

**SOAH DOCKET NO. 582-22-1222
TCEQ DOCKET NO. 2021-0999-MWD**

**APPLICATION BY CITY OF LIBERTY § BEFORE THE STATE OFFICE
HILL FOR RENEWAL OF TEXAS §
POLLUTANT DISCHARGE § OF
ELIMINATION SYSTEM PERMIT § ADMINISTRATIVE HEARINGS
NO. WQ0014477001 §**

**STEPHANIE RYDER MORRIS'S
EXCEPTIONS TO THE PROPOSAL FOR DECISION**

November 14, 2022

TABLE OF CONTENTS

I. EXCEPTIONS TO THE PROPOSAL FOR DECISION 1

A. Water Quality Standards (Issues A, D, and G) 1

1. Whether the Draft Permit is Protective of Water Quality, Groundwater, and Uses of the Receiving Waters of the South Fork San Gabriel River in Accordance with the Texas Surface Water Quality Standards, Including Recreational Use and with Consideration of the Maximum Volume of the Proposed Discharge (Referred Issue A)..... 1

2. Whether the Draft Permit Includes Appropriate Provisions to Protect Against Excessive Growth of Algae and Comply with the Aesthetic Parameters and Requirements of 30 TAC § 307.4, Including Aquatic Nutrient Limitations (Referred Issue D) 10

3. Whether the Draft Permit Complies with Applicable Antidegradation Requirements (Referred Issue G) 10

B. Whether the Draft Permit Includes Adequate Provisions to Protect the Health of the Requesters and Their Families and Aquatic and Terrestrial Wildlife (Issue B)..... 11

C. Nuisance Issues (Issues C and I) 15

1. Whether the Draft Permit Adequately Addresses Nuisance Conditions, Including Odor, in Accordance with 30 TAC § 309.13(e) (Referred Issue C) 15

2. Whether the Draft Permit Includes Adequate Provisions to Protect the Requesters’ Use and Enjoyment of Their Property (Referred Issue I)..... 17

D. Compliance History and Regionalization Policy (Issues E and F) 17

1. Whether the Draft Permit Should be Denied or Altered Based on the Applicant’s Compliance History (Referred Issue E)..... 17

2. Whether the Draft Permit Should be Denied or Altered in Consideration of the Need for the Facility in Accordance with Texas Water Code § 26.0282, Consideration of Need and Regional Treatment Options (Referred Issue F) 20

E. Facility Management and Monitoring (Issues H and J) 22

1. Whether the Draft Permit Requires Adequate Licensing Requirements for the Operator of The Facility and Adequate Requirements Regarding Operator Supervision (Referred Issue H) 22

2. Whether the Draft Permit Includes Sufficient Monitoring and Reporting Requirements, Including Necessary Operational Requirements (Referred Issue J)..... 22

F. Transcription Costs 23

II. EXCEPTIONS TO THE FINDINGS OF FACT AND CONCLUSIONS OF LAW ... 23

A. Findings of Fact..... 23

B. Conclusions of Law..... 26

C. Amendments to the Permit..... 26

III. CONCLUSION 27

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EXCEPTIONS TO THE PROPOSAL FOR DECISION

TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

Protestant Stephanie Ryder Morris submits these Exceptions to the Administrative Law Judges’ (“ALJs”) Proposal for Decision (“PFD”) relating to the application by the City of Liberty Hill (“Liberty Hill”, “the City”, or “Applicant”) for renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014477001. For the reasons presented below, Protestant Morris asks the Commission to reform the Findings of Fact and Conclusions of Law in accordance with these Exceptions and to deny the renewal of the permit.

I. EXCEPTIONS TO THE PROPOSAL FOR DECISION

A. Water Quality Standards (Issues A, D, and G)

1. Whether the Draft Permit is Protective of Water Quality, Groundwater, and Uses of the Receiving Waters of the South Fork San Gabriel River in Accordance with the Texas Surface Water Quality Standards, Including Recreational Use and with Consideration of the Maximum Volume of the Proposed Discharge (Referred Issue A)

a. Total Phosphorus Limit:

The ALJs correctly conclude that the Draft Permit will not be protective of water quality and will not protect uses of the receiving waters under the Texas Surface Water Quality Standards (TSWQS). This is based on the overwhelming evidence in the record that the terms of the Draft

Permit as written, particularly the total phosphorus limit, will continue to lead to the degradation of the South Fork San Gabriel River (“River”) in direct violation of the TSWQS and the Clean Water Act. The ALJs also state in the PFD that the reasonably achievable technology-based limit for total phosphorus is 0.05 mg/L and recommend that this limit be integrated into the Draft Permit for all stages.¹

Ms. Morris supports the recommendation of a 0.05 mg/L total phosphorus limit. However, while a 0.05 mg/L total phosphorus limit is one that has been clearly demonstrated to be both reasonably achievable and affordable² and is an improvement over the Draft Permit’s initial limit of 0.15 mg/L, Protestant Morris excepts to 0.05 mg/L as it is not sufficiently protective of the River, a requirement of the TCEQ’s rules and Procedures to Implement the Texas Surface Water Quality Standards (“IPs”). As noted by the ALJs, “[t]he phosphorus limit must be based on [reasonably achievable technology], with consideration of the sensitivity of the site.”³ As explained by Ms. Morris in her closing briefs, Protestants have demonstrated that 0.02 mg/L is the more appropriate total phosphorus limit based on the TCEQ’s IPs.⁴

i. Reasonably achievable technology

0.02 mg/L total phosphorus is a reasonably achievable technology-based limit. Dr. Ross, in her direct testimony, gave the opinion that 0.02 mg/L total phosphorus would be the appropriate

¹ Proposal for Decision, Application by the City of Liberty Hill for Renewal of Texas Pollutant Discharge Elimination System Permit No. WQ0014477001, Docket No. 582-22-1222, at 37 (hereinafter “PFD”); Proposed Order Granting the Application by City of Liberty Hill for Renewal of TPDES Permit No. WQ0014477001, Finding of Fact 92, at 15 (hereinafter “Proposed Order”).

² Protestant Stephanie Ryder Morris’s Written Closing Arguments at 22 (hereinafter “Morris Closing”); Tr. Vol. 1, 289:10-12 (Ross); Ex. SM-Ross 37:16-24; Ex. SM-Ross-18 (EPA report on wastewater treatment achieving low concentrations of phosphorus, *see* pp. 7-8 for summary chart). For specific information on CLEARAS, a company willing to guarantee a total phosphorus level of 0.05 mg/L and whose results are often much lower, *see* Ex. SM-Ross-9; Ex. SM-Ross-10; and Ex- SM-Ross 20:2-21.

³ PFD at 34; ED-JL-3 at 29 (these exceptions will refer to the IPs by their own numbering, not that of the exhibit).

⁴ Morris Closing at 20-21.

limit based on reasonably achievable technology in this situation.⁵ This opinion is supported by evidence in the record, such as an Environmental Protection Agency (EPA) report listing wastewater treatment facilities that have reached this total phosphorus average in their effluent at a reasonable cost.⁶ It is likewise bolstered by the fact that Clearas, the wastewater technology company that performed a pilot at the City of Liberty Hill, was able to reduce the phosphorus in the City's effluent to around 0.01 mg/L total phosphorus and has achieved similar reductions in other projects and pilots.⁷

ii. Sensitivity of the site

While 0.05 mg/L is a reasonably achievable technology-based limit, a limit of 0.05 mg/L does not take into consideration the sensitivity of the site: the South Fork San Gabriel River. The Protestants thoroughly demonstrated and the ALJs recognized that the background levels of total phosphorus in the River are at or below 0.01 mg/L.⁸ The concentration of phosphorus within the effluent cannot be much higher than these background levels without causing biological changes, such as the growth of algae, to occur. The research that has been performed into this issue and the data available from similar streams shows that an instream concentration of phosphorus of 0.02 mg/L or higher causes algae blooms to develop (and this threshold concentration might be even lower).⁹ Dr. King addresses this in his testimony, giving the opinion that, at most, a concentration of "0.01 to no more than 0.015 mg/L total phosphorus" can exist in the stream while still maintaining the natural condition of the River.¹⁰ Dr. Ross similarly addressed this threshold in her

⁵ Ex. SM-Ross 29:3-14 and 31:5-11.

⁶ Ex. SM-Ross 37:16-24; Ex. SM-Ross-18 (*see* pp. 7-8 for summary chart).

⁷ Ex. SM-Ross-9 (CLEARAS report for the City of Liberty Hill); Ex. SM-Ross-10 (table of CLEARAS project results).

⁸ Proposed Order, Finding of Fact 57, at 11; Morris Closing at 10-11; Ex. SM-King 15:9-10 and 18:12-17; Ex. SM-King-5 at 1-2 (figures 1 and 2) and 4-5 (figures 5 and 6); Ex. SM-Ross-3.

⁹ Ex. SM-King 32:10-13; Ex. SM-King 35:8-9 (Dr. King's reports available at Ex. SM-King 6 and Ex. SM-King-7 – *see e.g.* conclusions on page 106 of Ex. SM-King-7).

¹⁰ Morris Closing, at 11; Ex. SM-King 35:8-12.

direct testimony,¹¹ and made it clear during her live testimony that the research in this area is very consistent – it is regularly found that the threshold for algae blooms is around 0.02 mg/L total phosphorus.¹²

As Dr. King explained extensively in his direct testimony, a 0.05 mg/L daily average limit for total phosphorus is not low enough to protect the water quality of the South Fork San Gabriel River.¹³ While 0.05 mg/L is preferable to and more protective than 0.15 mg/L, such a limit will continue to allow extensive and excessive algae blooms, which degrade the water quality and impair the uses of the stream for significant distances.

The ALJs recognize in the proposed Findings of Facts that to maintain oligotrophic conditions in the South Fork San Gabriel River, the effluent limit for total phosphorus must be no more than 0.02 mg/L.¹⁴ Despite this, 0.05 mg/L is found to be the reasonably achievable technology-based limit, a limit 150% higher than the 0.02 mg/L limit stated in the proposed Findings of Fact to be necessary to maintain the condition of the river. It is clear that 0.05 mg/L is too high to maintain the water quality in the South Fork San Gabriel River. 0.02 mg/L total phosphorus is the appropriate limit to set for all phases of the Draft Permit, based on the TCEQ's IP's.

b. Flow Volume

Protestant Morris excepts to the ALJs' recommendation that the annual average flow in the Draft Permit's final phase remain at 4.0 million gallons a day (MGD). While flow with regards to need will be addressed later in these exceptions, the volume of wastewater discharge into the River is also a water-quality issue. It is agreed that a lower flow volume will reduce the effluent's impact

¹¹ SM-Ross 26:27-27:19 and 28:27-29:2.

¹² Tr. Vol. 1, 286:24-288:2 (Ross).

¹³ Ex. SM-King 46:18-48:12.

¹⁴ Proposed Order, Finding of Fact 90, at 14.

on the River.¹⁵ Less volume means less phosphorus, nitrogen, and other pollutants entering the River. It also allows for a greater dilution of the effluent by the background flow in the River, which lessens the impacts of the effluent on the South Fork San Gabriel. Greater volume has the opposite effect – at 4.0 MGD, the River will often be dominated by treated effluent and minimally diluted by background flow.¹⁶

This is why setting a lower annual average flow is important to protect water quality in the River, especially if the total phosphorus limit is set at 0.05 mg/L, a level that would induce algae blooms. If there is less effluent entering the River, background flow can help dilute it, and bring the phosphorus concentration closer to a protective level. A lower volume of effluent will also help reduce impacts to wildlife due to temperature and flow changes caused by the City’s discharge into the river (see Referred Issue B for more details).

Protestant Morris asks that the annual average flow in the final phase of the Draft Permit be reduced to 2.4 MGD, in accordance with the capacity of its current plant and in order to reduce the effluent’s impact on the water quality of the River.

c. Nitrate-Nitrogen Limit

Protestant Morris excepts to the ALJs’ failure to reduce the nitrate-nitrogen limit. While the ALJs note that the IPs state that effluent limits can be considered for total nitrogen in situations when existing or projected nitrogen levels would result in the growth of nuisance aquatic vegetation¹⁷ and that the record includes evidence that adding more nitrogen to a stream will result

¹⁵ Morris Closing at 67; Ex. APP-3 13:12-13 (Aaron Laughlin on behalf of the City of Liberty Hill, “Lower total phosphorus loading reduces the potential for algal mats to form suggesting an improvement in aesthetic conditions.”); Tr. Vol. 3, 619:5-13 (Jenna Lueg on behalf of the ED, agreeing that reducing the overall flow from 4 million gallons to 2 million gallons would be more protective of water quality); Ex. SM-King 48:18-21 (Dr. Ryan King on behalf of Protestant Morris, “Volume of effluent is definitely an important factor in determining the impact to the river, because the single-most important impact on the river comes from the total load of phosphorus, not simply the concentration of phosphorus in the effluent.”).

¹⁶ See Morris Closing, footnote 338, at 67.

¹⁷ PFD at 17; ED-JL-3 at 30 (IPs).

in more algal growth if surplus phosphorus is available,¹⁸ the ALJs do not recommend reducing the nitrate-nitrogen limit or placing a limit on total nitrogen. Instead, the ALJs suggest that the current nitrate-nitrogen limits may prove to be enough with the reduction in total phosphorus.¹⁹

This is problematic for a number of reasons. First and foremost, the ALJs recognize that 0.05 mg/L is not a sufficiently stringent total phosphorus limit to protect the water quality in the River.²⁰ Therefore, if 0.05 mg/L is to be the total phosphorus limit across all phases of the permit, reducing the amount of other nutrient pollutants, such as nitrate-nitrogen, may help offset this. The proposed Findings of Fact recognize that ammonia nitrogen and nitrate-nitrogen contribute to the growth of algae in the River.²¹ Even if the phosphorus limit is sufficiently low, if the City floods the river with nitrogen, it is setting the stage for algae issues downstream of the outfall, as any additional input of phosphorus from any source will lead to the proliferation of algae.

The ALJs' reasoning also fails to consider whether increasing the level of nitrogen in the River to the extent allowed under the current and Draft Permit is degradation in and of itself. Currently, the ammonia limit in the Draft Permit is 2.0 mg/L and the nitrate-nitrogen limit is 16.6 mg/L, with no limit on total nitrogen.²² Similarly to phosphorus, the South Fork San Gabriel River is naturally very low in ammonia nitrogen and nitrate-nitrogen. Dr. King measured ammonia nitrogen levels at 0.014 mg/L and nitrate + nitrite nitrogen levels at 0.061 in 2022 upstream of the outfall.²³ The effluent's current and proposed limits are well over 100 times higher than

¹⁸ PFD at 32-33 (referring to Dr. King's testimony at SM-King 31:4-11).

¹⁹ PFD at 37.

²⁰ Proposed Order, Finding of Fact 90, at 14. (The proposed finding of fact states that "The best available information indicates that a TP limit of no more than 0.02 mg/L would be necessary to maintain oligotrophic conditions," making it clear that 0.05 mg/L is too high to protect the water quality of the River.)

²¹ Proposed Order, Finding of Fact 61, at 11.

²² See A.R. Tab C at 0002-0005 (these are the same limits as in the current permit, found in Bunnell Protestants Cross Ex. 2 at 0002-0004).

²³ Ex. SM-King-5 at 4, Figure 5 (LCRA results). The levels measured even lower in 2020. Ex. SM-King-5 at 1, Figure 1.

background levels for ammonia and well over 200 times higher than background levels for nitrate-nitrogen. No evidence was presented that a nutrient evaluation for any nitrogen types was done in conjunction with this renewal consistent with the IPs or during the antidegradation review of the 2013 major amendment. Increasing the instream concentrations of nitrate-nitrogen by 200-fold is unnecessary degradation of the River, and as explained above, primes the River for algal blooms wherever excess phosphorus enters the stream downstream of the outfall.

The IPs allow for the consideration of total nitrogen limits in certain situations, such as when existing or projected nitrogen levels would result in the growth of nuisance aquatic vegetation.²⁴ As supported by Dr. Ross's direct testimony, 4.0 mg/L is a reasonably achievable limit for total nitrogen.²⁵ It follows that a 4.0 mg/L limit for nitrate-nitrogen, which is but a part of total nitrogen, can be reasonably achieved as well. There is already a nitrate-nitrogen limit in the permit, so this is a reduction of a pre-existing limit instead of the establishment of a new one. This would greatly reduce the nitrogen allowed to be discharged into the River and help protect the river from the growth of nuisance aquatic vegetation.²⁶

d. Nutrient Study

Protestant Morris supports the ALJs' recommendation that a nutrient study similar to the one required under the original 2004 permit be required. Such a study will help track the effect of the new permit limits on the river and provide data to help the TCEQ and the Applicant make informed decisions in the future, such as when another antidegradation review is required. However, footnote 421 on page 97 of the PFD suggests that the nutrient sampling plan may be

²⁴ ED-JL-3 at 30 (IPs).

²⁵ Ex. SM-Ross 20:26-21:14 and 37:4-10.

²⁶ It is clear from the City's discharge data that they regularly discharge more than 4.0 mg/L of nitrate-nitrogen and thus total nitrogen. *See* Ex. SM-21. A 4.0 mg/L nitrate-nitrogen limit would lead to a meaningful reduction in nitrogen discharged by the Applicant. This would not be the only permit with such a limit: the "Belterra" permit (Hays County Water Control & Improvement District No.1 – WQ0014293001) has a total nitrogen limit of 6.0 mg/L in its discharging phase.

completed early because the City was in the midst of a nutrient sampling plan due to be completed in October 2022.²⁷ It is unclear what this footnote means.

Ms. Morris excepts to any interpretation that the sampling plan performed by the City and to have been completed in October 2022 can stand in for the nutrient sampling plan to be required by the renewed permit. The nutrient sampling plan should be a permanent and ongoing requirement under the renewed permit. The purpose of such a nutrient sampling plan is to track the effects of the discharge on the River with the new permit limits in place and inform the City and TCEQ as to whether or not these limits are sufficiently stringent to protect the water quality in the River.²⁸ This purpose is not served if the sampling plan is concluded before the new permit is issued. Requiring the nutrient sampling plan to be ongoing is important to track how changes to the City's permit limits affect the River, especially if the total phosphorus limit is set at 0.05 mg/L, which has been recognized as insufficient to protect the River. With continuous data, the City and the TCEQ will have the information they need to continually improve the permit and reduce the wastewater's impact on the River. If the plan is not made an ongoing requirement, Ms. Morris urges the Commission to clarify that such a plan will require nutrient sampling for two years following the issuance of the new permit and specifically, implementation of the new, lower total phosphorus limits.²⁹

To further clarify the requirements for the nutrient sampling plan, Ms. Morris requests that there be a separate requirement in the Draft Permit for the nutrient study, laying out the parameters

²⁷ PFD, note 421 at 97.

²⁸ Ex. SM-24 at 26 (permit page 24); Ex. SM-9a at 2 (May 2004 water quality memo); PFD at 3.

²⁹ If there is a compliance period put into place for the new, lower total phosphorus limit, Ms. Morris asks that the City also perform nutrient sampling in the period after the renewed permit is issued, but preceding the compliance deadline, as discussed in the original permit and referenced in the Proposed Order (“prior to discharge”) – *see e.g.* Proposed Order at 24 and Ex. SM-24 at 26

for such a sampling study.³⁰ Integrating the language requiring the nutrient study with Item No. 9 in “Other Requirements” will make both requirements confusing. The current Item No. 9 in Other Requirements concerns the total dissolved solids (TDS) study, which focuses on sources of TDS entering the plant and how these sources could be reduced. A nutrient sampling study would focus on the effluent’s effect once it is discharged into the stream. The two studies should be treated separately so that it is clear what is necessary for each.

Additionally, if the results of the study show that the total phosphorus limit (or any other limit) must be reduced to protect the water quality in the South Fork San Gabriel River, the permit should contain specific language requiring the TCEQ to re-open the permit for review and to revise the total phosphorus limit. This is especially important if the total phosphorus limit is set at 0.05 mg/L, which is already recognized as too high to protect the river. Similarly, if 0.05 mg/L total phosphorus is the limit set across all phases of the permit, but the technology implemented by the Applicant to reach this limit regularly results in total phosphorus averages below 0.05 mg/L, the permit should include language requiring the TCEQ to re-open the permit for review and to revise the total phosphorus limit in accordance with the average that technology is capable of meeting.³¹

e. Groundwater

Protestant Morris excepts to the finding that the Draft Permit will be protective of groundwater and reiterates the position contained in her closing arguments.³² The Executive Director’s witness Mr. Martinez stated that “TCEQ’s Water Quality Division has determined that if surface water quality will be protected by a draft permit, then groundwater quality in the vicinity

³⁰ Finding of Fact 127 in the PFD (p. 19) and the third suggested modification in the Proposed Order (p.24) suggested that the nutrient study requirement should be combined in some way with the TDS study requirement.

³¹ For example, in its pilot, CLEARAS reduced the total phosphorus in the City’s effluent to around 0.01 mg/L and has reached a similar level in other projects. If the City were to implement CLEARAS, or another technology that performed similarly to this, and the effluent was regularly meeting averages below 0.05 mg/L, the permit limits should be reduced to require this level of water quality protection.

³² Morris Closing at 42-43.

will not be impacted by the discharge.”³³ As explained by the ALJs in the PFD, surface water quality will not be protected³⁴ and, therefore, the apparent sole test to determine whether groundwater will be protected is failed. As surface water quality will likewise not be protected under a 0.05 mg/L total phosphorus limit, the ALJs recommended changes to the Draft Permit have also not been shown to protect groundwater. Therefore, it has not been shown that groundwater will be protected under the Draft Permit.

2. Whether the Draft Permit Includes Appropriate Provisions to Protect Against Excessive Growth of Algae and Comply with the Aesthetic Parameters and Requirements of 30 TAC § 307.4, Including Aquatic Nutrient Limitations (Referred Issue D)

Ms. Morris agrees with, and presents no exceptions to, the ALJs conclusions that the Draft Permit does not protect against the excessive growth of algae and that it does not comply with the aesthetic parameters and requirements of 30 TAC § 307.4. However, she maintains the same exception to 0.05 mg/L as the suggested limit for total phosphorus, as this limit will likewise continue to lead to violations of water quality standards, including aesthetic standards, as explained by Dr. King and summarized above. Protestant Morris supports a 0.05 mg/L total phosphorus limit as preferable to and an improvement over 0.15 mg/L, but this limit not sufficient to maintain water quality in the South Fork San Gabriel River, including aesthetics.

3. Whether the Draft Permit Complies with Applicable Antidegradation Requirements (Referred Issue G)

Ms. Morris agrees with, and does not present exception to, the ALJs opinion that the Draft Permit does not comply with the Commission’s antidegradation policy. However, the second to last paragraph on page 58 of the PFD is potentially misleading. Under the current permit, the City

³³ ED-AM-1 at 6:23-26.

³⁴ PFD at 36.

has degraded the water quality of the River such that its uses have been impaired, as recognized here. This degradation, and failure to maintain baseline conditions, is what makes it clear that the 2013 antidegradation review was insufficient and that another ought to have been performed for the current renewal. However, the final sentence in this paragraph gives the impression that only a Tier 2 review must be performed in such a situation (i.e., examining whether the Draft Permit would continue to cause more than *de minimis* lowering of water quality).³⁵ The PFD should make it clear that, in a situation such as the one at hand, both a Tier 1 and Tier 2 analysis must be completed: i.e., 1) determining that existing uses and water quality sufficient to protect those uses will be maintained;³⁶ and 2) determining that no activities subject to regulatory action degrade fishable/swimmable waters, absent a showing that the lowering of water quality is necessary for important economic or social development.³⁷

Additionally, as the ALJs also recommend a total phosphorus limit of 0.05 mg/L for all phases and the nutrient sampling plan in response to the failure to comply with the antidegradation review, Ms. Morris would refer the Commission to her exceptions under Referred Issue A concerning these two points.

B. Whether the Draft Permit Includes Adequate Provisions to Protect the Health of the Requesters and Their Families and Aquatic and Terrestrial Wildlife (Issue B)

Ms. Morris excepts to the ALJs' assertion in the PFD that the record supports a finding that the proposed discharge will not adversely impact the health of the requesters, the requesters' family, and aquatic and terrestrial wildlife. As recognized by the ALJs in the PFD, the ED and Applicant provided little to no evidence on this issue, and mainly asserted that the rules were

³⁵ PFD at 58.

³⁶ 30 Tex. Admin Code § 307.5(b)(1).

³⁷ 30 Tex. Admin Code § 307.5(b)(2).

followed.³⁸ The Protestants, on the other hand, have offered extensive evidence concerning the impact of the current permit on their health and the health of wildlife.³⁹ And Drs. King and Ross have both offered expert testimony concerning current impacts under the permit, as well as the impacts they expect to continue under the Draft Permit.

Effluent discharged by the City has been affecting the wildlife in and around the River negatively, and it will continue to do so under the terms of the proposed Draft Permit. Ms. Morris testified concerning how she used to see large fish downstream of the outfall, but now only sees small fish or, occasionally, medium-sized fish.⁴⁰ Herons used to roost on her property, but these birds now fly past and land upstream of the outfall, where the river is unaffected by the effluent.⁴¹ Mr. Engelke has likewise noticed that in recent years the birds he used to see in his backyard and the fish he used to see in the river just upstream of the outfall have moved farther upriver of the outfall.⁴² He no longer sees crayfish at all.⁴³ Ms. Morris's bees used to drink from the river downstream of the outfall, but they no longer do.⁴⁴ And Dr. Harkins testified that she seldom sees wildlife drinking from the river.⁴⁵

Dr. King testified to a variety of impacts to wildlife that are caused by the effluent, including how the additional streamflow can allow species that would not normally be able to survive in the river to invade and how the constant presence of effluent can alter the temperature of the river, which can in turn affect the life cycles of the animals living there.⁴⁶ He also testified concerning how the levels of phosphorus allowed under the previous and Draft Permits has led

³⁸ PFD at 59-60.

³⁹ See PFD at 60-63 for a summary of this evidence.

⁴⁰ Ex. SM-Morris 11:7-17; Tr. Vol. 1, 73:3-77:8 (in-depth discussion from hearing on the merits).

⁴¹ Ex. SM-Morris 12:3-6; Tr. Vol. 1, 77:5-8 (Morris).

⁴² Tr. Vol. 1, 104:21-106:6; Bunnell Protestants Ex. 2 at 9:15-21.

⁴³ Tr. Vol. 1, 104:21-105:5 (Engelke); Bunnell Protestants Ex. 2 at 4:23-24.

⁴⁴ Ex. SM-Morris 15:8-12.

⁴⁵ Bunnell Protestants Ex. 3 at 5:17.

⁴⁶ SM-King 37:12-21.

and will continue to lead to the overgrowth of nuisance algae, which causes issues such as the physical occupation of the river by algae; shading of the river and organisms within the river by that algae; the accumulation of decaying algae on the river bed (which fills the spaces on the riverbed where native wildlife live); more extreme oxygen cycling with dissolved oxygen lows that may violate the stream criteria; and the appearance of large quantities of invasive snails.⁴⁷ Dr. Ross additionally testified about her concerns that with such extensive algal blooms, blooms of cyanobacteria may also occur, which are harmful to wildlife, humans, and pets.⁴⁸

The City's discharge has clearly negatively impacted the wildlife living in and along the river near and downstream of the discharge under the current permit. These effects would continue under the proposed Draft Permit, since the City would continue to discharge large quantities of effluent with phosphorus concentrations at levels that would continue to allow for the excessive growth of algae. The species native to this area of the South Fork San Gabriel River are adapted to the conditions of the river in its natural state: low-flow, low in nutrients, clear, with limited aquatic vegetation.⁴⁹ Changing their habitat so drastically undeniably adversely impacts these creatures, a fact to which the requesters have testified at length.

Likewise, the Draft Permit does not include adequate provisions to protect the health of the requesters and their families. Many of the issues already discussed that affect the River and associated wildlife, similarly affect the health of the requesters and their families. For example, the extensive algae makes it difficult and potentially dangerous to wade or swim in the river, as the bottom of the river is slippery and difficult to see, and the algae can entangle people in the water.⁵⁰ The algae and muck formed by decaying algae could get in the mouths of those swimming

⁴⁷ SM-King 26:6-28:3; *see also* SM-King 38:6-45:13.

⁴⁸ SM-Ross 28:22-24.

⁴⁹ Ex. SM-King 37:7-9.

⁵⁰ SM-King 42:19-43:5.

or playing in the water, especially children.⁵¹ The invasive snail present in great numbers at and downstream of the outfall, *Melanoides tuberculata*, carries a fluke that can be dangerous to humans.⁵² With extensive algae blooms comes the possibility of cyanotoxins, which can be harmful to people. And the City has a history of permit limit violations, including exceeding their *E. coli* limits, which is the primary measure in place to ensure the protection of the health of the public.⁵³

The requesters have spoken to many of these issues – such as Ms. Morris discussing how she had to struggle to walk through the river due to the algae and muck on July 19, 2022.⁵⁴ Many of the requesters testified as to how they and their families no longer swim or recreate in the river because of the algae, muck, and the concerns they have for their health.⁵⁵ And, as addressed above, all of these issues will continue under the terms of the Draft Permit, as algae continues to proliferate and the volume discharged only increases.

A finding that the requesters’ health, their family’s health, and the health of aquatic and terrestrial wildlife will not be adversely affected is clearly against the weight of the evidence.

Presumably the findings in this section are based on the Draft Permit as written, as there is no mention of changes to the permit here. The PFD and proposed Findings of Fact and Conclusions of Law recognize that a permit limit of 0.15 mg/L total phosphorus will degrade the river and that algae growth and related issues will continue on a similar level and with similar severity.⁵⁶ Therefore, it is reasonable to assume that under the Draft Permit, these ill effects will continue.

⁵¹ SM-King 42:23-43:2.

⁵² Tr. Vol. 1, 217:3-16 (King).

⁵³ 30 Tex. Admin. Code § 307.7(b)(1) (applying to segments designated for “primary contact recreation 1” the strictest of all *E. coli* limits.); Bunnell Protestants Ex. 1-8 at 0003.

⁵⁴ Tr. Vol. 1, 42:1-43:18. *See also* video at SM-Morris-4 demonstrating the difficulty of wading in the river with the algae present.

⁵⁵ *See* Morris Closing at 29-31 for summary; *see e.g.*, Bunnell Protestants Ex. 2 at 7:1-4 and 8:12-15 and Bunnell Protestants Ex. 3 at 14-18.

⁵⁶ PFD at 36-37 and 47-48; Proposed Order, Finding of Fact 86 at 14.

And, as explained in detail by Dr. King, these problems will also continue under a permit with a phosphorus limit of 0.05 mg/L.⁵⁷

Discharge from the Liberty Hill wastewater plant under the current permit is not protective of the health of the requesters, the requesters' families, or aquatic and terrestrial wildlife. The Draft Permit with either a 0.15 mg/L or 0.05 mg/L total phosphorus limit will not be sufficiently protective, either.

C. Nuisance Issues (Issues C and I)

1. Whether the Draft Permit Adequately Addresses Nuisance Conditions, Including Odor, in Accordance with 30 TAC § 309.13(e) (Referred Issue C)

The PFD takes an overly narrow reading of Referred Issue C by considering only whether the Applicant meets the specific requirements enumerated in 30 TAC § 309.13(e)(1)-(3). This interpretation is flawed for at least two reasons. First, this interpretation ignores the important context in which Rule 309.13(e) exists, namely that the purpose of the rule is to minimize exposing the public to nuisance conditions. Second, this interpretation fails to take into account that the ED and/or the Commission retains the authority to require changes to the permit in order to address concerns with the City's compliance history.⁵⁸

No party disputes that the Commission has the authority to review and approve plans and specifications for wastewater treatment facilities and determine that they comply with the Commission's standards.⁵⁹ Nor does any party dispute that the purpose of chapter 309, subchapter B, is, in part, to establish specifications in order "to minimize the possibility of exposing the public to nuisance conditions; and to prohibit issuance of a permit for a facility to be located in an area determined to be unsuitable or inappropriate, unless the design, construction, and operational

⁵⁷ SM-King 45:22-46:4 and 46:18-48:12.

⁵⁸ See 30 Tex. Admin. Code § 60.3(a)(2).

⁵⁹ See Tex. Water Code § 26.034.

features of the facility will mitigate the unsuitable site characteristics.”⁶⁰ Subchapter B very clearly establishes only “minimum standards” for the location of domestic wastewater treatment facilities.⁶¹ However, the evidence shows that the City has a history of nuisance odors at the facility, even while it insists that it is meeting and exceeding these minimum standards. Therefore, the minimum standards are simply not adequate to minimize exposing the public to nuisance conditions, and the ED and/or the Commission has the authority to require the City to meet different specifications.

Dr. Ross relied on evidence in the form of a public news report dated November 2019 to determine that the City’s ongoing nuisance odors from the plant continued at that time.⁶² While the City argued that nothing more than the 150-foot buffer between plant units and the nearest property line is required, the City also admits that it has, since late 2019, taken several steps at the treatment plant in order to abate and mitigate odors.⁶³ This timeline does not prove the City’s point that only minimum standards are required; rather, it supports the conclusion that the “minimum standards” are not adequate to abate and control nuisance odor.

As the PFD acknowledges in another section, the ED and/or the Commission has the right to modify the permit to address concerns with compliance history. Rather than allow the City to continue to *only* provide the 150-foot buffer pursuant to 309.13(e)(1), the Commission should alter the permit to require additional oversight aimed at addressing these violations, namely, that the City must *also* submit a nuisance odor prevention request for approval, as required by 309.13(e)(2).

⁶⁰ 30 Tex. Admin. Code 309.10(b).

⁶¹ 30 Tex. Admin. Code 309.10(a).

⁶² SM-Ross 38:5-39:11; SM-Ross-24.

⁶³ PFD at 65; Ex. APP-3 12:21-24.

The nuisance odor prevention⁶⁴ should be tailored to address the nuisance conditions that the 150-foot buffer cannot, and should be incorporated into the City's permit.

2. Whether the Draft Permit Includes Adequate Provisions to Protect the Requesters' Use and Enjoyment of Their Property (Referred Issue I)

Protestant Morris takes no exception to the ALJs' finding that the Draft Permit fails to include adequate provisions to protect the requestors' use and enjoyment of their property.

D. Compliance History and Regionalization Policy (Issues E and F)

1. Whether the Draft Permit Should be Denied or Altered Based on the Applicant's Compliance History (Referred Issue E)

Generally, Protestant Morris takes no exception to the ALJs' finding that the Draft Permit should be altered based on the City's compliance history. As the ALJs found, there is ample evidence in the record that there are ongoing violations at the facility in the five years preceding the date of the Application, and continuing throughout the evidentiary hearing.⁶⁵ These violations ranged from failure to properly operate and maintain the facility to failure to meet the limit for one or more permit parameter.⁶⁶ Also relevant to the ALJs inquiry was that the Applicant's compliance score worsened considerably while the Applicant was in the midst of the (contested) renewal of the draft permit.⁶⁷

Furthermore, the ALJs found that these ongoing violations are causing harm, the violations are aligned with Protestants' concerns, and the violations could be addressed by permit conditions or provisions that provide additional constraints and oversight that would help ensure future

⁶⁴ "Nuisance odor prevention" is defined as "The reduction, treatment, and dispersal of potential odor conditions that interfere with another's use and enjoyment of property that are caused by or generated from a wastewater treatment plant unit, which conditions cannot be prevented by normal operation and maintenance procedures of the wastewater treatment unit." 30 Tex. Admin. Code § 309.11(6).

⁶⁵ PFD at 84-85.

⁶⁶ *Id.*

⁶⁷ PFD at 85.

compliance.⁶⁸ Though the ALJs found additional permit terms to be warranted for all of those reasons, the PFD failed to require certain permit terms that aligned with those same reasons. Therefore, Protestant Morris takes exception to the PFD as follows, and though repetitive of other substantive sections which provide *additional* reasons for altering the Draft Permit, explains why the following alterations should be made, based on the City's compliance history alone:

- a. Reduce total flow in the final phase from 4.0 MGD to 2.4 MGD.

The PFD misunderstands Protestant Morris's argument regarding reducing permitted flow in the final phase of the Draft Permit. Reduction of total flow in the final phase is warranted to A) be protective of surface water quality and B) as a means to address the City's compliance history, while also considering that the evidence shows that the City has no need for a facility with greater permitted capacity than 2.4 MGD. The issue of how a reduction in total flow and, thus, a reduction in total nutrient loading, is more protective of water quality has been addressed previously. The issue related to the City's need will be addressed in the following section. But a reduction in total flow in the final phase is also justified separately and independently based solely on the City's compliance history.

Limiting total annual flow to 2.4 MGD would limit the damage to be done to the River, in the event the City is unable to operate consistently better in the future than it has in the past. Limiting total annual flow in the Draft Permit does not necessarily limit total annual flow for future permit amendments, but follows the logic that the City should not be prematurely authorized to expand its treatment capacity to more than double what it is treating today, given its recent and ongoing violations. Should the City expand its capacity and continue to fail to operate and maintain the facility properly, more than twice the current volume of partially treated or untreated effluent

⁶⁸ See PFD at 84-85; see also 30 Tex. Admin. Code § 60.3(a)(2).

could be discharged to the River. Similarly, should the City expand its capacity and continue to fail to meet nutrient limits, like phosphorus, more than twice the volume of nutrient-laden effluent could be discharged into the River, causing additional algae blooms.

In addition to restricting total annual flow to limit potential harm in the event of another violation, reducing total annual flow in the final phase of the Draft Permit provides additional oversight. Should the City seek to amend its permit and expand total flow beyond 2.4 MGD, TCEQ—and the public—will be afforded the opportunity to conduct a thorough review of the City’s application, while considering the City’s most recent compliance history.

- b. That the public posting of and notification of Monitoring and Reporting Requirement Nos. 1 and 7a on a public website also be provided to the public via an email/text alert list.

Generally, Protestant Morris takes no exception to the ALJs’ finding that the Draft Permit should be altered to require public posting and notification of Monitoring and Reporting Requirements Nos. 1 and 7a on a public website dedicated to providing information about the wastewater treatment plant and discharge.⁶⁹ But Ms. Morris contends it is imperative, in order to provide the oversight necessary to ensure future compliance, that these reports are provided contemporaneously with their being provided to the TCEQ and that they are also provided to the public via a public email/text alert list. To be clear, these monitoring and reporting requirements have been in the City’s prior permits. Thus, in theory, the reports made to TCEQ have always been available to the public and subject to a level of public oversight. It is clear from the City’s track record that simply making these reports publicly available has not provided the level of oversight necessary to ensure compliance. Instead, this information should be “pushed” to the public, both to provide additional oversight and to address downstream neighbors’ concerns about use of the

⁶⁹ PFD at 96-97

River for direct contact recreation. It is precisely because of the City's compliance history that people have concerns about coming in direct contact with the water below the outfall, and it is ultimately the public, through complaints and the hearing process, that has held the City accountable for its poor compliance record. The public should have immediate access to compliance information, both to protect themselves and to hold the City accountable again in the future, if necessary.

- c. That signage in English and Spanish be placed and maintained at the outfall, identifying the discharge to be the City of Liberty Hill's treated wastewater effluent outfall and providing certain information about where the public can obtain more information.

Signage is also a compliance tool. Signage is necessary to help ensure future compliance, because it provides additional oversight at the point at which the discharge enters the River, which is a distance from the wastewater treatment facility itself. To those unaware, it is not obvious that the water flowing down the bank into the River is municipal wastewater. Besides the fact that many would not choose to recreate in treated wastewater, if they knew what that water was, many people will not recognize what the outfall is or know to whom to report issues. Labelling the outfall and providing information so that members of the public can report when they witness something of concern (e.g., solids, foam, or excessive algae) helps stimulate public involvement and oversight that is badly needed. The signage should be in English and Spanish.

2. Whether the Draft Permit Should be Denied or Altered in Consideration of the Need for the Facility in Accordance with Texas Water Code § 26.0282, Consideration of Need and Regional Treatment Options (Referred Issue F)

As previously explained, the PFD misses an important point regarding Issue F and consideration of need.⁷⁰ Water Code Section 26.0282 provides that the Commission may deny or

⁷⁰ See PFD at 86-89

alter the terms and conditions of the proposed permit or permit renewal based on consideration of need, including the expected volume and quality of the influent and the availability of existing or proposed areawide or regional systems. Protestant Morris does not argue that the Draft Permit should be amended or denied based on the available existing or proposed capacity elsewhere. However, Protestant Morris has already demonstrated why, if the permit renewal is granted, total annual flow must be reduced to both protect water quality and to address concerns with compliance history. The Liberty Hill WWTP has not been designated by TCEQ as a regional or area-wide wastewater system, nor has the City provided evidence that it requires 4.0 MGD. The PFD relies entirely on the premise that no party contests that the population in the surrounding area continues to grow, and it is reasonable for the Applicant to include a discharge limit higher than what it currently treats and have a certain amount of buffer on top of that in order to meet anticipate demand.⁷¹ This is precisely what Protestant Morris has proposed with 2.4 MGD.

Mr. Thomison testified that the present plant can treat influent at a rate of 20 percent above its nominal capacity of 2.0 MGD, and that, at present, the City is utilizing only 1.4 or 1.5 MGD.⁷² This means the City has the ability, with its current infrastructure, to grow its capacity by 60-70 percent of what it is currently treating. This is not an insignificant amount. Also, this 2.0 MGD is the Interim Phase the City has chosen to pursue, so we can only assume it is reasonable for the City's immediate needs. Protestant Morris has extended the 0.4 MGD as a buffer, in order to meet anticipated demand, and would stress that the demand is only what is anticipated *before* the City must renew its permit in five years anyway. Thus, the reduction of total flow in the final phase is warranted to be protective of surface water quality and as a means to address the City's compliance

⁷¹ PFD at 89.

⁷² Tr. Vol. 2, 430:18-23.

history. In considering the City’s need, total annual flow in the final phase of the Draft Permit should be set at 2.4 MGD.

E. Facility Management and Monitoring (Issues H and J)

1. Whether the Draft Permit Requires Adequate Licensing Requirements for the Operator of The Facility and Adequate Requirements Regarding Operator Supervision (Referred Issue H)

Protestant Morris takes no exception to the ALJs’ finding that the Draft Permit should be amended to require a Class A license holder—for facility operators and the third-party operator—and to impose certain obligations upon the third-party operator.⁷³ However, these “certain obligations” are not specifically identified in the ALJs’ analysis, itself, or listed in the suggested modifications to the permit in the Proposed Order. Protestant Morris would ask that these obligations be clarified as they are in Finding of Fact 126: a revision to the Draft Permit requiring that the third-party operator conduct effluent monitoring at least twice per month and that this effluent data be included in calculating averages.⁷⁴

2. Whether the Draft Permit Includes Sufficient Monitoring and Reporting Requirements, Including Necessary Operational Requirements (Referred Issue J)

Generally, Protestant Morris takes no exception to the PFD’s recommendation that the Draft Permit include a nutrient sampling plan⁷⁵ and require public posting and notification of certain reported information.⁷⁶ But the monitoring and reporting the PFD requires falls short for two primary reasons, as previously explained under Referred Issue E (which exceptions Protestant Morris incorporates here). First to help ensure compliance, it is imperative that the provision of the reports under Monitoring and Reporting Requirements Nos. 1 and 7a are provided

⁷³ PFD at 94.

⁷⁴ See Proposed Order, Finding of Fact 126, at 19; *see also* PFD at 93.

⁷⁵ Exceptions to the nutrient plan are discussed under Referred Issue A.

⁷⁶ PFD at 96-97.

contemporaneously to the public and TCEQ, and that the reports be provided to the public via a public email/text alert list.

Second, as discussed above, signage at the outfall is also necessary to protect the public and help ensure future compliance, as it provides public oversight at the point where the discharge enters the River. While it is true that these additional measures might not be necessary when a discharger is regularly complying with their permit, these terms are necessary, here, based on the City's lengthy history of noncompliance. Making compliance information easily accessible and posting signage are ways to protect the public should the historical noncompliance continue under the Draft Permit.

F. Transcription Costs

Protestant Morris takes no exception to the ALJs' proposed allocation of reporting and transcription costs.

II. EXCEPTIONS TO THE FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Findings of Fact

Issues A, D, and G

- Protestant Morris excepts to Finding of Fact 92 and would alter it to read as follows: “An effluent limit of 0.02 mg/L TP has been demonstrated as a reasonably achievable technology-based effluent limitation, with consideration of the sensitivity of the site, in this case.”
- Protestant Morris excepts to Finding of Fact 93 and would alter it to read as follows: “The Applicant has failed to demonstrate that the effluent limits in the Draft Permit are protective of groundwater.”
- Protestant Morris would add the following Findings of Fact under Referred Issue A:
 - The Draft Permit is not protective of the surface water quality of the South Fork San Gabriel River.

- No separate analysis was conducted to determine if the groundwater would be protected under the terms of the Draft Permit, except to conclude that if surface water is protected, then groundwater will also be protected as well.
- Effluent limits for total nitrogen can be considered in certain situations when existing or projected nitrogen levels would result in growth of nuisance aquatic vegetation.
- To help address the growth of nuisance aquatic vegetation, the nitrate-nitrogen limit in the Draft Permit should be lowered to 4.0 mg/L.
- Reducing the volume of effluent discharged into the River reduces the effluent's impact on the River.

Issue B

- Protestant Morris excepts to Finding of Fact 102 and would alter it to read as follows: “The proposed discharge will adversely impact the health of the requesters, their families, and aquatic and terrestrial wildlife.”
- Protestant Morris would add the following Findings of Fact:
 - A drastic and persistent change in the kind and quantities of wildlife living in and along the river downstream of the outfall has occurred since the City began discharging effluent into the river.
 - Excessive algae growth in the South Fork San Gabriel River is causing negative impacts to aquatic and terrestrial wildlife, including: the crowding out of native species of algae and microbial communities by nuisance algae; shading of the river, river bottom, and organisms within the river; the accumulation of decaying algae on the riverbed which fills the spaces where native wildlife live; more extreme fluctuations in dissolved oxygen; dissolved oxygen lows that can drop below the 24-hour minimum criterion; the presence of large quantities of invasive snails (*Melanoides tuberculata*) that may crowd out native species or negatively affect the balance of the ecosystem's trophic structure; and other effects that disrupt natural conditions and negatively impact the native ecosystem.
 - The native wildlife in and around the South Fork San Gabriel River are adapted to the low flow of the stream.
 - Adding additional, constant flow to the river allows species that would not normally be able to survive to invade, in addition to changing the water temperature of the river, which can alter the life cycles of native species living in the river.
 - The invasive snail, *Melanoides tuberculata*, carries a fluke that can be dangerous to humans.

- The extensive algae makes it difficult and dangerous to wade or swim in the river, as the bottom of the river is slippery and difficult to see; the algae can entangle people in the water; and the algae, including the decayed algae on the bottom of the river, could get in the mouths of those wading, swimming, or playing in the water, especially children.
- The Draft Permit will cause extensive algal blooms, which can cause blooms of cyanobacteria, which may release cyanotoxins that are harmful to humans, pets, and wildlife, both aquatic and terrestrial.
- The negative impacts to the requesters, their families, and aquatic and terrestrial wildlife will continue to occur under the terms of the Draft Permit.

Issue C

- Protestant Morris would add the following Finding of Fact:
 - Applicant’s wastewater treatment plant has a history of odor complaints.

Issues E and F

- Protestant Morris excepts to Finding of Fact 116 and would alter it to read as follows: “Considering the Applicant’s compliance history and the sensitive nature of the South Fork San Gabriel to phosphorus loading, a revision to the permit is warranted so that total flow is limited in the Final phase to 2.4 MGD.”
- Protestant Morris would delete Finding of Fact 120.
- Protestant Morris would add the following Finding of Fact:
 - The City’s wastewater plant has the actual capacity to treat 2.4 MGD.

Issues H and J

- Protestant Morris excepts to Finding of Fact 127 and would alter it to read as follows: “Considering Applicant’s compliance history, the history of algae growth at and below the outfall, and the ecologically sensitive nature of the River, particularly to nutrient enrichment, the addition of another requirement in the “Other Requirements” section in the Draft Permit is warranted, requiring Applicant to conduct nutrient input and response monitoring in a manner similar to the nutrient study required by the 2004 permit, but with the monitoring being a permanent and ongoing requirement of the permit.”
- Protestant Morris excepts to Finding of Fact 128 and would alter it to read as follows: “Considering Applicant’s compliance history, a revision to the Draft Permit is

warranted requiring that information provided to TCEQ under Monitoring and Reporting Requirements Nos. 1 and 7a also be made publicly available by posting this information on a public website and notifying the public through an email/text alert list, with both posting and notification done contemporaneously with the relevant reporting being made to TCEQ.”

- Protestant Morris would add the following Finding of Fact:
 - Considering the Applicant’s compliance history, a revision to the Draft Permit is warranted, requiring that signage in English and Spanish be placed and maintained at the outfall, identifying the discharge to be the City of Liberty Hill’s treated wastewater effluent outfall and providing certain information about where the public can obtain more information and register any concerns.

B. Conclusions of Law

- Protestant Morris excepts to the following Conclusions of Law and would rewrite them as follows:
 - Conclusion of Law 11: The Applicant did not establish by a preponderance of the evidence that the terms of the Draft Permit would be protective of groundwater.
 - Conclusion of Law 15: The Draft Permit does not adequately address nuisance odor in accordance with 30 Texas Administrative Code § 309.13(e).
 - Conclusion of Law 17: The Applicant did not establish by a preponderance of the evidence that the Draft Permit includes adequate provisions to protect the health of the requesters and their families and aquatic and terrestrial wildlife.
 - Conclusion of Law 20: The Applicant has not shown the need to be able to discharge a maximum amount of 4.0 MGD.

C. Amendments to the Permit

- Protestant Morris excepts to certain modifications recommended for the Draft Permit and would ask that the modifications be written as follows (page 24 of the Proposed Order):
 - A total phosphorus effluent limit of 0.02 mg/L for all phases;
 - A nitrate-nitrogen effluent limit of 4.0 mg/L for all phases;
 - Both the operator and third-party operator must have a Class A license;
 - The addition of another “Other Requirement” to the permit, requiring the Applicant to conduct nutrient input and response monitoring similar to the nutrient study required by the 2004 permit, but with the monitoring being a permanent and ongoing requirement;
 - Posting of information provided to TCEQ under Monitoring and Reporting Requirements Nos. 1 and 7a on a public website dedicated to providing information

- about the wastewater treatment plant and discharge, and public notification of this information via an email/text alert list, with both posting and notification done contemporaneously with the relevant reporting being made to TCEQ;
- The City be required to submit a nuisance odor prevention request to the ED for approval, in order to address nuisance odors at the facility; and
 - Signage in English and Spanish be placed and maintained at the outfall, identifying the discharge to be the City of Liberty Hill's treated wastewater effluent outfall and providing certain information about where the public can obtain more information and register any concerns.

III. CONCLUSION

Protestant Morris asks the Commission to take into consideration these exceptions and to reform the Findings of Fact and Conclusions of Law in accordance with them. She asks that the permit be denied, but if it is not, that the permit issued include the modified terms as recommended by the ALJs and excepted to by Protestant Morris and re-written above. Protestant Morris also asks that the Commission not adopt the Response to Comments and instead prepare its own response per 30 TAC § 50.117(f), as the proposed changes to the permit differ fundamentally from the Response to Comments and cannot be easily reconciled with these changes.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on all persons listed below, in compliance with the Texas Rules of Civil Procedure, on November 14, 2022.

/s/ Loraine Hoane
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