bulverde Land LLC.¹ The discharge point as described in the application is not on the Applicant's property, thus the map and all relevant necessary information is inaccurate. The TCEQ should return the application.

The application also states that the discharge point is influenced by agricultural runoff "upstream" but the discharge point is at the end of a pipe where the wastewater is pumped into a

¹ See Comal County Appraisal District, *available at*:
http://taxweb.co.comal.tx.us/clientdb/Property.aspx?cid=1&prop_id=416396

man-made ditch. This statement is inaccurate. There is no “upstream.” Any “influence” on the discharge at this point is from the Applicant’s facility.

The Applicant has not demonstrated that there is a “water of the state” to receive the discharge, nor has it been shown that there is legal watercourse to receive the discharge. Accordingly, issuance of this proposed permit is improper, and the application should be returned.

The facility will impact local drinking water wells in the immediate vicinity of the facility.

The primary sources of inflow to the Hill Country portion of the Trinity Aquifer System are rainfall on the outcrop, seepage losses through headwater creeks, and lakes during high stage levels. The facility is located over the Trinity outcrop and recharge zone, which, in this area included the Glen Rose Limestone layer of the Upper Trinity. The Glen Rose layer receives direct recharge and is also the source for many small domestic wells in the Trinity Aquifer. The Applicant has failed to demonstrate that the facility will protect the Trinity Aquifer and drinking water wells.

Many members of BNCW own property adjacent to or within one mile of the Applicant’s proposed discharge route and have domestic wells which they rely on for their sole source of water for drinking, cooking, bathing, pets and livestock, landscape irrigation, and all sorts of other uses. According to the Texas Water Development Board and TCEQ, there are numerous domestic wells within one mile of the facility’s property, and at least one known spring within 500 feet of the eastern property boundary. It has not been shown that issuance of the permit is sufficiently protective of the aquifer and of these drinking water wells. This risk is heightened due to the lack of a legal surface watercourse in the area shortly downstream of the discharge.

The facility does not meet siting requirements.

Nor has it been shown that the facility is sited in a manner to meet the siting requirements of 30 TAC § 309.12, including the siting of the facility in a manner that would minimize the possible contamination of groundwater. Considering the location of the facility in the outcrop of the Trinity Aquifer, the requirement of 30 TAC § 309.13(d), requiring a certain thickness of impermeable material separating surface impoundments from the aquifer, has not been met. Furthermore, several domestic drinking water wells and at least one existing spring and have not been mapped.

The facility is located in the recharge zone of the Trinity Aquifer. The Applicant has not demonstrated that it will protect any recharge features uncovered by construction activities or prevent groundwater contamination from the discharge of wastewater application into the proposed ditch. The Applicant has not demonstrated compliance with the requirements 30 TAC § 309.12-13. Pursuant to Rule 309.14, the TCEQ should return the application.

The facility will impact surface water and groundwater downstream of the discharge.

The Application admits that for at least three miles downstream, flow is intermittent and not perennial, meaning that for at least three miles, wastewater will be the only constant source of water in the dry ditch and dry creek. Indian Creek passes through a municipal park, which will be impacted by the facility. From Indian Creek, the effluent will empty into a section of Cibolo Creek that is dry more than 90% of the time. The discharge point lies over the Trinity outcrop and is less than three miles from the Edwards Aquifer recharge zone. The Applicant has failed to demonstrate that this facility will not impact the surface water in Indian Creek or the groundwater in the Trinity and Edwards aquifers.

Furthermore, Cibolo Creek in this segment (Segment No. 1908 of the San Antonio River Basin) is already an impaired water for bacteria. Cibolo Creek recharges the Edwards Aquifer. According to the Texas Water Development Board, there are numerous wells within a one-mile radius of this recharge zone area; many of these are public supply wells providing drinking water to the city of Bulverde and elsewhere.

The proposed facility is not protective of wildlife.

Below the confluence with Indian Creek, Cibolo Creek consists of alternating reaches of dry limestone creek and often lengthy pools of clear water which are home to fish and other aquatic life. Aquatic life would be harmed by the proposed discharge.

The proposed facility does not address flooding.

BNCW members know the area is prone to flooding and standing water. The Applicant had not demonstrated that the facilities are protected from a 100-year flood.

The Applicant has not demonstrated a need for the discharge nor compliance with the State's regionalization policy.

State policy is to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to prevent pollution and maintain and enhance the quality of state water. Tex. Water Code § 26.081(a). When considering whether to issue a discharge permit, the TCEQ must consider need and the availability of existing or proposed regional waste collection, treatment, and disposal systems.

The Applicant has failed to demonstrate need or whether other existing facilities or other proposed facilities could collect, treat, and dispose of the waste. The Applicant has also failed to demonstrate a need for the discharge volume requested. The projected density of development has not been justified, nor has the estimated daily flow per connection been justified.

Finally, the Applicant has not shown that a direct discharge is necessary to handle the projected wastewater treatment needs. The Applicant has failed to show that wastewater needs for future development cannot be met through the use of alternatives such as land application, beneficial reuse, and improved conservation measures.

The facility will cause odors and other impacts to residents and neighbors.

The Applicant has also not shown that the facility will be adequately protective against adverse odor impacts. The topography of the site is rocky and sloped. The Applicant has not shown how the facility will protect against pooling and standing water in the ditch, which could lead to mosquito breeding and health impacts for neighbors, livestock, and pets.

For each of these reasons, Bulverde Neighborhoods for Clean Water asks that the proposed permit amendment be denied.

Sincerely,

A handwritten signature in black ink, appearing to read "Lauren Ice", is positioned above a horizontal line.

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