

## Nancy Koon (adpce.ad)

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**From:** Bryan Leamons (adpce.ad)  
**Sent:** Sunday, December 11, 2022 5:15 PM  
**To:** Water Draft Permit Comment  
**Subject:** FW: Comment on AR0053210 - Paradise Valley  
**Attachments:** COMMENT - 12-9-22.docx

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**From:** Alan York (adpce.ad)  
**Sent:** Saturday, December 10, 2022 9:52 AM  
**To:** Bryan Leamons (adpce.ad)  
**Subject:** Fwd: Comment on AR0053210 - Paradise Valley

Sent from my iPhone

Begin forwarded message:

**From:** Alford Drinkwater <[alford\\_drinkwater@yahoo.com](mailto:alford_drinkwater@yahoo.com)>  
**Date:** December 9, 2022 at 8:33:24 PM CST  
**To:** "Alan York (adpce.ad)" <[alan.york@adeq.state.ar.us](mailto:alan.york@adeq.state.ar.us)>, "Lucy Cross (adpce.ad)" <[Lucy.Cross@adeq.state.ar.us](mailto:Lucy.Cross@adeq.state.ar.us)>  
**Cc:** "Becky Keogh (adpce.ad)" <[Becky.Keogh@adeq.state.ar.us](mailto:Becky.Keogh@adeq.state.ar.us)>  
**Subject:** Comment on AR0053210 - Paradise Valley

Alan,

Attached is a comment that I would like to make regarding draft permit AR0053210; Paradise Valley Subdivision.

Thank you for your assistance.

Alford Drinkwater  
Town & Country Services  
89 Underwood Road  
Bigelow, Arkansas 72016  
479-422-4826

## Public Comment:

Permit No. AR0053210  
Date: December 9, 2022  
Name: Alford Drinkwater  
Organization: Town & Country Services  
89 Underwood Road  
Bigelow, Arkansas 72016  
479-422-4826

Draft permit AR0053210 should not be issued due to the acute and chronic damage poorly treated wastewater will have on the stream segments between the discharge point and the Arkansas River. The discharge point feeds almost immediately into a wetland area that is flooded for a significant period of time each year. The area is known for its unusual, pristine ecology, including wetlands, and sought-after plant and animal species as well as the location of one of Arkansas' most significant Native American cultural heritage sites. These resources should be protected.

The wastewater discharge will take place in an ephemeral stream that is often dry during the summer months. During those periods, the treated wastewater will be discharged into a dry channel to flow downstream to the wetland areas where it will accumulate and create toxic conditions for much of the flora and fauna native to that area. Accumulation of nutrients such as nitrogen and phosphorus will accelerate aging in the wetlands and the lower stream segments of Mill Bayou.

A normal mixing area or zone of initial dilution will not be possible for most of the year for this discharge. Mildly treated wastewater will often flow in a dry creek bed to a partially flooded wetland area. The flood is relatively still and will not facilitate mixing. Significant segregation of the wastewater and the flood will continue as the wastewater moves east through the wetlands becoming the dominate water type in the flood. I have modeled this and it does not look pretty. Has the Department completed any calculations on this particular discharge and resulting stream quality impacts? If so, why are they not posted on the Department's website with the other documents?

The area below the discharge is used by many local people for hunting, fishing, and recreation. The property owners in that area also use the wetlands to entertain others for business and personal reasons. Their land is valuable to them as a pristine wetland that has excellent water quality and is capable of sustaining aquatic, terrestrial, arboreal, epiphytic, and other lifeforms.

The draft permit will allow 50,000 gallons per day of mildly treated wastewater to be discharged into the wetlands that are flooded or partially flooded throughout most of the year. I would like to point out that there is no phosphorus parameter in the draft permit even though phosphorus is one of the most damaging nutrients for sensitive hydro-ecological settings such as this. It is not that the parameter is set too high. It is that it does not exist – period.

The standard used for setting the phosphorus parameter in this draft permit is the stream quality standards for the Arkansas River Valley. The Arkansas River Valley standard does not consider the unique characteristics of this particular unnamed tributary of Mill Bayou or the flooded wetlands.

The mildly treated wastewater will cause solids, nutrients, and other pollutants to accumulate in the flooded areas creating toxic conditions for many species. The wastewater will destroy habitat and change the nature of those stream segments causing them to lose their fishable, swimmable, and drinkable designation. The stream segments and wetlands below the discharge point will be degraded as a result of the discharge. Allowing stream degradation without process is against federal law and state regulation (Regulation 2.306).

The Department has presented no supporting material with the draft permit or on the Department's website showing how the current stream quality standards, designations, and existing uses will be maintained over time. Nevertheless, the Department included the following antidegradation statement in the draft permit Statement of Basis;

Paragraph 8(D): The limitations and requirements set forth in this permit for discharge into waters of the State are consistent with the Anti-degradation Policy and all other applicable water quality standards found in APC&EC Rule 2.

The state's anti-degradation policy as it relates to existing uses is set out in Regulation 2 and states the following;

Regulation 2.201: Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected."

The draft permit will not protect existing uses. The unusual nature of the stream and wetlands involved should have been considered before allowing this permit to be redrafted. Department staff were invited more than once to come to the area and visit the wetland, and stream segments that will be directly impacted. Perhaps such a visit would have provided a clearer understanding of how problematic this draft permit is. Ignorance of the law is no excuse for private citizens. Likewise, willful ignorance of the environmental conditions surrounding a permit is no excuse for the Department.

Using public, published information to support permit decisions and checking all the boxes is often an efficient and easy way to produce a draft permit. However, when you are told that there are different conditions on the ground and you refuse to look at or consider those conditions, the Department has moved the liability for damage the wastewater will cause from the applicant to itself. Even if the applicant does everything perfect under this permit, it will not protect the current uses of Mill Bayou and the stream segments involved.

Property owners and their families often walk or ride four wheelers through the flooded wetlands. Wood is sometimes harvested for home heating and other purposes. Property owners, their families, friends, and others hunt, fish, swim, boat, and generally enjoy the recreation available to them in the wetlands. The uses of this area include much contact with water, soil, plants, and animals. The permit in question will allow the permittee to flood the area with wastewater which will deny the property owners the quiet and peaceable use of their property. This is a notable taking of private property and the creation of a public nuisance.

Discharging poorly treated wastewater into the wetlands will also result in significantly more pathogen and parasites in and around the flooded areas. Human health will become a chronic problem for all the people who frequent the wetland areas for recreation and commercial activities. The World Health

Organization has stated that parasites are an even greater threat to people who come in contact with treated wastewater than pathogens.

Flooding this area, especially the upper portion of the wetlands, with mildly treated wastewater will make that area unusable by the property owners. People who have been used to wading through the natural flood to hunt, fish or otherwise use their property will be unable to do so for fear of being infected with bacteria, fungus, and parasites.

According to a World Health Organization report in 2006, some of the most prevalent organisms found in wastewater are different types of bacteria, helminths, protozoa, and viruses. These bacteria manifest themselves in humans mostly as skin and intestinal problems, causing itchy or red skin, diarrhea, cramping, nausea, and headaches, among other symptoms. People who come in contact with wastewater are at risk for parasitic infections, such as hookworm and schistosomiasis, while the greatest overall human health risk associated with human contact with wastewater is intestinal helminth infection, especially for children. Helminth eggs present a prolonged and elevated risk because they can stay alive in the wet soil for several years. Children playing or recreating in and around the flooded wetland areas below the wastewater discharge are at the greatest risk due to their expected higher rate of contact with soil and water.

The wastewater discharge will go into a no-flow or low-flow stream that maintains that status at all times with the exception of the times following a rainfall event. Because of the low-flow and no-flow condition of the unnamed tributary, there will be no mixing and dilution until the wastewater arrives at the flooded portion of the wetland. At that point the wastewater will begin to accumulate against a still body of water. Mixing will be minimal due to the still nature of the shallow flood across the wetland. Over days and weeks, the wastewater will become an increasingly larger part of the total water covering a large area over the western portion of the wetland. As more wastewater is discharged, the wastewater flood will cover more area to the east until the entire wetland is covered with wastewater. As this happens, ecological damage will begin and human exposure to the wastewater will have to be restricted.

Discharging wastewater into this hydro-geophysical, ecological, and anthropogenic circumstance has not been justified by either the applicant or the

Department. This circumstance demands that wastewater be treated to a human contact standard at the point of discharge.

The ramshackle and pieced together wastewater treatment plant that is being proposed to be built by permission of this permit should not be allowed. The treatment standard for this permit should be similar for the standards used for recycled wastewater that is treated to a level for human contact. Recycled wastewater is regulated by many states and is used not only to irrigate meadows and row crops but can be treated to a higher standard that will allow it to be used to irrigate facilities like parks and playgrounds where human contact will occur.

Other states recognize the need to have a higher treatment standard for wastewater that will experience human contact. Many states, including Texas, Florida, Georgia, California, Oregon and many others have recycled water regulations in which they recognize the need to protect people from contact with poorly treated wastewater.

The Texas recycled wastewater standards are not the most stringent but Texas is close by and it has recognized the need to conserve resources and protect human health through reasonable recycled water regulations. The following is taken from Texas water regulations and is the states standard for recycled wastewater that is likely to have human contact.

Figure: 30 TAC §210.33(1)

Type I Reclaimed Wastewater

BOD <sub>5</sub> or CBOD <sub>5</sub>	5 mg/l
Turbidity	3 NTU
Fecal coliform or E. coli	20 CFU/100 ml*
Fecal coliform or E. coli	75 CFU/100 ml**
Enterococci	4 CFU/100 ml*
Enterococci	9 CFU/100 ml**

\*30 Day Geometric Mean

\*\*Maximum Single Grab Sample

The Texas recycled wastewater parameter requirements are many times more stringent than the parameters in the draft wastewater permit for Paradise Valley.

The Department should reconsider the discharge parameters and other conditions in the draft permit due to the certainty that ecological damage will occur, stream standards will not be maintained, the state's antidegradation standard will be violated, a human health hazard will be created, a taking of private property will occur, and a nuisance will be created. This permit should not be issued as it is currently drafted.

The proposed package wastewater plant has no safeguards such as lagoons or tanks to prevent untreated wastewater from being discharged. The Department is aware that most wastewater discharge parameter violations go undetected by monthly testing. When a violation is caught through testing, it is legitimate to assume that the violation, which was caught by chance, occurred at least 16 days out of the month. The sample was taken on one of the days that it occurred. A wastewater plant such as this, should be sampled at least daily to prevent accumulation of untreated wastewater on private property.

Modern technology offers us the ability to economically monitor and control all aspects of process equipment. Every critical point, including motors, pumps, valves, filters, etc. should be monitored and reported. When failure occurs, the operator can be notified and a record can be created for the Department. Additionally, all untreated wastewater caused by the failure can be diverted from the discharge point to tanks where it can be stored until the problem can be corrected. Tanks with a capacity to store at least three days of discharge (150,000 gallons) should be required by the permit to prevent discharging untreated wastewater into the wetlands.

The applicant has stated in the application documents that the discharge meter will be accurate to a level of +/- 0.5%. The draft permit gives the applicant a range of +/- 10% accuracy for the discharge meter. That is an outrageous give away by the Department and it puts regulating the wastewater plant and the permit into question. Will the discharge be 50,000 gallons or will it be 55,000 gallons?

The efficacy of the package wastewater plant comes into question when flow reaches 40,000 gallons or 80% of rated capacity. Metering for the plant is very critical. In today's world a standard of +/-10% does not meet draft permit requirement set out in Part II (3) which states that "The monitoring and analytical

instruments are consistent with accepted scientific practice.” Plus, or minus 10% is not accepted scientific practice for wastewater metering.

In Part II (7) of the draft permit, the applicant is allowed to connect up to 300 houses to the wastewater treatment plant which is rated for up to 50,000 gallons per day. According to the standard wastewater production numbers provided by the Arkansas Department of Health, and the residents per household provided by the U.S. Census Bureau, the 300 houses allowed by the draft permit will generate 71,700 gallons of wastewater per day. The wastewater generation rate would have to be reduced by 40% to stay within the capacity of the wastewater plant. That is not good engineering on the applicant’s part or the Department’s part. But the Department is the one given responsibility for approving or not approving the “get by” engineering number provided by the applicant. There is nothing in law or regulation that says the Department must accept a lowball “get by” number for something as important as this. The house connections number should be changed to reflect good engineering practice.

In Part II (9) of the draft permit, the applicant is instructed to “provide a completed Phase I Cultural Resources Study for the proposed areas of disturbance necessary to construct the facility.” That statement appears to be fashioned in such a way as to allow the applicant to completely ignore the major Native American cultural heritage site downstream from the wastewater plant. Specific instructions regarding the wishes of the Osage Nation have been presented to the Department and should be followed. Those instructions should have been passed along to the applicant in the draft permit. Just paying lip service to this issue and ignoring the tribe’s request is a moral disgrace. The Department can do better.

Draft permit AR0053210 should not be issued due to the acute and chronic impact it will have on the downstream environment, ecology, and human health. The permit as drafted provides little protection for the existing water quality designations for the wetlands and stream segments between the discharge point and the Arkansas River.

Property owners have taken water samples in the wetlands area and have analytical proof that the water in the wetlands is pristine. How much will those waters be degraded within the first six months after the wastewater plant begins operation?



The draft permit provides little protection for the property owners whose property will be flooded with wastewater and made unusable for normal water contact activities such as duck hunting, fishing, or walking through the wetlands.

Department staff chose to forego invitations to visit the wetlands with residents of the community. If this permit is issued as it is, mildly treated or untreated wastewater will be discharged into a wetland and become part of a shallow flood across private property. The property owners will have sewage flowing across their property in a fashion similar to the way that private property owners had sewage flowing across their property in Bethel Heights. In the case of Bethel Heights, the Department was asked repeatedly – dozens of times – to send an inspector to Bethel Heights in the early morning hours to catch the city discharging raw sewage onto private property. Pictures were provided to the Department regularly showing the illegal discharge. The newspaper printed pictures and the television stations ran pictures. But no inspector ever came.

The permit applicant has had several permits from the Department for pollution activity in the Roland area. According to the history of each of those permits, the applicant has violated each permit multiple times, in some cases resulting in a consent administrative order. The applicant has promised to build detention basins to control stormwater flooding and pollution. But those detention ponds were never built – 16 years later. The applicant did not get a 404 permit from the Corps of Engineers for the construction of the Waterview wastewater treatment plant adjoining Mill Bayou.

Even though the applicant was made aware by their consulting engineer in 2007 of the potential need for a 404 permit in relation to the Waterview subdivision which includes the Paradise Valley subdivision property, no COE review was requested and no permit was ever applied for until earlier this year, after the residents of Roland raised the issue with ADEQ and the Corps of Engineers. The applicant appears to have no intention of complying with the law unless he is forced.

Furthermore, the applicant violated Pulaski County Planning Commission regulations by bulldozing the Paradise Valley site, destroying streams and vegetation, and flooding areas downstream with sediment and debris from the

Paradise Valley site. The applicant has proven that he is not trustworthy and should not be granted another permit. The Department is given authority in Regulation 8.204(A) and Regulation 8.204(C)(3) to deny this permit on the basis of the applicant's history as a bad actor. Please do not arm this person with another environmental permit.

There is so much wrong with this draft permit and there was so much wrong with the previous public hearing that I must request a new public hearing specifically for this new draft permit. Any public hearing should allow the citizens a chance to express their views and bring additional issues to the forefront. A public hearing is only legitimate if people are given a reasonable time to actually speak. Any legitimate public hearing will allow a speaking time of at least five minutes per person.

In summary, this permit should be denied based on the environmental, ecological, and health hazards it will create. The permit should be denied because the treatment plant is not technically capable of producing a consistent effluent that will protect the environment and health of the community. This permit should be denied because it will be used to support the violation of private property rights and will represent a private property taking by the Department. This permit should be denied because it will allow the creation of a public nuisance. This permit should also be denied because the Department has proven that it is unable to police the multitude of disingenuous and misleading propositions made by the applicant in this and all the previous pollution permits he has been issued. And finally, the permit should be denied because the applicant has proven himself a bad actor and not worthy of another pollution permit.

The Department is legally in a position to issue this permit. But it is not in a position to defend itself after downstream property owners are damaged. The applicant owns the property and right of way from Paradise Valley to the Waterview wastewater plant located approximately two miles downstream on Mill Bayou. The applicant should be discharging at that point and not into the fragile wetland ecology he has chosen to pollute and destroy. The Department has the authority and moral responsibility to tell him that.

Please deny this permit.

Thank you!

## Nancy Koon (adpce.ad)

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**From:** Nancy Koon (adpce.ad) on behalf of Water Permit Application  
**Sent:** Monday, December 12, 2022 3:19 PM  
**To:** Nancy Koon (adpce.ad)  
**Subject:** FW: Comment on AR0053210 - Paradise Valley  
**Attachments:** COMMENT - 12-9-22.docx

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**From:** Loretta Carstens (adpce.ad)  
**Sent:** Monday, December 12, 2022 3:14 PM  
**To:** Water Permit Application  
**Subject:** FW: Comment on AR0053210 - Paradise Valley

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**From:** Alford Drinkwater [[mailto:alford\\_drinkwater@yahoo.com](mailto:alford_drinkwater@yahoo.com)]  
**Sent:** Monday, December 12, 2022 3:12 PM  
**To:** Loretta Carstens (adpce.ad)  
**Subject:** Fw: Comment on AR0053210 - Paradise Valley

Loretta,

Attached is my comment regarding draft permit AR0053210.

Thank you.

Alford Drinkwater  
Town & Country Services  
89 Underwood Road  
Bigelow, Arkansas 72016  
479-422-4826

----- Forwarded Message -----

**From:** Alford Drinkwater <[alford\\_drinkwater@yahoo.com](mailto:alford_drinkwater@yahoo.com)>  
**To:** [alan.york@adeq.state.ar.us](mailto:alan.york@adeq.state.ar.us) <[alan.york@adeq.state.ar.us](mailto:alan.york@adeq.state.ar.us)>; [cross@adeq.state.ar.us](mailto:cross@adeq.state.ar.us) <[cross@adeq.state.ar.us](mailto:cross@adeq.state.ar.us)>  
**Cc:** Becky Keogh <[keogh@adeq.state.ar.us](mailto:keogh@adeq.state.ar.us)>  
**Sent:** Friday, December 9, 2022 at 08:31:05 PM CST  
**Subject:** Comment on AR0053210 - Paradise Valley

Alan,

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Thank you for your assistance.

Alford Drinkwater  
Town & Country Services  
89 Underwood Road  
Bigelow, Arkansas 72016  
479-422-4826

## Public Comment:

Permit No. AR0053210  
Date: December 9, 2022  
Name: Alford Drinkwater  
Organization: Town & Country Services  
89 Underwood Road  
Bigelow, Arkansas 72016  
479-422-4826

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Department. This circumstance demands that wastewater be treated to a human contact standard at the point of discharge.

The ramshackle and pieced together wastewater treatment plant that is being proposed to be built by permission of this permit should not be allowed. The treatment standard for this permit should be similar for the standards used for recycled wastewater that is treated to a level for human contact. Recycled wastewater is regulated by many states and is used not only to irrigate meadows and row crops but can be treated to a higher standard that will allow it to be used to irrigate facilities like parks and playgrounds where human contact will occur.

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In Part II (7) of the draft permit, the applicant is allowed to connect up to 300 houses to the wastewater treatment plant which is rated for up to 50,000 gallons per day. According to the standard wastewater production numbers provided by the Arkansas Department of Health, and the residents per household provided by the U.S. Census Bureau, the 300 houses allowed by the draft permit will generate 71,700 gallons of wastewater per day. The wastewater generation rate would have to be reduced by 40% to stay within the capacity of the wastewater plant. That is not good engineering on the applicant’s part or the Department’s part. But the Department is the one given responsibility for approving or not approving the “get by” engineering number provided by the applicant. There is nothing in law or regulation that says the Department must accept a lowball “get by” number for something as important as this. The house connections number should be changed to reflect good engineering practice.

In Part II (9) of the draft permit, the applicant is instructed to “provide a completed Phase I Cultural Resources Study for the proposed areas of disturbance necessary to construct the facility.” That statement appears to be fashioned in such a way as to allow the applicant to completely ignore the major Native American cultural heritage site downstream from the wastewater plant. Specific instructions regarding the wishes of the Osage Nation have been presented to the Department and should be followed. Those instructions should have been passed along to the applicant in the draft permit. Just paying lip service to this issue and ignoring the tribe’s request is a moral disgrace. The Department can do better.

Draft permit AR0053210 should not be issued due to the acute and chronic impact it will have on the downstream environment, ecology, and human health. The permit as drafted provides little protection for the existing water quality designations for the wetlands and stream segments between the discharge point and the Arkansas River.

Property owners have taken water samples in the wetlands area and have analytical proof that the water in the wetlands is pristine. How much will those waters be degraded within the first six months after the wastewater plant begins operation?

The draft permit provides little protection for the property owners whose property will be flooded with wastewater and made unusable for normal water contact activities such as duck hunting, fishing, or walking through the wetlands.

Department staff chose to forego invitations to visit the wetlands with residents of the community. If this permit is issued as it is, mildly treated or untreated wastewater will be discharged into a wetland and become part of a shallow flood across private property. The property owners will have sewage flowing across their property in a fashion similar to the way that private property owners had sewage flowing across their property in Bethel Heights. In the case of Bethel Heights, the Department was asked repeatedly – dozens of times – to send an inspector to Bethel Heights in the early morning hours to catch the city discharging raw sewage onto private property. Pictures were provided to the Department regularly showing the illegal discharge. The newspaper printed pictures and the television stations ran pictures. But no inspector ever came.

The permit applicant has had several permits from the Department for pollution activity in the Roland area. According to the history of each of those permits, the applicant has violated each permit multiple times, in some cases resulting in a consent administrative order. The applicant has promised to build detention basins to control stormwater flooding and pollution. But those detention ponds were never built – 16 years later. The applicant did not get a 404 permit from the Corps of Engineers for the construction of the Waterview wastewater treatment plant adjoining Mill Bayou.

Even though the applicant was made aware by their consulting engineer in 2007 of the potential need for a 404 permit in relation to the Waterview subdivision which includes the Paradise Valley subdivision property, no COE review was requested and no permit was ever applied for until earlier this year, after the residents of Roland raised the issue with ADEQ and the Corps of Engineers. The applicant appears to have no intention of complying with the law unless he is forced.

Furthermore, the applicant violated Pulaski County Planning Commission regulations by bulldozing the Paradise Valley site, destroying streams and vegetation, and flooding areas downstream with sediment and debris from the

Paradise Valley site. The applicant has proven that he is not trustworthy and should not be granted another permit. The Department is given authority in Regulation 8.204(A) and Regulation 8.204(C)(3) to deny this permit on the basis of the applicant's history as a bad actor. Please do not arm this person with another environmental permit.

There is so much wrong with this draft permit and there was so much wrong with the previous public hearing that I must request a new public hearing specifically for this new draft permit. Any public hearing should allow the citizens a chance to express their views and bring additional issues to the forefront. A public hearing is only legitimate if people are given a reasonable time to actually speak. Any legitimate public hearing will allow a speaking time of at least five minutes per person.

In summary, this permit should be denied based on the environmental, ecological, and health hazards it will create. The permit should be denied because the treatment plant is not technically capable of producing a consistent effluent that will protect the environment and health of the community. This permit should be denied because it will be used to support the violation of private property rights and will represent a private property taking by the Department. This permit should be denied because it will allow the creation of a public nuisance. This permit should also be denied because the Department has proven that it is unable to police the multitude of disingenuous and misleading propositions made by the applicant in this and all the previous pollution permits he has been issued. And finally, the permit should be denied because the applicant has proven himself a bad actor and not worthy of another pollution permit.

The Department is legally in a position to issue this permit. But it is not in a position to defend itself after downstream property owners are damaged. The applicant owns the property and right of way from Paradise Valley to the Waterview wastewater plant located approximately two miles downstream on Mill Bayou. The applicant should be discharging at that point and not into the fragile wetland ecology he has chosen to pollute and destroy. The Department has the authority and moral responsibility to tell him that.

Please deny this permit.

Thank you!