

Bryan W. Shaw, Ph.D., *Chairman*  
Toby Baker, *Commissioner*  
Zak Covar, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

October 11, 2013

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

Re: **Williamson County Municipal Utility District No. 19**  
**TCEQ Docket No. 2013-1597-MWD**

Dear Ms. Bohac,

Enclosed for filing is the Executive Director's Response to Request for Hearing in the above-entitled matter.

Sincerely,

A handwritten signature in cursive script that reads "Michael T. Parr II". The signature is written over a horizontal line.

Michael T. Parr II, *Staff Attorney*  
Environmental Law Division  
State Bar No. 24062936

cc: Mailing List

Enclosure

**TPDES Permit No. WQ0015000001**

<b>APPLICATION BY</b>	<b>§</b>	<b>BEFORE THE</b>
<b>WILLIAMSON COUNTY M.U.D.</b>	<b>§</b>	<b>TEXAS COMMISSION</b>
<b>No.19 FOR TPDES Permit No.</b>	<b>§</b>	<b>ON ENVIRONMENTAL</b>
<b>WQ0015000001</b>	<b>§</b>	<b>QUALITY</b>

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**EXECUTIVE DIRECTOR’S RESPONSE TO HEARING REQUESTS AND  
REQUESTS FOR RECONSIDERATION**

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**I. Introduction**

The Executive Director (ED) of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Hearing Requests on the application by Williamson County Municipal Utility District (MUD) No. 19 (Applicant) for proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015000001. The Commission received seven contested case hearing requests. Mike and Pam Goolsby, James and Minnie Sansom, Brian and Cara Massey, the City of Georgetown, the City of Liberty Hill, the City of Round Rock, and 1941 Ltd., all filed timely contested case hearing requests.

Attached for Commission consideration are the following:

- Attachment A – GIS Map(s) of the Facility and the Protestants
- Attachment B – Technical Summary and Proposed Permit
- Attachment C – Executive Director’s Response to Public Comments (RTC)
- Attachment D – Landowners Map and List
- Attachment E – Compliance History Report

**II. Description of the Facility**

The Applicant applied to the TCEQ for new a TPDES permit, Permit No. WQ0015000001, which would authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.10 million gallons per day (MGD) in the Interim I phase, a daily average flow not to exceed 0.35 MGD in the Interim II phase and an annual average flow not to exceed 1.4 MGD in the Final phase. The Santa Rita/Upper Middlebrook Wastewater Treatment Facility (proposed facility) will be located just west of Ronald Reagan Boulevard, approximately 2.5 miles north of the intersection of Ronald Reagan Boulevard and Highway 29 in Williamson County, Texas 78529, and will serve the Santa Rita/Upper Middlebrook development. The Applicant has not constructed the proposed facility but has determined that it will be an activated sludge process plant operated as a membrane bioreactor (MBR) in all phases. Treatment units in the Interim I Phase will include a flow equalization basin, a package MBR facility that includes a fine screen, anoxic and aeration tanks and an MBR tank, and a UV disinfection system. Treatment units in the Interim II Phase will include a flow equalization basin, coarse and fine screens, an anoxic reactor and aeration basin, a membrane filtration basin, aerobic sludge digester and a UV disinfection system. Treatment units in the Final Phase will include a flow equalization basin, anoxic reactors, aeration and membrane filtration basins, aerobic sludge digesters, additional

coarse and fine screens, and a UV disinfection system. The treated effluent will be discharged to an unnamed tributary; then to Soves Branch; then to the North Fork San Gabriel River in Segment No. 1251 of the Brazos River Basin.

### **III. Procedural Background**

The TCEQ received the permit application on January 20, 2011 and declared it Administratively Complete on March 4, 2011. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in English in the *Williamson County Sun* on March 13, 2011, and in Spanish in the *El Mundo Newspaper* on March 31, 2011. The ED completed the technical review of the application on July 2, 2012 and prepared a draft permit, which if approved, would establish the conditions under which the facility must operate. The Applicant published the Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD) in English in the *Williamson County Sun* on October 14, 2012, and in Spanish in the *El Mundo Newspaper* on October 25, 2012. The Applicant published the Notice of Public Meeting in the *Round Rock Leader* on April 13, 2013, and a Public Meeting was held on May 14, 2013 in Georgetown, Texas. The public comment period closed on May 14, 2013 at the close of the Public Meeting. This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

### **IV. The Evaluation Process for Contested Case Hearing Requests**

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings. For those applications declared administratively complete on or after September 1, 1999, it established new procedures for providing public notice and public comment, and for the commission's consideration of hearing requests. The Commission implemented HB 801 by adopting procedural rules in Title 30 of the Texas Administrative Code (30 TAC) Chapters 39, 50, and 55. This application was declared administratively complete on March 4, 2011 and therefore is subject to the HB 801 requirements.

#### **1. Legal Authority to Respond to Hearing Requests**

“The executive director, the public interest counsel, and the applicant may submit written responses to [hearing] requests . . . .” A response to hearing request must specifically address:

- (1) Whether the requestor is an affected person;
- (2) Which issues raised in the hearing request are disputed;
- (3) Whether the dispute involves questions of fact or of law;
- (4) Whether the issues were raised during the public comment period;
- (5) Whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the

- chief clerk prior to the filing of the Executive Director's Response to Comment;
- (6) Whether the issues are relevant and material to a decision on the application; and
  - (7) A maximum expected duration for the contested case hearing.

**See 30 TAC § 55.209(e)**

## **2. Contested Case Hearings Request Requirements**

In order for the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements. The regulations governing requests for contested case hearings are found at 30 TAC Chapter 55.

"A request for a contested case hearing by an affected person must be in writing, must be filed with the chief clerk within the time provided . . . and may not be based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment."

**See 30 TAC § 55.201(c)**

### **A. Requirements for a contested case hearing request:**

A contested case hearing request must substantially comply with the following:

- (1) Give the name, address, daytime telephone number, and where possible, fax number of the person filing the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and where possible, fax number, who will be responsible for receiving all official communications and documents for the group
- (2) Identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;
- (3) Request a contested case hearing;
- (4) List all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director's responses to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law or policy; and
- (5) Provide any other information specified in the public notice of application.

**See 30 TAC § 55.201(d)**

***B. Requestor must be an Affected Person***

In order to grant a contested case hearing, the Commission must determine that a requestor is an affected person.

For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the public does not qualify as a personal justiciable interest.

Governmental entities, including local governments and public agencies with authority under state law over issues raised by the application may be considered affected persons.

- (c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
  - (1) Whether the interest claimed is one protected by the law under which the application will be considered;
  - (2) Distance restrictions or other limitations imposed by law on the affected interest;
  - (3) Whether a reasonable relationship exists between the interest claimed and the activity regulated;
  - (4) Likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
  - (5) Likely impact of the regulated activity on use of the impacted natural resource by the person; and
  - (6) For governmental entities, their statutory authority over or interest in the issues relevant to the application.

**See 30 TAC § 55.205**

**3. Referral to the State Office of Administrative Hearings (SOAH)**

“When the commission grants a request for a contested case hearing, the commission shall issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing.”

**See 30 TAC § 50.115(b)**

“The commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue: (1) involves a disputed question of fact; (2) was raised during the public comment period; and (3) is relevant and material to the decision on the application.”

**See 30 TAC § 50.115(c)**

## **V. Analysis of the Hearing Requests**

The TCEQ received hearing requests that were filed timely from Mike and Pam Goolsby (the Goolsbys), James and Minnie Sansom (the Sansoms), Brian and Cara Massey (the Masseys), the City of Georgetown (Georgetown), the City of Liberty Hill (Liberty Hill), the City of Round Rock (Round Rock), and 1941 Ltd.(1941). The Executive Director analyzed the hearing requests to determine whether they complied with Commission rules, who qualified as an affected person, what issues ought to be referred for a contested case hearing, and the appropriate length of the hearing.

### ***A. Whether the Requestors Complied with 30 TAC § 55.201 (c) and (d)***

The public comment period for this permit application ended on May 14, 2013 at the close of the Public Meeting. The period for timely filing a request for a contested case hearing ended on August 26, 2013.

The Goolsbys – The Goolsbys provided comment during the public meeting where they also submitted their hearing request. The Goolsbys’ hearing request provided: 1) their names and address, 2) an explanation of the Goolsbys location and distance relative to the proposed facility, 3) requested a contested case hearing, and 4) raised relevant and material issues of fact that were raised during the comment period (whether the potential impact to groundwater, due to the proximity of the Balcones fault, was properly considered).

The Executive Director recommends that the Commission find that **the Goolsbys’** request **substantially complied** with the requirements of 30 TAC § 55.201(c) and (d).

1. The Sansoms – The Sansoms provided comment during the public meeting where they also submitted their hearing request. The Sansoms’ hearing request provided: 1) their names and address, 2) an explanation of the Sansoms’ location and distance relative to the proposed facility, 3) requested a contested case hearing, and 4) raised relevant and material issues of fact that were raised during the comment period (whether there is sufficient dilution of the 1.4 MGD of effluent to protect drinking water taken from Lake Georgetown, and whether the sampling parameters of the permit are sufficient to protect water quality).

The Executive Director recommends that the Commission find that **the Sansoms’** request **substantially complied** with the requirements of 30 TAC § 55.201(c) and (d).

2. The Masseys – The Masseys provided comment during the public meeting, and the Chief Clerk’s Office received their hearing request on August 13, 2013. The Masseys’ hearing request provided: 1) their names and address, 2) an explanation of the Masseys’ location and distance relative to the proposed facility, 3) requested a contested case hearing, and 4) raised relevant and material issues of

fact that were raised during the comment period (whether there is sufficient dilution of the effluent to protect the water quality of the North Fork San Gabriel River and Lake Georgetown, the source of their drinking water, whether the permit is protective of the recreational uses of the water bodies that make up the discharge route, whether the facility will protect water quality, and whether the Applicant will be able to comply with the nuisance odor requirements of 30 TAC § 309.13(e)).

The Executive Director recommends that the Commission find that **the Masseys'** request **substantially complied** with the requirements of 30 TAC § 55.201(c) and (d).

3. Georgetown – Georgetown provided comment during the comment period and at the public meeting, and the Chief Clerk's Office received its hearing request on April 6, 2011, November 5, 2012, May 14, 2013, and August 13, 2013. Georgetown's hearing request provided: 1) its name and address, 2) an explanation of the Georgetown's location and distance relative to the proposed facility, 3) requested a contested case hearing, and 4) raised relevant and material issues of fact that were raised during the comment period (whether the proposed facility violates the State's regionalization policy, whether the permit's discharge parameters will protect water quality, groundwater, and drinking water, and whether the facility will protect water quality).

The Executive Director recommends that the Commission find that **Georgetown's** request **substantially complied** with the requirements of 30 TAC § 55.201(c) and (d).

4. Liberty Hill – Liberty Hill provided comment during the comment period and the Chief Clerk's Office received its hearing request on March 31, 2011. Liberty Hill's hearing request provided: 1) its name and address, 2) an explanation of Liberty Hill's location and distance relative to the proposed facility, 3) requested a contested case hearing, and 4) raised relevant and material issues of fact that were raised during the comment period (whether the proposed facility violates the State's regionalization policy, whether the permit's discharge parameters will protect water quality, groundwater, drinking water, aquatic life, and whether the design of the facility will protect water quality).

The Executive Director recommends that the Commission find that **Liberty Hill's** request **substantially complied** with the requirements of 30 TAC § 55.201(c) and (d).

5. Round Rock – Round Rock provided comment during the comment period and the Chief Clerk's Office received its hearing request on February 5, 2012. Round Rock's hearing request provided: 1) its name and address, 2) an explanation of Round Rock's location and distance relative to the proposed facility, 3) requested

a contested case hearing, and 4) raised relevant and material issues of fact that were raised during the comment period (whether the proposed facility violates the State's regionalization policy, whether the permit's discharge parameters will protect drinking water quality, groundwater, aquatic life, and recreational uses of Lake Georgetown, whether the facility will protect water quality).

The Executive Director recommends that the Commission find that **Round Rock's** request **substantially complied** with the requirements of 30 TAC § 55.201(c) and (d).

1941 – 1941 provided comment during the comment period and the Chief Clerk's Office received its hearing request on March 31, 2011 and November 6, 2012. 1941's hearing request provided: 1) its name and address, 2) an explanation of 1941's location and distance relative to the proposed facility, 3) requested a contested case hearing, and 4) raised relevant and material issues of fact that were raised during the comment period (whether the proposed facility violates the State's regionalization policy, whether the permit's discharge parameters will protect water quality, groundwater, drinking water, and aquatic life, and whether the design of the facility will protect water quality, and whether the Applicant will be able to comply with the nuisance odor requirements of 30 TAC § 309.13(e)).

The Executive Director recommends that the Commission find that **Round Rock's** request **substantially complied** with the requirements of 30 TAC § 55.201(c) and (d).

### ***B. Whether the Requestors are affected persons***

The Goolsbys – The Goolsbys' hearing request did not effectively state a personal, justiciable interest in the Application. The address provided in the Goolsbys' hearing request places their property just within a mile from the proposed facility on the GIS map developed by the ED's staff, however, the Goolsbys' property is neither downstream of the facility nor adjacent to the discharge route. Landowners who reside within a close proximity to a TCEQ authorized site are more able to show that a reasonable relationship exists between the personal interests sought to be protected and the subject of the controversy, or that a specific geographic/causative nexus exists to satisfy the "fairly traceable" element of standing or affected person status. Although the Goolsbys' raised issues related to whether the potential impact to groundwater was properly considered, due to the proximity of the Balcones fault, the distance between the proposed facility and the Goolsbys' property decreases the likelihood that the Goolsbys will be personally affected in a way not common to the public.

The Executive Director recommends that the Commission find that the **Goolsbys are not affected persons** under 30 TAC § 55.203.

The Sansoms – The Sansoms’ hearing request effectively stated a personal, justiciable interest in the Application. According to the GIS map developed by the ED’s staff, the address provided in the Sansom’s hearing request places their property within one mile downstream of the facility and adjacent to the discharge route. Landowners who reside within a close proximity to a TCEQ authorized site in which they claim entitles them to a legally protected interest is indicative of the extent to which their interest will likely be affected. In other words, because of the proximity to the discharge route as adjacent landowners, the Sansoms are more likely than the public to be potentially affected by the proposed facility. For purposes of affected person status, impact to an individual’s riparian interests make the potential injury sufficiently particularized so as to distinguish the harm from that experienced by the public. The Sansoms raised issues related to whether there is sufficient dilution of the 1.4 MGD of effluent to protect drinking water taken from Lake Georgetown, and whether the sampling parameters of the permit are sufficient to protect water quality. The law under which the Application is being considered protects these interests, and a reasonable relationship exists between the interests claimed and the activity regulated.

The Executive Director recommends that the Commission find that the **Sansoms are affected persons** under 30 TAC § 55.203.

The Masseys – The Masseys’ hearing request effectively stated a personal, justiciable interest in the Application. According to the GIS map developed by the ED’s staff, the address provided in the Masseys’ hearing request places their property just beyond one mile downstream of the facility and adjacent to the discharge route. Landowners who reside within a close proximity to a TCEQ authorized site in which they claim entitles them to a legally protected interest is indicative of the extent to which their interest will likely be affected. In other words, because of the proximity to the discharge route as adjacent landowners, the Masseys are more likely than the public to be potentially affected by the proposed facility. For purposes of affected person status, impact to a landowner’s riparian interests make the potential injury sufficiently particularized to distinguish the harm from that experienced by the public. The Masseys raised issues related to whether there is sufficient dilution of the effluent to protect the water quality of the North Fork San Gabriel River and Lake Georgetown, the source of their drinking water, whether the permit is protective of the recreational uses of the water bodies that make up the discharge route, whether the facility will protect water quality, and whether the Applicant will be able to comply with the nuisance odor requirements of 30 TAC § 309.13(e). The law under which the Application is being considered protects these interests, and a reasonable relationship exists between the interests claimed and the activity regulated.

The Executive Director recommends that the Commission find that the **Masseys are affected persons** under 30 TAC § 55.203.

Georgetown – Georgetown’s hearing request effectively stated a personal, justiciable interest in the Application. According to the GIS map developed by the ED’s staff, Georgetown’s Extra Territorial Jurisdiction limits are within one mile of the facility and interests that Georgetown has or has statutory authority over are not only downstream of the facility but also adjacent to the discharge route.

Georgetown raised issues related to the proposed facility violating the State’s regionalization policy, whether the permit’s discharge parameters are strict enough to protect water quality, groundwater, and drinking water. The issues Georgetown raised involve interests that Georgetown has or has statutory authority over and are relevant to the application. Therefore, a reasonable relationship exists between the interests claimed and the activity regulated.

The Executive Director recommends that the Commission find that **Georgetown is an affected person** under 30 TAC § 55.203.

Liberty Hill – Liberty Hill’s hearing request did not effectively state a personal, justiciable interest in the Application. According to the GIS map developed by the ED’s staff, Liberty Hill’s Extra Territorial Jurisdiction limits are within one mile of the facility, however, interests in which Liberty Hill has or has statutory authority over are neither downstream of the facility nor adjacent to the discharge route. Although Liberty Hill raised issues related to the proposed facility violating the State’s regionalization policy, whether the permit’s discharge parameters are strict enough to protect water quality, groundwater, drinking water, and aquatic life, and whether the design of the facility will protect against algae blooms, the distance between the proposed facility and interests that Liberty Hill has or has statutory authority over, decreases the likelihood that Liberty Hill will be affected in a way not common to the public.

The Executive Director recommends that the Commission find that **Liberty Hill is not an affected person** under 30 TAC § 55.203.

Round Rock – Round Rock’s hearing request did not effectively state a personal, justiciable interest in the Application. According to the GIS map developed by the ED’s staff, Round Rock’s Extra Territorial Jurisdiction limits are 7.2 miles away from the facility and are neither downstream of the facility nor adjacent to the discharge route. Therefore, interests in which Round Rock has or has statutory authority over are neither downstream of the facility nor adjacent to the discharge route. Although Round Rock raised issues related to the proposed facility violating the State’s regionalization policy, whether the permit’s discharge parameters are strict enough to protect groundwater, aquatic life, and the drinking water quality and recreational uses of Lake Georgetown, the distance between the proposed facility and interests that Round Rock has or has statutory authority over, decreases the likelihood that Liberty Hill will be affected in a way not common to the public.

The Executive Director recommends that the Commission find that **Round Rock is not an affected person** under 30 TAC § 55.203.

1941 – 1941’s hearing request did not effectively state a personal, justiciable interest in the Application. According to the GIS map developed by the ED’s staff, the property that 1941 owns is not within a mile of the facility and is neither downstream of the facility nor adjacent to the discharge route. Although 1941 raised issues related to the proposed facility violating the State’s regionalization policy, whether the permit’s discharge parameters and design of the facility will protect water quality, groundwater, drinking water, and aquatic life, and whether the Applicant will be able to comply with the nuisance odor requirements of 30 TAC § 309.13(e), the distance between the proposed facility and 1941’s property decreases the likelihood that 1941 will be personally affected in a way not common to the public.

The Executive Director recommends that the Commission find that **1941 is not an affected person** under 30 TAC § 55.203.

### ***C. Whether the Issues Are Referable to SOAH***

In addition to recommending to the Commission those persons who qualify as affected persons, the Executive Director analyzes issues raised in accordance with the regulatory criteria. Unless otherwise noted, the issues discussed below were all raised during the public comment period. None of the issues were raised solely in a comment which has been withdrawn. All the identified issues in the response are considered disputed, unless otherwise noted.

#### **Issues:**

#### **1. Whether the proposed facility will impact property values.**

This issue was addressed in the Executive Director’s Response to Public Comment, see Comment 1. It involves a question of fact that is not relevant and material to the Commission’s decision on this application. Interests related to the diminution of property value are not interests protected by the law under which this application is being considered.

The Executive Director concludes that this issue is not relevant and material and does not recommend referral to SOAH.

#### **2. Whether the potential impact to groundwater due to the proximity of the Balcones fault was properly considered.**

This issue was addressed in the Executive Director’s Response to Public Comment, see Comments 2, 5, 12, 35, and 56. It involves a question of fact and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue is relevant and material and recommends that the Commission refer this issue to SOAH.

**3. Whether there are potential air quality threats from the proposed facility.**

This issue was addressed in the Executive Director's Response to Public Comment, see Comment 32. The Commission has determined that issues involving air quality are not matters that the Commission will consider in the context of wastewater permitting. Issues related to air quality are not issues protected by the law under which this application is being considered.

The Executive Director concludes that this issue is not relevant and material and does not recommend referral to SOAH.

**4. Whether there is sufficient dilution of the 1.4 million gallons per day of effluent to protect drinking water taken from Lake Georgetown.**

This issue was addressed in the Executive Director's Response to Public Comment, see Comments 10, 33, 46, and 47. It involves a question of fact and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue is relevant and material and recommends that the Commission refer this issue to SOAH.

**5. Whether the sampling parameters of the permit are sufficient to protect water quality.**

This issue was addressed in the Executive Director's Response to Public Comment, see Comment 40. It involves a question of fact and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue is relevant and material and recommends that the Commission refer this issue to SOAH.

**6. Whether the proposed permit should contain a provision for the removal of Pharmaceuticals that are released by individuals that enter the treatment system.**

This issue was addressed in the Executive Director's Response to Public Comment, see Comment 34. The science on pharmaceuticals is currently evolving and while the EPA and other agencies continue to study the presence of pharmaceuticals, there is currently no clear regulatory regime available to address the treatment of pharmaceuticals in domestic wastewater. Accordingly, neither the TCEQ nor the EPA has rules on the treatment of contaminants such as pharmaceuticals in domestic wastewater. Issues related to pharmaceuticals are not issues protected by the law under which this application is being considered.

The Executive Director concludes that this issue is not relevant and material and does not recommend referral to SOAH.

**7. Whether the permit is protective of the recreational uses of the water bodies that make up the discharge route.**

This issue was addressed in the Executive Director's Response to Public Comment, see Comment 8. It involves a question of fact and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue is relevant and material and recommends that the Commission refer this issue to SOAH.

**8. Whether the permit's discharge parameters are strict enough to protect water quality, groundwater, drinking water, aquatic life, and the receiving waters.**

This issue was addressed in the Executive Director's Response to Public Comment, see Comment 2, 8, 40 and 41. It involves a question of fact and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue is relevant and material and recommends that the Commission refer this issue to SOAH.

**9. Whether the proposed facility violates the State's Regionalization policy.**

This issue was addressed in the Executive Director's Response to Public Comment, see Comments 6 and 24. It involves a question of fact and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue is relevant and material and recommends that the Commission refer this issue to SOAH.

**10. Whether the Applicant will be able to comply with the nuisance odor requirements of 30 TAC § 309.13(e).**

This issue was addressed in the Executive Director's Response to Public Comment, see Comment 17. It involves a question of fact and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue is relevant and material and recommends that the Commission refer this issue to SOAH.

**11. Whether the design of the proposed facility will be protective of water quality.**

This issue was addressed in the Executive Director's Response to Public Comment, see Comment 27. It involves a question of fact and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue is relevant and material and recommends that the Commission refer this issue to SOAH.

**12. Whether the operation of the facility will be protective of water quality.**

This issue was addressed in the Executive Director’s Response to Public Comment, see Comments 7 and 26. It involves a question of fact that is not relevant and material to the Commission’s decision on this application. The Applicant is required to operate the proposed facility in accordance with the Texas Water Code, the TCEQ rules and the provisions in the proposed permit, which includes “Other Requirement No. 1,” which states that the Applicant must employ or contract with one or more licensed operators of wastewater treatment facilities, and “Operational Requirement No. 1,” which requires the Applicant to ensure that the proposed facility and all its systems of collection, treatment, and disposal are properly operated and maintained at all times.

The Executive Director concludes that this issue is not relevant and material and does not recommend referral to SOAH.

***D. Duration of the Contested Case Hearing***

Should the Commission decide to refer this case to SOAH, the Executive Director recommends that the duration for a contested case hearing on this matter, between the preliminary hearing and the presentation of a proposal for decision before the Commission, be six months.

**VI. Executive Director’s Recommendation**

The Executive Director recommends the following actions by the Commission:

- a)** Find that the following individuals or entities ***are affected*** and grant their hearing requests:
  - 1. James and Minnie Sansom
  - 2. Brian and Cara Massey
  - 3. The City of Georgetown
  
- b)** Find that the following individuals or entities ***are not affected*** and deny the hearing requests unless the parties provide additional information:
  - 1. Mike and Pam Goolsby
  - 2. The City of Liberty Hill
  - 3. The City of Round Rock
  - 4. 1941 Ltd.

- c) Should the Commission find that any of the requestors are affected persons, the following issues should be referred to SOAH for a Contested Case Hearing for a duration of nine months:
1. Whether the potential impact to groundwater due to the proximity of the Balcones fault was properly considered.
  2. Whether there is sufficient dilution of the daily 1.4 million gallons per day of effluent to protect drinking water taken from Lake Georgetown.
  3. Whether the sampling parameters of the permit are sufficient to protect water quality.
  4. Whether the permit is protective of the recreational uses of the water bodies that make up the discharge route.
  5. Whether the permit's discharge parameters are strict enough to protect water quality, groundwater, drinking water, aquatic life, and the receiving waters.
  6. Whether the proposed facility violates the State's Regionalization policy.
  7. Whether the Applicant will be able to comply with the nuisance odor requirements of 30 TAC § 309.13(e).
  8. Whether the design of the proposed facility will be protective of water quality.

Respectfully submitted,

Texas Commission on Environmental Quality

Zak Covar  
Executive Director

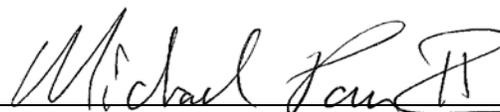
Robert Martinez, Director  
Environmental Law Division



Michael T. Parr II, *Staff Attorney*  
Environmental Law Division  
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REPRESENTING THE EXECUTIVE  
DIRECTOR OF THE TEXAS COMMISSION  
ON ENVIRONMENTAL QUALITY

**CERTIFICATE OF SERVICE**

I certify that on October 11, 2013, the original and seven copies of the “Executive Director’s Response to Hearing Request” for William County Municipal Utility District No. 19, were filed with the TCEQ’s Office of the Chief Clerk and a complete copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, electronic submittal, or by deposit in the U.S. Mail.



Michael T. Parr II, *Staff Attorney*  
Environmental Law Division  
State Bar No. 24062936

**MAILING LIST**  
**WILLIAMSON COUNTY MUNICIPAL UTILITY DISTRICT NO. 19**  
**DOCKET NO. 2013-1597-MWD; PERMIT NO. WQ0015000001**

**FOR THE APPLICANT:**

Mike Willatt  
Willatt & Flickinger  
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