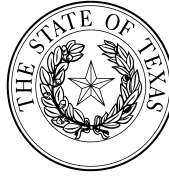


Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 10, 2021

TO: Persons on the attached mailing list.

RE: AIRW 2017-7, L.P.
TPDES Permit No. WQ0015878001

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** This decision will be considered by the commissioners at a regularly scheduled public meeting before any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter is a copy of the Executive Director's Response to Comments. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central Office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Georgetown Public Library, Reference Desk, 402 West 8th Street, Georgetown, Texas.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. The procedures for the commission's evaluation of hearing requests/requests for reconsideration are located in 30 Texas Administrative Code Chapter 55, Subchapter F. A brief description of the procedures for these two requests follows.

How to Request a Contested Case Hearing.

It is important that your request include all the information that supports your right to a contested case hearing. Your hearing request must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.

- (3) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: “I request a contested case hearing.”
- (4) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group;
 - (B) the comments on the application submitted by the group that are the basis of the hearing request; and
 - (C) by name and physical address one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization’s purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.

Additionally, your request must demonstrate that you are an **“affected person.”** 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. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities.

Your request must raise disputed issues of fact that are relevant and material to the commission’s decision on this application that were raised **by you** during the public comment period. The request cannot be based solely on issues raised in comments that you have withdrawn.

To facilitate the commission’s determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director’s responses to **your** comments that you dispute; 2) the factual basis of the dispute; and 3) list any disputed issues of law.

How to Request Reconsideration of the Executive Director’s Decision.

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director’s decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director’s decision, and must explain why you believe the decision should be reconsidered.

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be **received by** the Chief Clerk's office no later than **30 calendar days** after the date of this letter. You may submit your request electronically at www.tceq.texas.gov/agency/decisions/cc/comments.html or by mail to the following address:

Laurie Gharis, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Processing of Requests.

Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the TCEQ's Alternative Dispute Resolution Program and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

How to Obtain Additional Information.

If you have any questions or need additional information about the procedures described in this letter, please call the Public Education Program, toll free, at 1-800-687-4040.

Sincerely,



Laurie Gharis
Chief Clerk

LG/mo

Enclosure

MAILING LIST
for
AIRW 2017-7, L.P.
TPDES permit No. WQ0015878001

FOR THE APPLICANT:

Matthew Hiles, Vice President
AIRW 2017-7, L.P.
2505 North State Highway 360
Suite 800
Grand Prairie, Texas 75050

Janet Sims, Project Manager
Perkins Engineering Consultants, Inc.
13740 North Highway 183
Suite L6
Austin, Texas 78750

INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

Ryan Vise, Director
Texas Commission on Environmental
Quality
External Relations Division
Public Education Program MC-108
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Austin, Texas 78711-3087

Bobby Salehi, Staff Attorney
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FOR PUBLIC INTEREST COUNSEL
via electronic mail:

Vic McWherter, Attorney
Texas Commission on Environmental
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Public Interest Counsel MC-103
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FOR THE CHIEF CLERK
via electronic mail:

Laurie Gharis, Chief Clerk
Texas Commission on Environmental
Quality
Office of Chief Clerk MC-105
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PATTERSON , BARBARA KAY
100 CAMBRIDGE CIR
WACO TX 76712-7561

PATTERSON , GLENN
3651 COUNTY ROAD 110
GEORGETOWN TX 78626-7440

WEBB , JIM C
2929 BELL GIN RD
GEORGETOWN TX 78626-2189

TCEQ PERMIT NO. WQ0015878001

APPLICATION BY	§	BEFORE THE
AIRW 2017-7 L.P.	§	TEXAS COMMISSION
FOR TPDES PERMIT NO.	§	ON
WQ0015878001	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the application by the AIRW 2017-7, L.P. (Applicant) for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015878001, and on the ED's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section (§) 55.156, before an application is approved, the ED prepares a response to all timely, relevant and material, or significant comments. This Response addresses all timely filed public comments received, whether or not withdrawn. The Office of the Chief Clerk received timely comments from Glenn Patterson, Barbara Kay Patterson, Jim C. Webb, and Patricia Erlinger Carls on behalf of the City of Georgetown. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at <http://www.tceq.texas.gov>.

BACKGROUND

Description of Facility

The Applicant applied for a new TPDES permit to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 200,000 gallons per day (gpd).

The Rockride Lane Water Resource Reclamation Facility will be located approximately 500 feet southeast of the intersection of Rockride Lane (County Road 110) and Westinghouse Road (County Road 111), in Williamson County, Texas 78626. The proposed AIRW 2017-7, L.P., Rockride Lane Water Resource Reclamation Facility will serve The Mansions of Georgetown III residential development.

Treatment units include aeration basins, a final clarifier, a cloth effluent filter, chemical injection for phosphorus removal, aerated sludge holding and thickening tank, and a chlorine contact chamber. The facility has not been constructed.

The draft permit authorizes a discharge of treated domestic wastewater at a daily average flow not to exceed 0.200 million gallons per day (MGD).

The effluent limitations in the draft permit, based on a 30-day average, are 7 mg/L five-day carbonaceous biochemical oxygen demand (CBOD₅), 10 mg/L total suspended solids (TSS), 2 mg/L ammonia-nitrogen (NH₃-N), 0.5 mg/L total phosphorus, 126 CFU or MPN of *E. coli* per 100 ml and 4.0 mg/L minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/L and shall not exceed a chlorine residual of 4.0 mg/L after a detention time of at least 20 minutes based on peak flow.

The treated effluent will be discharged via pipe, thence through a culvert, thence to an unnamed tributary, thence to Mankins Branch, thence the San Gabriel/North Fork San Gabriel River in Segment No. 1248 of the Brazos River Basin. The unclassified receiving water uses are limited aquatic life use for the unnamed tributary and Mankins Branch (intermittent with perennial pools), and high aquatic life use for Mankins Branch (perennial). The designated uses for Segment No. 1248 are primary contact recreation, public water supply, aquifer protection, and high aquatic life use.

The effluent limitations in the draft permit will maintain and protect the existing instream uses.

In accordance with 30 Texas Administrative Code Section 307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards (June 2010)*, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Mankins Branch (perennial), which has been identified as having high aquatic life uses. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

Segment No. 1248 is not currently listed on the State's inventory of impaired and threatened waters (2018 Clean Water Act Section 303(d) list). However, Mankins Branch is currently listed on the 2018 303(d) list. The Mankins Branch listing is specifically for elevated bacteria levels (recreation use) from the confluence with the San Gabriel River upstream to the intersection of County Road 105 and County Road 104 in Williamson County (Assessment Unit 1248C_01).

The discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic-dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS's) biological opinion on the State of Texas authorization of the TPDES (September 14, 1998; October 21, 1998, update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic-dependent species occurring in watersheds of critical concern or high priority as listed

in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species.

Procedural Background

TCEQ received the application for a new permit on April 6, 2020, and declared it administratively complete on June 19, 2020. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in English on June 28, 2020, in the *Williamson County Sun* and in Spanish on June 25, 2020, in *El Mundo Newspaper*. The application was determined technically complete on October 26, 2020. The Applicant published the Combined NORI and Notice of Application and Preliminary Decision (NAPD) in English on December 13, 2020, in the *Williamson County Sun* and in Spanish on December 17, 2020, in *El Mundo Newspaper*. The comment period for this application closed on January 19, 2021. This application was filed on or after February 12, 2019; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill (HB) 801, 76th Legislature (1999), and Senate Bill (SB) 709, 84th Legislature (2015), both implemented by the Commission in its rules in 30 TAC Chapter 39, 50, and 55. The Texas Legislature enacted Senate Bill 709, effective September 1, 2015, amending the requirements for comments and contested case hearings. This application is subject to those changes in the law.

Access to Rules, Laws and Records

Please consult the following websites to access the rules and regulations applicable to this permit:

- for the Secretary of State website: <http://www.sos.state.tx.us>;

- for TCEQ rules in Title 30 of the Texas Administrative Code (TAC): www.sos.state.tx.us/tac/ (select “View the current Texas Administrative Code” on the right, then “Title 30 Environmental Quality”);
- for Texas statutes: <http://www.statutes.legis.state.tx.us/>;
- to access the TCEQ website: www.tceq.texas.gov (for downloadable rules in Adobe PDF format, select “Rules” then “Download TCEQ Rules”);
- for Federal rules in Title 40 of the Code of Federal Regulations: www.ecfr.gov;
- and
- for Federal environmental laws: <http://www2.epa.gov/laws-regulations>.

Commission records for this application and draft permit are available for viewing and copying at the TCEQ’s main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of the Chief Clerk), until final action is taken. The draft permit, the Statement of Basis/Technical Summary, and the ED’s Preliminary Decision, are available for viewing and copying at Georgetown Public Library, Reference Desk, 402 West 8th Street, Georgetown, Texas.

COMMENTS AND RESPONSES

Comment 1:

Glenn Patterson, Barbara Patterson, and the City of Georgetown commented that the proposed facility does not comply with TCEQ’s regionalization policy set out by Texas Water Code § 26.003 and that there are existing City wastewater lines near the proposed facility and that the proposed facility is not needed. Glenn Patterson and Barbara Patterson commented that there are alternative options for connection near the proposed facility.

Response 1:

Texas Water Code § 26.081 enumerates the state’s regionalization policy. Section 26.081 states that the policy should “encourage and promote the development

and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.” In furtherance of that policy TWC § 26.0282 authorizes the TCEQ, when considering the issuance of a permit to discharge waste, to deny or alter the terms and conditions of a proposed permit based on need and the availability of existing or proposed area-wide or regional waste collection, treatment, and disposal systems.

Domestic Technical Report 1.1 of the application requires information concerning regionalization of wastewater treatment plants. Applicants requesting a new permit or certain major amendments are required to review a three-mile area surrounding the proposed facility to determine if there is a wastewater treatment plant or sewer collection lines within the area that the permittee can utilize. Applicants are required to contact those facilities to inquire if they currently have the capacity or are willing to expand to accept the volume of wastewater proposed. If an existing wastewater facility does have the capacity and is willing to accept the proposed wastewater, the applicant must demonstrate that it is not feasible to connect to another permitted wastewater treatment facility or collection system located within three miles. Finally, applicants are required to provide copies of all correspondence with the owners of existing plants within three miles of the proposed plant regarding regionalization with their system.

The applicant has demonstrated that connecting to an existing wastewater collection system would be cost prohibitive compared to the proposed facility.

Comment 2:

Glenn Patterson comments that there is a dry weather creek that divides his ranch that he and livestock traverse. He expressed concern that the discharge up to

200,000 gallons of treated sewage per day through the dry creek will make it wet with treated sewage year-round, which will create environmental and access issues for both his ranch and the livestock.

Response 2:

The TCEQ has a statutory responsibility to protect water quality in the State of Texas and to authorize TPDES permits under Texas Water Code (TWC) Chapter 26, and regulatory authority under 30 TAC Chapters 305, 307 and 309, including specific rules regarding wastewater treatment systems under 30 TAC Chapters 217 and 309. The proposed draft permit was developed in accordance with the Texas Surface Water Quality Standards to be protective of water quality, provided that the Applicant operates and maintains the proposed facility according to TCEQ rules and the proposed permit's requirements.

The TCEQ was given the authority to issue TPDES permits for the discharge of waste or pollutant into or adjacent to water in the state. The draft permit does not authorize any injury to persons or property or an invasion of other property rights, or limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

As specified in the Texas Surface Water Quality Standards (TSWQS), water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, and domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. Water in the state must also be maintained to preclude adverse toxic effects on human health resulting

from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three.

Discharges of the treated effluent from the proposed Rockride Lane Water Resource Reclamation Facility will be via pipe, thence through a culvert, thence to an unnamed tributary, thence to Mankins Branch, thence the San Gabriel/North Fork San Gabriel River in Segment No. 1248 of the Brazos River Basin. The unclassified receiving water uses are limited aquatic life use for the unnamed tributary and Mankins Branch (intermittent with perennial pools), and high aquatic life use for Mankins Branch (perennial).

The draft permit includes provisions to ensure that the TSWQS will be maintained. Conventional domestic sewage does not typically contain toxic compounds in measurable quantities that might result in toxic effects in the receiving waterbodies, unless there are significant industrial users contributing to the waste stream. Additionally, more stringent effluent limitations have been placed in the draft permit, based on the requirements of the Colorado River Watershed Protection rules located in 30 TAC 311, Subchapter E.

In accordance with 30 Texas Administrative Code Section 307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards (June 2010)*, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Mankins Branch (perennial), which has been identified as having high aquatic life uses. Existing uses will be maintained and protected.

Comment 4:

Glenn Patterson commented that the proposed TPDES permit will circumvent the City of Georgetown's UDC code.

Response 4:

The TCEQ does not have jurisdiction or authority to speak on issues concerning the City of Georgetown's UDC code.

Comment 5:

Glenn Patterson commented that there are two livestock ponds that he keeps stocked with fish to control algae growth, create a healthy drinking source for the cattle, and used for fishing and recreation.

Response 5:

As specified in the Texas Surface Water Quality Standards (TSWQS), water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, and domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. Water in the state must also be maintained to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three. The TCEQ issues permits that describe the conditions under which the wastewater facility must operate. All facilities must be designed, operated, and maintained consistent with applicable TCEQ rules. These provisions require that a facility is properly operated and maintained at all times.

Phosphorus is a key nutrient necessary for algae growth and is often in limited supply in freshwater systems. By restricting the amount of phosphorus in the treated wastewater, the likelihood of the discharge stimulating excessive growth of algae or other aquatic vegetation is reduced significantly. To ensure the effluent from the

Rockride Lane Water Resource Reclamation Facility will not cause an excessive accumulation of algae, the Executive Director performed a nutrient screening which indicated that because of the high clarity of the water column, lack of shade along the banks, and minimal dilution, a total phosphorus limit is needed in the draft permit. The Executive Director included a total phosphorus limit of 0.5 mg/L to preclude the excessive accumulation of algae.

Comment 6:

Barbara Kay Patterson commented that this proposed plant would discharge treated sewage through a normally dry creek and that the creek leads to two tanks used to furnish clean water to cattle, for fishing and recreation for their family.

Response 6:

The draft permit was developed in accordance with the Texas Surface Water Quality Standards (TSWQA) located in 30 TAC Chapter 307 which designates criteria for the protection of aquatic life and human health and the environment, provided the Applicant operates and maintains the facility according to TCEQ rules and the requirements in the draft permit. Water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, and domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. TSWQS states that “surface waters will not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life.” 30 TAC § 307.4(d). As part of the permit application process, TCEQ must determine the uses of the receiving water and set effluent limits that are protective of those uses. The ED’s staff developed the effluent limitations in the draft permit to maintain and protect existing instream uses. The Executive Director determined that these uses should be protected if the facility is

operated and maintained as required by the proposed permit and regulations. This protection includes downstream ponds.

Comment 7:

Jimmy C. Webb commented that he opposes the proposed permit. Mr. Webb raised water quality concerns for the creek and impacts on fish and cattle that depend on his pond water. Additionally, he raised concerns about his property value and the use and enjoyment of his property as fishing will be impacted. Finally, he is concerned with increased water flow resulting in erosion and making it difficult for him to access his property when he needs to cross the creek.

Response 7:

The TCEQ has statutory responsibility to protect water quality in the State of Texas and to authorize TPDES permits under Texas Water Code (TWC) Chapter 26, and regulatory authority under 30 TAC Chapters 305, 307 and 309, including specific rules regarding wastewater treatment systems under 30 TAC Chapters 217 and 309. The proposed draft permit was developed in accordance with the Texas Surface Water Quality Standards to be protective of water quality, provided that the Applicant operates and maintains the proposed facility according to TCEQ rules and the proposed permit's requirements.

The TCEQ was given the authority to issue TPDES permits for the discharge of waste or pollutant into or adjacent to water in the state. The draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

As specified in the Texas Surface Water Quality Standards (TSWQS), water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, and domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. Water in the state must also be maintained to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three. Therefore, there should be no impact to cattle or fish if the applicant complies with the draft permit.

The TCEQ does not have jurisdiction to address erosion and flooding issues and property values and the possibility of reduced grass grazing area for the cattle are not a consideration in the wastewater permitting process. The Applicant is required to comply with all the numeric and narrative effluent limitations and other conditions in the proposed permit at all times, including during flooding conditions.

Comment 8:

The City of Georgetown is concerned that there are three ponds downstream of the proposed discharge location. The City is concerned with water quality in those ponds stimulating algae growth and other unsanitary or unsafe water quality conditions in the ponds and the receiving watercourses.

Response 8:

Phosphorus is a key nutrient necessary for algae growth and is often in limited supply in freshwater systems. By restricting the amount of phosphorus in the treated wastewater, the likelihood of the discharge stimulating excessive growth of algae or other aquatic vegetation is reduced significantly. To ensure the effluent from the Rockride Lane Water Resource Reclamation Facility will not cause an excessive accumulation of algae, the Executive Director performed a nutrient screening which

indicated that because of the high clarity of the water column, lack of shade along the banks, and minimal dilution, a total phosphorus limit is needed in the draft permit. The Executive Director included a total phosphorus limit of 0.5 mg/L to preclude the excessive accumulation of algae.

As specified in the Texas Surface Water Quality Standards (TSWQS), water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, and domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. Water in the state must also be maintained to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three.

Comment 9:

The City of Georgetown expressed concern that the discharge route is within the City's extraterritorial jurisdiction and its City limits. In particular, because the discharge would be into a creek that runs through the City, the City is concerned about the quality of water in the creek and the health and safety of its citizens.

Response 9:

The TCEQ has a statutory responsibility to protect water quality in the State of Texas and to authorize TPDES permits under Texas Water Code (TWC) Chapter 26, and regulatory authority under 30 TAC Chapters 305, 307 and 309, including specific rules regarding wastewater treatment systems under 30 TAC Chapters 217 and 309. The proposed draft permit was developed in accordance with the Texas Surface Water Quality Standards to be protective of water quality, provided that the Applicant operates and maintains the proposed facility according to TCEQ rules and the proposed permit's requirements.

The TCEQ was given the authority to issue TPDES permits for the discharge of waste or pollutant into or adjacent to water in the state. The draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

The Executive Director's review of an application for a TPDES permit focuses on controlling the discharge of pollutants into water in the state, which includes both navigable and non-navigable water bodies. As specified in the Texas Surface Water Quality Standards (TSWQS), water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, and domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. Water in the state must also be maintained to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three.

In accordance with 30 Texas Administrative Code Section 307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards (June 2010)*, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Mankins Branch (perennial), which has been identified as having high aquatic life uses. Existing uses will be maintained and protected.

The draft permit includes provisions to ensure that the TSWQS will be maintained. Conventional domestic sewage does not typically contain toxic compounds in measurable quantities that might result in toxic effects in the receiving waterbodies, unless there are significant industrial users contributing to the waste stream. Additionally, more stringent effluent limitations have been placed in the draft permit, based on the requirements of the Colorado River Watershed Protection rules located in 30 TAC Chapter 311, Subchapter E.

Comment 10:

The City of Georgetown expresses its concerns about potential noise, odors, and discharged solids affecting other residents and businesses in the area.

Response 10:

The TCEQ does not have the authority to address noise as part of the wastewater permitting process. TWC Chapter 26 and applicable wastewater regulations do not authorize the TCEQ to consider issues such as noise.

However, the permit does not limit the ability of an individual to seek legal remedies against the Applicant regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

All wastewater treatment facilities have the potential to generate odors. To control and abate odors the TCEQ rules require domestic WWTPs to meet buffer zone requirements for the abatement and control of nuisance odor according to 30 TAC § 309.13(e), which provides three options for applicants to satisfy the nuisance odor abatement and control requirements. the Applicant can comply with the rule by: 1) ownership of the buffer zone area; 2) restrictive easement from the adjacent property

owners for any part of the buffer zone not owned by the Applicant; or 3) providing nuisance odor control.

According to its application, the Applicant intends to comply with the requirement to abate and control nuisance of odor by locating the treatment units at least 150 feet from the nearest property line. This requirement is incorporated in the draft permit. Therefore, nuisance odor is not expected to occur as a result of the permitted activities at the facility if the permittee operates the facility in compliance with TCEQ's rules and the terms and conditions of the draft permit. The limits in the draft permit for total discharged solids meets the rule requirements for this type of facility according to 30 TAC § 309.4. The provisions in the permit are designed to help prevent unauthorized discharges of solids. If an unauthorized discharge occurs, the Applicant will be required to report it to the TCEQ within 24 hours. Finally, the Applicant is subject to potential enforcement action for failure to comply with TCEQ rules or the permit.

Comment 11:

The City expressed its concerns with the Applicant's technical, managerial, and financial capabilities to own and operate this facility over the long term.

Response 11:

The draft permit requires that the permittee shall employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration according to the requirements of 30 TAC Chapter 30, Occupational Licenses and Registrations, and in particular 30 TAC Chapter 30, Subchapter J, Wastewater Operators and Operations Companies.

The TCEQ Water Quality Standards and Implementation team has determined that the discharge route will be from the outfall, where the discharge leaves the proposed AIRW 2017-7, L.P. property line, and enters a pipe, thence through a culvert, thence to an unnamed tributary, thence to Mankins Branch, thence the San Gabriel/North Fork San Gabriel River. The method of treatment will be via an activated sludge with nitrification process plant operated in the conventional mode. Treatment units will include aeration basins, a final clarifier, a cloth effluent filter, chemical injection for phosphorus removal, aerated sludge holding and thickening tank, and a chlorine contact chamber. The method of disposal of treated effluent is based on the statutory provisions under TWC Chapter 26 and the regulatory provisions under 30 TAC Chapters 217, 305, 307 and 309.

The proposed permit requires the Applicant to submit a summary transmittal letter in accordance with the requirements in 30 TAC § 217.6(d) prior to construction of the facility. If requested by the Wastewater Permitting Section, the permittee shall submit plans and specifications and a final engineering design report which comply with 30 TAC Chapter 217, relating to “Design Criteria for Domestic Wastewater Systems.” The permittee shall clearly show how the treatment system will meet the permitted effluent limitations required on Page 2 of the draft permit. The Executive Director’s staff will ensure that the plant design can adequately treat the domestic wastewater in accordance with the effluent limitations in the proposed permit during the review of the plans and specifications for this facility.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENTS

No changes to the draft permit have been made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Toby Baker, Executive Director

Robert Martinez, Deputy Director
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 August 6, 2021, the “Executive Director’s Response to Public Comment” for Permit No. WQ0015878001 was filed with the Texas Commission on Environmental Quality’s Office of the Chief Clerk.



Bobby Salehi, Staff Attorney
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