

COMP/DallasCounty/CO/12-15-2014/WR Complaint  
Texas Commission on Environmental Quality  
Investigation Report

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**Customer: City of Dallas**  
**Customer Number: CN600331730**

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**Regulated Entity Name: GENERIC INCIDENT ZIP CODE 75217**

**Regulated Entity Number: RN104033725**

**Investigation #** 1197817

**Incident Numbers**

202948

**Investigator:** ERIC AGNEW

**Site Classification**

**Conducted:** 09/04/2014 -- 09/04/2014

**No Industry Code Assigned**

**Program(s):** WATER RIGHTS

**Investigation Type:** Compliance Investigation

**Location:**

**Additional ID(s):**

**Address:** ,

**Local Unit:** REGION 04 - DFW METROPLEX

**Activity Type(s):** WRCMPL - WR Complaints

**Principal(s):**

<b>Role</b>	<b>Name</b>
RESPONDENT	CITY OF DALLAS

**Contact(s):**

<b>Role</b>	<b>Title</b>	<b>Name</b>	<b>Phone</b>
Regulated Entity Mail Contact	DIRECTOR, TRINITY WATERSHED MANAGEMENT	MS ELIZABETH FERNANDEZ PE	Work (214) 671-9500
Participated in Investigation	SENIOR ENGINEER	MR THAN NGUYEN PE	Work (214) 671-9506
Participated in Investigation	WATER QUALITY AND ENFORCEMENT MANAGER	MR PAUL R WHITE II	Work (214) 948-4189

**Other Staff Member(s):**

<b>Role</b>	<b>Name</b>
Supervisor	GREG DIEHL

**Associated Check List**

<b><u>Checklist Name</u></b>	<b><u>Unit Name</u></b>
COMPLAINT INVESTIGATION - Water Rights	WR Complaint

**Investigation Comments:**

INTRODUCTION

9/4/2014 Inv. # - 1197817

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A complaint received August 17, 2014 alleging a fishkill and destruction of habitat due to the clearing of trees to access a pond as well as diversion of water from a pond near the Trinity River for construction purposes was investigated September 4, 2014 by Environmental Investigator Eric Agnew. The onsite investigation was conducted with personnel with City of Dallas' Trinity Watershed Management, namely Mr. Than Nguyen, P.E., Senior Engineer; Mr. Paul White II, REM, Water Quality and Enforcement Manager; and Mr. Richard Adams. Based on the findings of this investigation, a final complaint letter with no alleged violations was mailed to Ms. Liz Fernandez, Director of Trinity Watershed Management.

#### GENERAL FACILITY AND PROCESS INFORMATION

The pond in question is located approximately 1/2 mile west of the intersection of Pemberton Hill Road and Elam Road (near 5920 Elam Road), specifically at coordinates 32.721744, -96.730474. During the investigation, Mr. Nguyen explained the pond was not on channel but it was part of a Corps of Engineers investigation since it had been determined to be waters of the U.S. At the time, the pond was being refilled with dechlorinated potable water from a fire hydrant.

When asked the approximate quantity of water removed from the pond, Mr. Nguyen could only provide a schedule of water trucks used to remove water from the pond. This included a 5,000-gallon water truck pumping three times per week and a 2,000-gallon water truck pumping four to five times per day for 2-1/2 weeks. These numbers calculate to between 49,000 and 54,000 gallons. However, the complainant stated the pond was observed to have been nearly completely pumped. The dimensions of the pond are approximately 150 feet wide (WNW to ESE) by 430 feet long (WSW to ENE) with an estimated average depth of 5 feet. This calculates to a capacity of 322,500 gallons. The use of water was said to be solely for compaction where the landfill cap (VCP #2210) needs works. However, other reports (news media and original complaint) claim the use was also for dust suppression during construction work. A subsequent complainant alleged water from the pond was used for watering the golf course grass.

When questioned if the pond may be fed by underflow from the Trinity River, Mr. Nguyen explained the pond water elevation is approximately four feet higher than the Trinity River water elevation. The complainant had stated the "water body is fed primarily through overbanking events of the Trinity River and also the natural perched aquifer and spring seeps that exist in this section of the Great Trinity Forest. The water body maintains a near constant pool elevation year round due to the unique geology..."

The "near constant pool elevation" appears to be due to a spring and/or perched aquifer as the complainant stated. However, by reason, the floodwater contribution would only take place when the Trinity River reaches flood stage of a magnitude to reach the pond. TCEQ water rights experts and a TCEQ senior hydrologist determined that although the pond may be fed in part by floodwaters, the pond is not considered state waters since the retained floodwaters are not within the banks of the river.

#### BACKGROUND

The only other investigations for this general area were conducted to investigate the landfill. See investigation #746735 for details of that investigation (and previously related activities culminating in VCP #2210).

No previous water rights investigations in this area were identified.

#### ADDITIONAL INFORMATION

The complainant stated dead and dying fish were observed onsite during draining of the pond. However, during the investigation, no dead fish were present.

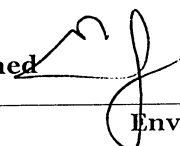
Stormwater allegations were also made, namely no silt fencing was in place during construction and pumping of the water. This issue was referred to City of Dallas Stormwater which has authority to investigate stormwater issues within the city's operational area.

Following the site visit, historical topographic maps were reviewed to try to determine when the pond was constructed. The finding was that the pond appears to have been constructed sometime between 1972 and 1979 (1979 appears to show the pond in the construction phase).

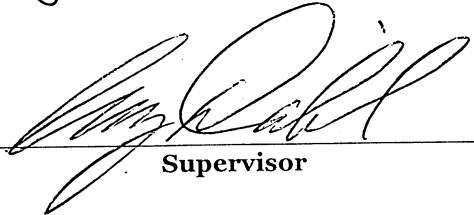
The construction project in this area is for the Trinity Trails Golf Course. The construction companies performing the work included LD Kemp Excavating, Inc. and DCI Inc. No personnel from either company were involved in this investigation.

A copy of this report is being provided to the City of Dallas and to the original and subsequent complainants.

**No Violations Associated to this Investigation**

Signed   
\_\_\_\_\_  
Environmental Investigator

Date 12/18/2014

Signed   
\_\_\_\_\_  
Supervisor

Date 12/17/14

**Attachments: (in order of final report submittal)**

- Enforcement Action Request (EAR)
- Letter to Facility (specify type) : Final Complaint
- Investigation Report
- Sample Analysis Results
- Manifests
- Notice of Registration

- In Agency Files:
- Maps, Plans, Sketches
  - Photographs
  - Correspondence from the facility
  - Other (specify) :  
News reports