

Mehgan Taack

From: PUBCOMMENT-OCC
Sent: Monday, December 20, 2021 10:57 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0015917001
Attachments: 2021.12.17 CCMA Contested Case Hearing Request re_ Proposed TPDES Permit No. WQ00159170012.pdf

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From: mchambers@lglawfirm.com <mchambers@lglawfirm.com>
Sent: Friday, December 17, 2021 3:57 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0015917001

REGULATED ENTY NAME CLEARWATER CREEK WWTP

RN NUMBER: RN111093126

PERMIT NUMBER: WQ0015917001

DOCKET NUMBER:

COUNTY: BEXAR

PRINCIPAL NAME: GREEN VALLEY SPECIAL UTILIITY DISTRICT

CN NUMBER: CN600684294

FROM

NAME: Maris Chambers

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COMMENTS: Please find attached the Cibolo Creek Municipal Authority's Request for Contested Case Hearing and/or Request for Reconsideration of the Executive Director's Decision on Application for Proposed TPDES Permit No. WQ0015917001.

Ms. Chambers' Direct Line: (512) 322-5804
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December 17, 2021

Ms. Laurie Gharis, MC-105
Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

VIA ELECTRONIC FILING

Re: Request for Contested Case Hearing and/or Request for Reconsideration of the Executive Director's Decision on Application for Proposed TPDES Permit No. WQ0015917001 (EPA I.D. No. TX0140546)
Applicant: Green Valley Special Utility District (CN600684294)
Site Name: Clearwater Creek Wastewater Treatment Plant (RN111093126)

Dear Ms. Gharis:

My client, the Cibolo Creek Municipal Authority ("**CCMA**"), hereby requests a contested case hearing and/or reconsideration of the Executive Director's decision regarding the above-referenced application ("**Application**") filed by Green Valley Special Utility District ("**GVSUD**") for a new Texas Pollutant Discharge Elimination System ("**TPDES**") permit and the associated draft TPDES Permit No. WQ0015917001 ("**Draft Permit**").

I. BACKGROUND

A. Description of Facility

In its Application, GVSUD requests authorization from the Texas Commission on Environmental Quality ("**TCEQ**") to discharge treated domestic wastewater at a daily average flow not to exceed 400,000 gallons per day ("**GPD**") at the proposed Clearwater Creek Wastewater Treatment Plant (the "**CCWWTP**"). The Draft Permit includes an Interim I phase with a daily average flow not to exceed 0.10 million gallons per day ("**MGD**"), an Interim II phase with a daily average flow not to exceed 0.20 MGD, and a Final phase with a daily average flow not to exceed 0.40 MGD. The CCWWTP is to be located at 4060 Stapper Road, Saint Hedwig, Bexar County, Texas 78152, and is intended to serve areas located in the extraterritorial jurisdiction ("**ETJ**") of the City of San Antonio and other outlying areas of Bexar County. If the Draft Permit is issued, the CCWWTP will be an activated sludge process plant operated in the extended aeration mode.

The proposed discharge route for the treated wastewater is from the site of the CCWWTP to Woman Hollering Creek (also known as Womans Hollow Creek),¹ thence to Martinez Creek in Segment No. 1902A of the San Antonio River Basin, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. Woman Hollering Creek is characterized by the TCEQ as an unclassified intermittent stream with perennial pools and presumed to have a limited aquatic life use and corresponding dissolved oxygen criteria. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 Texas Administrative Code (“TAC”) § 307.10) for Classified Segment No. 1902 are primary contact recreation, high aquatic life use, and 5.0 mg/L dissolved oxygen. Classified Segment Nos. 1902 and 1902A are currently listed on the 2020 Texas Integrated Report – Texas 303(d) List of impaired and threatened waters (the “303(d) List”) for bacteria in the water.

B. Procedural History

TCEQ received the Application on August 31, 2020, and the Executive Director (“ED”) declared it administratively complete on October 30, 2020. On November 13, 2020, GVSUD published the Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (“NORI”) in English in the *San Antonio Express-News* and the *Austin American-Statesman*. Then, on November 25, 2020, GVSUD published the NORI in Spanish in *Conexión*. An amended NORI was issued on April 30, 2021, revising the discharge route description and street address for the proposed CCWWTP and correcting the address for public viewing and copying of the Application. GVSUD published the amended NORI in English in the *San Antonio Express-News* and in Spanish in *Conexión* on May 12, 2021.

The Notice of Application and Preliminary Decision (“NAPD”), indicating that the ED had completed the technical review of the Application and prepared the Draft Permit, was issued on June 17, 2021. On June 30, 2021, GVSUD published the NAPD in English in the *San Antonio Express-News* and in Spanish in *Conexión*. Next, the ED issued a Notice of Public Meeting on August 3, 2021, which was published in the *San Antonio Express-News* on August 5, 2021. Pursuant to 30 TAC § 55.152(b), because such public meeting was held on September 14, 2021, the deadline to provide public comment on the Application and Draft Permit closed at the close of that meeting. CCMA timely filed public comments on July 30, 2021, and also participated in the informal discussion and formal comment phases of the September 14, 2021 public meeting. The ED filed his Response to Public Comment (“RTC”) on November 15, 2021, and notice of the ED’s final decision that the Application meets the requirements of applicable law was mailed on November 18, 2021. Therefore, this request is timely filed.

II. REQUEST FOR CONTESTED CASE HEARING

CCMA requests a contested case hearing based on the following relevant and material disputed issues of fact, all of which were raised by CCMA during the public comment period. In

¹ As demonstrated by the screenshot from TCEQ’s Location Mapper tool, included in the Public Comments, Request for Public Meeting, and Hearing Request timely filed by CCMA on July 30, 2021, which shows, according to the NAPD, “the exact location” of the CCWWTP, the correct name of the proposed receiving water is Woman Hollering Creek, not Womans Hollow Creek, as referred to in the NORI, Amended NORI, NAPD, and Application. As such, Woman Hollering Creek will be used throughout the remainder of this request.

support thereof, the Public Comments, Request for Public Meeting, and Hearing Request timely filed by CCMA on July 30, 2021 (the “*Public Comments*”), attached hereto as Attachment A, are reasserted and incorporated herein for all purposes.

A. Legal Standards and Requirements for Hearing Requests

In order to be granted, a contested case hearing request must (1) be filed by an affected person, and (2) comply with the applicable form and filing requirements set forth in the Texas Water Code (“*TWC*”) and TAC. Specifically, TCEQ “may not grant a request for a contested case hearing unless [it] determines that the request was filed by an affected person as defined by Section 5.115” of the TWC.² Procedurally, a contested case hearing request must also satisfy the conditions prescribed by TCEQ rules adopted in Title 30 TAC, Chapter 55.³

1. CCMA is an affected person.

For the purpose of an administrative hearing involving a contested matter, TWC § 5.115 defines an “affected person” as one “who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the administrative hearing.”⁴ Section 5.115 further clarifies that “[a]n interest common to members of the general public does not qualify as a personal justiciable interest.”⁵ As directed by the TWC, TCEQ has adopted rules specifying factors to be considered in determining whether a person is an affected person entitled to standing in a contested case hearing.⁶ Those rules specify that “all factors shall be considered,” including, but not limited to, the following:

- whether the interest claimed is one protected by the law under which the application will be considered;
- distance restrictions or other limitations imposed by law on the affected interest;
- whether a reasonable relationship exists between the interest claimed and the activity regulated;
- likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
- likely impact of the regulated activity on use of the impacted natural resource by the person;
- whether the requestor timely submitted comments on the application that were not withdrawn; and

² Tex. Water Code § 5.556.

³ 30 Tex. Admin. Code §§ 55.101, .201.

⁴ Tex. Water Code § 5.115; *accord* 30 Tex. Admin. Code § 55.203.

⁵ *Id.*

⁶ Tex. Water Code § 5.115; 30 Tex. Admin. Code § 55.203.

- for governmental entities, their statutory authority over or interest in the issues relevant to the application.⁷

Considering the factors enumerated above, CCMA is an “affected person” as such term is defined by TWC § 5.115:

- CCMA has an interest protected by the law under which the Application should have been considered and statutory authority over and interest in the issues relevant to the Application because TCEQ’s rules in 30 TAC, Chapter 351, Subchapter F designate CCMA as “the governmental entity to develop a regional sewerage system in that area of Cibolo Creek Watershed, in the vicinity of the cities of Cibolo, Schertz, Universal City, Selma, Bracken, and Randolph Air Force Base” (the “*Regional Area*”),⁸ and mandate that “[a]ll future permits and amendments to existing permits pertaining to discharges of domestic wastewater effluent within the [Regional Area] shall be issued only to [CCMA].”⁹
- As noted in the ED’s RTC, “TCEQ uses the threshold of three miles to determine if there is another entity in the vicinity that is willing and able to accept wastewater from a proposed facility to meet the regionalization requirement in accordance with TWC § 26.0282,”¹⁰ and, here, the proposed CCWWTP would be located less than 2.5 miles from CCMA’s existing regional wastewater treatment plant, known as the South Regional Water Reclamation Plant, permitted under TPDES Permit No. WQ0015334001).
- Though it is located approximately five (5) miles from the proposed CCWWTP, CCMA and the City of Schertz (the “*City*”) jointly own and operate the Woman Hollering Wastewater Treatment Facility under TPDES Permit No. WQ0015371001.¹¹ This existing permit authorizes the discharge of waste to Woman Hollering Creek, thence to Martinez Creek in Segment No. 1902A of the San Antonio River Basin, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin—the very same discharge route proposed by the Draft Permit. Because Classified Segment Nos. 1902 and 1902A are already listed on the 303(d) List for bacteria in the water, the authorization of an additional, unnecessary discharge into these Segments could degrade water quality therein. Thus, the proposed discharge is likely to impact CCMA and the City’s interest in the continued use of the proposed discharge route. That interest is not only protected by the law under which the

⁷ 30 Tex. Admin. Code § 55.203(c); accord Tex. Water Code § 5.115.

⁸ 30 Tex. Admin. Code § 351.62.

⁹ *Id.* § 351.65.

¹⁰ RTC at 19.

¹¹ See Tex. Loc. Gov’t Code § 572.011 (authorizing “[t]wo or more public entities that have the authority to engage in the collection, transportation, treatment, or disposal of sewage [to] join together as cotenants or co-owners to plan, finance, acquire, construct, own, operate, or maintain facilities to: (1) achieve economies of scale in providing essential . . . sewage systems to the public; (2) promote the orderly economic development of this state; and (3) provide environmentally sound protection of this state’s future . . . wastewater needs”).

Application should have been considered, but a reasonable relationship also exists between the interest and the proposed discharge.

- CCMA timely submitted comments on the Application that were not withdrawn.

2. The form and filing of this hearing request comply with all applicable procedural requirements.

TCEQ's procedural requirements for contested case hearing requests are set forth in 30 TAC § 55.201. Pursuant to that Section, a contested case hearing request must be (1) submitted in writing, (2) timely filed "no later than 30 days after the chief clerk mails (or otherwise transmits) the [ED]'s decision and response to comments," and (3) based on an issue or issues raised in the requestor's own timely filed, and not later withdrawn, public comments.¹² A hearing request must also:

- (1) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request;
- (2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
- (4) list all relevant and material disputed issues of fact that were raised by the requestor during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director's responses to the requestor's comments that the requestor disputes, the factual basis of the dispute, and list any disputed issues of law; and
- (5) provide any other information specified in the public notice of application.¹³

Here, this request complies with TCEQ's form and filing requirements for contested case hearing requests. As demonstrated in Section I.B, above, this request is timely filed. As noted in the above introduction to this Section II and described in more detail, herein, this request is based on CCMA's timely-filed written Public Comments and other oral public comments submitted at the September 14, 2021 public meeting. The required contact information for CCMA, for purposes of this request, is as follows:

¹² 30 Tex. Admin. Code § 55.201; *accord* Tex. Water Code § 5.115.

¹³ 30 Tex. Admin. Code § 55.201.

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Section II.A.1, above, identifies CCMA's personal justiciable interest affected by the Application, including a number of brief, but specific, written statements explaining CCMA's proximity to the proposed CCWWTP and how and why CCMA will be adversely affected by the proposed CCWWTP in a manner not common to members of the general public. An explicit request for a contested case hearing is contained, among other places, in the introductory paragraph of this Section II. Finally, Section II.B, below, lists the relevant and material disputed issues of fact raised by CCMA during the public comment period and specifies those of the ED's responses to public comment that CCMA disputes. Thus, CCMA has satisfied all of the procedural requirements for contested case hearing requests.

B. Contested Issues

This hearing request is based upon the following relevant and material disputed issues of fact raised in CCMA's Public Comments and the ED's disputed responses thereto.

1. The Application's proposed service area overlaps with the TCEQ-designated regional wastewater treatment provider's regional area under 30 TAC, Chapter 351, Subchapter F.

The Application and Draft Permit violate TCEQ's regulations in 30 TAC, Chapter 351, Subchapter F because it authorizes GVSUD to install a sewerage system within CCMA's TCEQ-designated regional wastewater treatment services area. Under TCEQ's rules, CCMA "is designated the governmental entity to develop a regional sewerage system in [the Regional Area],"¹⁴ and TCEQ is required to issue "[a]ll future permits and amendments to existing permits pertaining to discharges of domestic wastewater effluent within the [Regional Area] . . . only to [CCMA]."¹⁵ According to the Application, however, the service area for the proposed CCWWTP includes territory within the Regional Area. Specifically, the Application expressly and clearly admits that a portion of such service area extends into the corporate limits of the City.¹⁶ Thus, absent a special condition in the Draft Permit prohibiting GVSUD from treating wastewater originating from within the Regional Area, the Application violates both 30 TAC §§ 351.62 and 351.65. Therefore, TCEQ cannot issue the Draft Permit as proposed, pertaining to the discharge of domestic wastewater effluent within the Regional Area, to an entity other than CCMA.

¹⁴ *Id.* § 351.62.

¹⁵ *Id.* § 351.65.

¹⁶ Application Technical Reports at 21.

Further, the ED “has determined that GVSUD has complied with the regionalization policy” and “was not required to provide information regarding regional providers in its [A]pplication.”¹⁷ CCMA disputes those determinations. According to the RTC, the ED made such determinations on the basis that he “disagrees that the service area’s location is the appropriate method for determining if Chapter 351 applies.”¹⁸ Rather, as stated in the RTC, the ED interprets 30 TAC, Chapter 351, Subchapter F as indicating that “the location of the discharge point . . . determines if 30 TAC Chapter 351 applies, not the location of the proposed service area.”¹⁹ In applying that interpretation, the ED draws a distinction between the Mid Cibolo Creek watershed and the Lower Cibolo Creek watershed. He concludes that all of the areas used to define the scope of the Regional Area “discharge to the watershed of Mid Cibolo Creek,” whereas Woman Hollering Creek, the proposed receiving water for the discharges contemplated by the Application, “is in the watershed of Lower Cibolo Creek.”²⁰ It is unclear what the ED means by his statement that all of the areas within the Regional Area discharge into the Mid Cibolo Creek watershed as he does not provide any indication of the boundaries of the areas he refers to or of the Regional Area as a whole. Without a clear understanding as to the limits of the Regional Area, there is no way to determine whether the ED’s assertion that “[a]ll these areas discharge to the watershed of Mid Cibolo Creek” is accurate.²¹ Further, there is no reason to believe that the Mid Cibolo Creek watershed should be distinguished from the Lower Cibolo Creek watershed, and the ED does not provide one in the RTC. On the contrary, TCEQ’s regulations define the Regional Area by reference to the “Cibolo Creek Watershed” as a whole.²² Therefore, because the ED expressly states that the proposed discharge is in the Lower Cibolo Creek watershed, which is a part of the overall Cibolo Creek watershed defined as the Regional Area, he has implicitly acknowledged that the proposed discharge is in the Regional Area. Consequently, 30 TAC § 351.65 precludes TCEQ from issuing the Draft Permit to GVSUD because it “pertain[s] to discharges of domestic wastewater effluent within the [Regional Area],” and permits pertaining to such discharges may only be issued to CCMA.²³

Thus, the ED’s interpretation and application of 30 TAC, Chapter 351, Subchapter F improperly narrows the scope of CCMA’s authority as a regional wastewater treatment services provider. Even if it didn’t, however, the ED’s determination that GVSUD was not required to provide regionalization information related to Chapter 351 would preclude TCEQ from making an informed decision as to whether the Application satisfies the state’s regionalization policy, as implemented by TCEQ in designating CCMA as the regional provider. In other words, although the ED disagrees that this Application interferes with CCMA’s TCEQ-given authority to be the sole wastewater treatment services provider in the Regional Area, it could not have the information necessary to make that determination if GVSUD truly were not required to provide information regarding regional providers in its Application. Furthermore, and as discussed in more detail below, there is no basis for concluding that “GVSUD has complied with the regionalization policy”

¹⁷ RTC at 19.

¹⁸ *Id.* at 20.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² 30 Tex. Admin. Code § 351.61 – 62.

²³ *Id.* § 351.65.

when the administrative record lacks any evidence from GVSUD to demonstrate whether CCMA, under the ED's stated standard, "is willing and able to accept [and treat] wastewater from [the] proposed [service area]."²⁴

2. The Application fails to comply with the state's regionalization policy.

The Application does not meet TCEQ's requirements for TPDES permit issuance because GVSUD failed to provide sufficient information regarding regionalization. Further, if issued, the Draft Permit would violate the state's policy "to encourage and promote the development and use of regional and areawide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state."²⁵ As noted by the ED, in order to implement this regionalization policy, the "Domestic Wastewater Permit Application Technical Report requires information concerning need and regionalization for wastewater treatment plants."²⁶ Specifically, because "TCEQ uses the threshold of three miles to determine if there is another entity in the vicinity that is willing and able to accept wastewater from a proposed facility," TPDES permit applicants "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 has sufficient existing capacity to accept the additional wastewater."²⁷ If so, the application must contain documentation demonstrating consent or denial by the owner of such facilities to provide the service proposed by the application.²⁸ Further, if such an entity consents to provide service, the application must include a cost analysis justifying the need for the proposed facility.²⁹ Given the intended location of the CCWWTP and its proposed service area, such documentation should have been included in the Application, but it was not. Rather, applying the standard enumerated in the RTC, the Application lacks any evidence to demonstrate whether two neighboring entities with "wastewater treatment plant[s] or sewer collection lines within the area [have] sufficient existing capacity to accept the additional wastewater."³⁰ Therefore, the Application does not meet the requirements for permit issuance, and CCMA disputes the ED's determination that "GVSUD has complied with the regionalization policy."³¹ Furthermore, because the proposed CCWWTP is to be located within less than 2.5 miles of CCMA's existing regional wastewater treatment plant, and portions of the proposed service area for the CCWWTP are located within the City's corporate limits and sewer CCN, the Draft Permit, if issued, would violate the state's regionalization policy.

²⁴ RTC at 19 – 20.

²⁵ Tex. Water Code § 26.003; *see also id.* §§ 26.081, 26.0282; Instructions at 64.

²⁶ RTC at 19.

²⁷ *Id.*

²⁸ Instructions at 64 – 65.

²⁹ *Id.*; Technical Reports at 21 – 22.

³⁰ RTC at 19.

³¹ *Id.*

3. The Application fails to sufficiently demonstrate a need for the authorized discharge amount of 0.4 million gallons per day.

CCMA contends that the Application does not demonstrate a need for the proposed CCWWTP and that the Draft Permit, if issued, should not include the Final phase authorizing a daily average flow not to exceed 0.40 MGD. As noted by the ED, TWC § 26.0282 of the TWC provides that “in considering the issuance, amendment, or renewal of a permit to discharge waste, [TCEQ] may deny or alter the terms and conditions of the proposed permit, amendment, or renewal based on consideration of need.”³² To facilitate this consideration by TCEQ, Section 1 of Domestic Technical Report 1.1 requires a TPDES permit applicant to “[p]rovide a detailed discussion regarding the need for any phase(s) not currently permitted.”³³ Instead of providing the requisite “detailed discussion,” the Application states only: “This requested permit is proposed to support planned residential and commercial growth in GVSUD’s sewer CCN area. The current contract for service equates to 950 EDUs of service or 232,750 gpm.”³⁴ First, CCMA contends that 232,750 gallons per minute is not an accurate indication of the treated effluent likely to be generated by 950 EDUs, or equivalent dwelling units because that amount of wastewater is equivalent to a wastewater discharge of 335.16 MGD. Second, with a total proposed discharge of 0.233 MGD, the Application seeks an excessive amount of treatment capacity. Though the ED contends that “GVSUD provided additional information to justify the ultimate flow and detailed information regarding the number of connections,” no such information was included in the administrative record available to CCMA.³⁵ Consequently, CCMA cannot confirm the veracity of that statement and contends that a factual dispute exists as to whether GVSUD has demonstrated a need for the Final phase of the Draft Permit. Third, to the extent that any of the 0.4 MGD of wastewater treatment capacity is to be utilized from raw wastewater generated within the Regional Area or the sewer CCN area of Schertz, then such capacity is not needed because GVSUD cannot treat that wastewater; rather, such wastewater can only be treated by CCMA and retail wastewater service within Schertz’s sewer CCN boundaries can only be provided by Schertz. Thus, the Application does not demonstrate a need for the proposed CCWWTP; and the Draft Permit, if issued, should not include the Final phase.

4. The Application raises concerns that the proposed discharge will not be in compliance with the TCEQ’s antidegradation policy.

As indicated above, the Application and Draft Permit authorize the discharge of treated domestic wastewater from the proposed CCWWTP to Woman Hollering Creek, thence to Martinez Creek in Segment No. 1902A of the San Antonio River Basin, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 TAC § 307.10) for Classified Segment No. 1902 are primary contact recreation 1, high aquatic life use, and 5.0 mg/L dissolved oxygen. Segment Nos. 1902 and 1902A are also currently listed on the 303(d) List for bacteria in the water. Furthermore, these Segments are already subject to the discharge

³² *Id.*; Tex. Water Code § 26.0282.

³³ Technical Reports at 38.

³⁴ *Id.* at 21.

³⁵ RTC at 21.

from the Woman Hollering Wastewater Treatment Facility jointly owned and operated by CCMA and the City. Thus, CCMA has concerns that the discharge into Segment Nos. 1902 and 1902A, as proposed by the Draft Permit, would impact water quality in that watercourse and disputes the ED's contention that "[t]he effluent limits in the [D]raft [P]ermit have been calculated to maintain and protect the existing instream uses."³⁶ Further, because Classified Segment Nos. 1902 and 1902A are already listed on the 303(d) List for bacteria in the water, the authorization of an additional, unnecessary discharge into these Segments could degrade water quality therein. That interest is not only protected by the law under which the Application should have been considered, but a reasonable relationship also exists between the interest and the proposed discharge.

5. GVSUD lacks sufficient legal title and/or rights to land to own and operate the proposed CCWWTP.

The Application fails to meet the requirements for permit issuance because GVSUD lacks sufficient legal title and/or rights to land to own and operate the proposed CCWWTP. As evidenced by the Bexar Appraisal District reports attached to and incorporated in CCMA's Public Comments, GVSUD does not own the land at the address provided for the proposed CCWWTP.³⁷ Having provided such documentation to TCEQ, CCMA contests the ED's reliance on the fact that, according to the Application, it does.³⁸ In support of CCMA's contention that GVSUD lacks sufficient rights to the land where the proposed CCWWTP is to be located, attached hereto and incorporated herein for all purposes as **Attachment B** are updated Bexar Appraisal District reports (the "*Appraisal District Reports*") showing that GVSUD has not obtained ownership of the property at 4060 Stapper Road in the time since CCMA filed its Public Comments on July 30, 2021. Furthermore, the disputed issue of whether GVSUD has sufficient rights to the land where the CCWWTP is to be located is relevant and material to the determination of whether GVSUD can, as indicated in its Application, satisfy buffer zone compliance requirements through ownership, which is relevant to whether the Application meets the requirements for permit issuance.

6. The Application does not contain a map clearly identifying the proposed service area for the CCWWTP.

CCMA disputes the ED's contention that "GVSUD was not required to describe the area it will serve or include a map of the service area."³⁹ On the contrary, the Instructions direct TPDES applicants like GVSUD to "[p]rovide a site drawing . . . that shows the boundaries of the treatment facility and the area served by the treatment facility,"⁴⁰ and the Technical Reports state that such applicants must "[p]rovide a site drawing for the facility that shows . . . [t]he boundaries of the area served by the treatment facility."⁴¹ However, it is uncertain whether GVSUD has provided the ED with such a map because the "Clearwater Creek WWTP Area Map" included in the

³⁶ *Id.* at 13.

³⁷ Public Comments at 7.

³⁸ RTC at 26 – 27.

³⁹ *Id.* at 21.

⁴⁰ Instructions at 51.

⁴¹ Technical Reports at 3.

Application as “Attachment B: Site Drawing” depicts only the “Clearwater Creek Sewershed” and does not indicate whether or how that sewershed relates to the proposed service area. Therefore, there is reason to doubt “the merits of the underlying application and supporting documentation in [TCEQ]’s administrative record” and “whether the [A]pplication meets the requirements for permit issuance.”⁴² Further, there is reason to question “the analysis and opinions of the [ED],” which may be based upon GVSUD’s incomplete Application.⁴³

7. The Application lacks the requisite Sewage Sludge Solids Management Plan.

CCMA disputes the ED’s contention that “[f]or all new permit applications, the applicant has the option to identify the name and permit number of the disposal site after the draft permit is issued” and that “GVSUD may wait until it needs to dispose of the sludge before determining the method of sludge disposal, contracting with a hauler and disposal site.”⁴⁴ On the contrary, the Instructions state:

If sewage sludge is transported to another wastewater treatment facility or permitted sludge processing facility for further treatment, provide a written statement or a copy of contractual agreements confirming that the identified wastewater treatment facility will accept the sludge. . . . If a statement or contract is not provided, authorization for disposal of sewage sludge will not be included in a permit. . . . Provide detailed information for each disposal site. The information must include the name of the site, the site’s permit or registration number, and the county in which each disposal site is located. . . . Provide the method used to transport the sludge to the disposal site. The hauler’s sludge transporter registration number must also be provided, if applicable. Check whether the sludge is hauled in liquid, semi-liquid, semi-solid, or solid form.⁴⁵

Further, none of the language in Domestic Technical Report 1.0, Section 9, which requires a TPDES permit applicant to select the anticipated sludge disposal method and provide sludge disposal site information, including the disposal site name, permit or registration number, and disposal site’s county, suggests such requirements are optional.⁴⁶ The ED’s RTC also fails to address CCMA’s timely submitted public comment indicating that GVSUD has also failed to comply with TCEQ’s requirement to provide a copy of the contractual agreements demonstrating that the receiving facility will accept the sludge.⁴⁷ Because it lacks the required sludge-related information and documentation, there is reason to doubt “the merits of the underlying application and supporting documentation in [TCEQ]’s administrative record” and “whether the [A]pplication meets the requirements for permit issuance.”⁴⁸ Further, there is reason to question “the analysis

⁴² 30 Tex. Admin. Code § 55.203.

⁴³ *Id.*

⁴⁴ RTC at 27.

⁴⁵ Instructions at 59 (emphasis in original).

⁴⁶ Application Technical Reports at 12 – 13.

⁴⁷ *Id.* at 13; Public Comments at 9.

⁴⁸ 30 Tex. Admin. Code § 55.203.

and opinions of the [ED],” which may be based upon an incomplete application.⁴⁹

8. The Application lacks the requisite original photographs.

Under the Instructions, TPDES permit applicants “must” submit “[a]t least one photograph of the new . . . treatment unit(s) location.”⁵⁰ This requirement is implemented by Section 2 of the Administrative Report, which requires “[a]t least one original photograph of the new . . . treatment unit location.”⁵¹ TCEQ regulations define a treatment unit as any “component of a wastewater treatment facility.”⁵² Therefore, CCMA disputes the ED’s contention that “GVSUD complied with this requirement.”⁵³ The Application and supporting documents made available to CCMA do not contain an original photograph of the proposed location for the CCWWTP. Consequently, there is reason to doubt “the merits of the underlying [A]pplication and supporting documentation in [TCEQ]’s administrative record,” and “whether the [A]pplication meets the requirements for permit issuance,”⁵⁴ which indicates that there is reason to question the “the analysis and opinions of the [ED]” to the extent they are based on an incomplete application.⁵⁵

9. The Application is inconsistent as to whether GVSUD has an approved pretreatment program under 40 CFR Part 403.

In Domestic Technical Report 1.0, GVSUD indicates it does not have an approved pretreatment program,⁵⁶ but GVSUD’s answer to the first question in Section D of Domestic Worksheet 6.0 indicates otherwise.⁵⁷ Nevertheless, the RTC provides that, “[a]ccording to the [ED]’s review[,] GVSUD’s [A]pplication does not contain any inconstant [sic] information regarding whether GVSUD has an approved pretreatment program.”⁵⁸ The RTC further states that “[d]uring technical review the [ED] confirmed that GVSUD does not require a pretreatment program.”⁵⁹ The Application and supporting documents made available to CCMA do not support that contention, and no such documentation was cited or produced by the ED. Without clarity as to whether GVSUD has an approved pretreatment program, it is impossible to determine whether it should have completed Domestic Worksheets 4.0, 5.0, or some portion thereof, in addition to completing Domestic Worksheet 6.0. As such, there is reason to doubt “the merits of the underlying application and supporting documentation in [TCEQ]’s administrative record” and “whether the [A]pplication meets the requirements for permit issuance.”⁶⁰ Consequently, there is reason to question “the analysis and opinions of the [ED],” which may be based upon an incomplete application.⁶¹

⁴⁹ *Id.*

⁵⁰ Instructions at 43.

⁵¹ Administrative Report at 14.

⁵² 30 Tex. Admin. Code § 217.2.

⁵³ RTC at 17.

⁵⁴ 30 Tex. Admin. Code § 55.203.

⁵⁵ *Id.*

⁵⁶ Technical Reports at 7.

⁵⁷ *Id.* at 69.

⁵⁸ RTC at 27.

⁵⁹ *Id.*

⁶⁰ 30 Tex. Admin. Code § 55.203.

⁶¹ *Id.*

10. The Application fails to provide proof of a sufficient buffer zone compliance method.

Section 3 of Domestic Administrative Report 1.1 requires a TPDES permit applicant to “indicate how the buffer zone requirements [of 30 TAC § 309.13(e)] will be met.”⁶² The Instructions further specify that “[t]he buffer zone, either 150 or 500 feet from the treatment units . . . can be met by ownership, legal restrictions preventing residential structures within the buffer zone, an approved nuisance odor prevention plan, or a variance to the buffer zone.”⁶³ GVSUD indicated it would satisfy the buffer zone requirements through ownership,⁶⁴ but as explained in more detail in Section II.B.5, above, GVSUD possesses no ownership interest nor legal right sufficient to comply with the requirements of 30 TAC § 309.13(e). As evidenced by the Appraisal District Reports included in **Attachment B**, GVSUD does not own the land at the address provided for the proposed CCWWTP. Specifically, the Instructions indicate that “[o]wnership means that the applicant owns all the land surrounding the treatment units that fall within the buffer zone,”⁶⁵ which GVSUD does not. Furthermore, 30 TAC § 309.13(e) provides that “wastewater treatment plant units may not be located closer than 150 feet to the nearest property line.” As shown on the maps included in the Application, GVSUD’s proposed 150-foot buffer zone is rectangular. That does not properly buffer a 150-foot radius around the proposed facility. In any case, the maps depict the buffer zone extending beyond the boundary of the proposed location for the CCWWTP. Having provided documentation demonstrating GVSUD lacks the ownership rights to select ownership as the method of buffer zone compliance, CCMA contests the ED’s reliance on the fact that, “[a]ccording to GVSUD[,] it will own the required buffer zone.”⁶⁶ As such, there is reason to doubt “the merits of the underlying application and supporting documentation in [TCEQ]’s administrative record” and “whether the [A]pplication meets the requirements for permit issuance.”⁶⁷ Further, there is reason to question “the analysis and opinions of the [ED],” which may be based upon an incomplete application.⁶⁸

11. Nuisance Odors.

In addition to the buffer zone issues described above, an additional, unneeded treatment and disposal facility, if not operated properly, may result in nuisance odors that will adversely affect the quality of life of nearby residents and the public. In accordance with 30 TAC § 309.13(e), the applicant must demonstrate that sufficient measures to prevent nuisance odors will be undertaken. This is recognized by the ED in the RTC, which states that “30 TAC § 309.13(e) requires domestic wastewater treatment facilities to meet buffer zone requirements for the abatement and control of nuisance odors.”⁶⁹ Nevertheless, the ED contends that “[b]ecause GVSUD owns the buffer zone, nuisance odor is not expected to occur as a result of the permitted activities at the [proposed CCWWTP].”⁷⁰ Again, the Application fails to demonstrate that

⁶² Administrative Report at 14.

⁶³ Instructions at 43.

⁶⁴ Administrative Report at 14

⁶⁵ Instructions at 43.

⁶⁶ RTC at 23.

⁶⁷ 30 Tex. Admin. Code § 55.203.

⁶⁸ *Id.*

⁶⁹ RTC at 23.

⁷⁰ *Id.* at 27.

GVSUD has met the buffer zone requirements, as explained in more detail in Sections II.B.5 and II.B.10, above, so it also fails to demonstrate that nuisance odors will be controlled. It is not in the public interest to issue a new discharge authorization that may result in nuisance odors when regionalized wastewater services are available, particularly when nearby schools are located within the three-mile radius of the proposed CCWWTP. This is especially true given that CCMA has submitted documentation calling into question GVSUD's ability to implement the buffer zone compliance method identified in the Application. As such, there is reason to doubt "the merits of the underlying application and supporting documentation in [TCEQ]'s administrative record," and "whether the [A]pplication meets the requirements for permit issuance,"⁷¹ meaning there is also reason to question the "the analysis and opinions of the [ED]."⁷²

Given the above-cited relevant and material disputed issues of fact and ED responses to CCMA's Public Comments, CCMA requests a contested case hearing concerning the Application and Draft Permit.

III. REQUEST FOR RECONSIDERATION

As noted above, CCMA requests that the ED reconsider its decision to grant the Application and issue the Draft Permit. In the alternative, CCMA requests that the ED reconsider the current terms of the Draft Permit and add a requirement in the "Other Conditions" Section stating that:

"Permittee shall not utilize this TPDES Permit in any manner that violates TCEQ's regionalization rules in 30 TAC, Chapter 351, Subchapter F, including, but not limited to, developing, operating, and/or maintaining a sewerage system in the regional area established under 30 TAC § 351.61."

Under TCEQ's rules, "[a] request for reconsideration . . . must be filed no later than 30 days after the chief clerk mails (or otherwise transmits) the executive director's decision and response to comments."⁷³ Unlike a contested case hearing request, which must be filed by an affected person, "[a]ny person, other than a state agency that is prohibited by law from contesting the issuance of a permit or license . . . may file a request for reconsideration of the [ED]'s decision."⁷⁴ Such a request "must be in writing" and filed "with the chief clerk within the [30-day] time" noted above.⁷⁵ Like a contested case hearing request, a request for reconsideration "should also contain the name, address, daytime telephone number, and, where possible, fax number of the person who files the request."⁷⁶ The request must also "expressly state that the person is requesting reconsideration of the [ED]'s decision, and give reasons why the decision should be reconsidered."

⁷¹ 30 Tex. Admin. Code § 55.203.

⁷² *Id.*

⁷³ *Id.* § 55.201(a).

⁷⁴ *Id.* § 55.201(e).

⁷⁵ *Id.*

⁷⁶ *Id.*

December 17, 2021

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This request complies with TCEQ's form and filing requirements for requests for reconsideration of the ED's decision. This request is timely filed. It includes CCMA's contact information and states that CCMA is requesting reconsideration of the ED's decision. Finally, CCMA incorporates the relevant and material disputed issues of fact and ED responses to CCMA's Public Comments, included in Section II.B, above, into this Section III as the reason why the ED's decision to grant the Application and issue the Draft Permit should be reconsidered. The proposed Other Condition above, if added, would recognize and memorialize that the CCWWTP cannot be used to develop a sewerage system within the CCMA Regional Area.

IV. CONCLUSION

CCMA appreciates TCEQ's consideration of this request, and for the foregoing reasons, respectfully requests that TCEQ either deny the Application or grant this request for a contested case hearing and/or reconsideration of the ED's decision regarding the Application and Draft Permit. Should you have any questions or concerns related hereto, please feel free to contact me using the information provided above.

Sincerely,



Maris M. Chambers

MMC/dsr
Enclosures

cc: Richard Braud, President, Board of Directors, Cibolo Creek Municipal Authority
Clint Ellis, General Manager, Cibolo Creek Municipal Authority

Attachment A

The "*Public Comments*"

Ms. Chambers' Direct Line: (512) 322-5804
Email: mchambers@lglawfirm.com

July 30, 2021

Ms. Laurie Gharis, MC-105
Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

**VIA ELECTRONIC FILING AND
FIRST CLASS MAIL**

Re: Public Comments, Request for Public Meeting, and Hearing Request
Application for Proposed TPDES Permit No. WQ0015917001
(EPA I.D. No. TX0140546)
Applicant: Green Valley Special Utility District (CN600684294)
Site Name: Clearwater Creek Wastewater Treatment Plant (RN111093126)

Dear Ms. Gharis:

Cibolo Creek Municipal Authority ("**CCMA**"), my client, hereby submits this letter to the Texas Commission on Environmental Quality ("**TCEQ**"), providing formal public comments and requesting a public meeting and contested case hearing regarding the above-referenced application ("**Application**") of Green Valley Special Utility District ("**GVSUD**") for a new Texas Pollutant Discharge Elimination System ("**TPDES**") permit, and the proposed draft permit for such Application ("**Draft Permit**"). These comments are timely filed.

I represent CCMA regarding the Application and Draft Permit. Please include me on the TCEQ's mailing list for all filings in the above-referenced Application. My mailing/contact information is as follows:

Ms. Maris M. Chambers
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
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Phone: (512) 322-5804
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I. BACKGROUND

In its Application, GVSUD requests authorization from the TCEQ to discharge treated domestic wastewater at a daily average flow not to exceed 400,000 gallons per day (“*GPD*”) at the proposed Clearwater Creek Wastewater Treatment Plant (the “*CCWWTP*”). The *CCWWTP* is to be located in Bexar County, Texas, and the proposed discharge route for the treated wastewater is from the plant site to Womans Hollow Creek,¹ thence to Martinez Creek, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 Texas Administrative Code (“*TAC*”) § 307.10) for Classified Segment No. 1902 are primary contact recreation, high aquatic life use, and 5.0 mg/L dissolved oxygen. Classified Segment No. 1902 is currently listed on the 2020 Texas Integrated Report – Texas 303(d) List of impaired and threatened waters (the “*303(d) List*”). The listings are for bacteria in the water from the confluence with the San Antonio River in Karnes County to a point 100 meters (110 yards) downstream of IH 10 in Bexar/Guadalupe County.

The Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (“*NORI*”) was issued on October 30, 2020 and published on November 13, 2020. An amended *NORI* was issued on April 30, 2021 and published on May 12, 2021. The Notice of Application and Preliminary Decision (“*NAPD*”) was issued on June 17, 2021 and published on June 30, 2021. Pursuant to 30 TAC § 55.152(a), the current deadline to file public comments regarding the Application and Draft Permit is July 30, 2021. To this end, presented below are *CCMA*’s timely filed public comments raising significant disputed issues of fact that are relevant and material to the TCEQ’s decision on the Application and are the basis for *CCMA*’s request for a public meeting, and contested case hearing, should the Application not be remanded back to technical review and/or denied.

CCMA requests that the TCEQ deny the Application because GVSUD has not provided all of the information required in TCEQ application forms TCEQ-10053 (06/25/2018) Municipal Wastewater Application Administrative Report (“*Administrative Report*”) and TCEQ-10054 (06/01/2017) Domestic Wastewater Permit Application, Technical Reports (“*Technical Reports*”). In addition, the Application and Draft Permit fail to: (1) meet regionalization requirements; (2) demonstrate a need for the Final phase of the Draft Permit; (3) satisfy water quality, antidegradation, and stream standard requirements; and (4) include other information and documentation required by TCEQ form TCEQ-10053ins (06/25/2018) Instructions for Completing the Domestic Wastewater Permit Application (“*Instructions*”).

II. PUBLIC COMMENTS

CCMA asserts that the Application and Draft Permit should be denied because the Application does not meet applicable statutory and regulatory requirements for a TPDES permit application, the Draft Permit fails to meet Texas Water Code (“*TWC*”), Chapter 26, and the

¹ As demonstrated by the screenshot from TCEQ’s Location Mapper tool, attached hereto and incorporated herein for all purposes as Attachment A, which shows, according to the *NAPD*, “the exact location” of the *CCWWTP*, the correct name of the proposed receiving water is Woman Hollering Creek, not Womans Hollow Creek, as referred to in the *NORI*, Amended *NORI*, *NAPD*, and Application.

TCEQ's regionalization requirements for wastewater treatment plants ("*WWTPs*"), and GVSUD has not demonstrated a need for the CCWWTP. CCMA further maintains that the Application and Draft Permit should not be granted because (i) they do not adequately protect against the CCWWTP's negative impacts on water quality, antidegradation, and stream standards; (ii) GVSUD has not secured ownership/possession of the real property interests necessary to properly construct and operate the CCWWTP; and (iii) the Application fails to include other required elements, such as a sufficient Sewage Sludge Solids Management Plan, map of the proposed service area, and the requisite original photograph of the proposed location for the CCWWTP. In addition, the Application and Draft Permit should be denied due to nuisance odors that will result from the permitting of the CCWWTP, especially given GVSUD's failure to satisfy all buffer zone requirements. Finally, the Application is incomplete given that GVSUD asserts that it has an approved pretreatment program.

A. A designated regional wastewater treatment provider is available to GVSUD under 30 TAC, Chapter 351, Subchapter F.

The Application and Draft Permit violate applicable regulatory requirements prohibiting GVSUD from providing wastewater treatment services within CCMA's TCEQ-designated regional wastewater service area. Under 30 TAC § 351.62, CCMA is "designated the governmental entity to develop a regional sewerage system in that area of Cibolo Creek Watershed, in the vicinity of the cities of Cibolo, **Schertz**, Universal City, Selma, Bracken, and Randolph Air Force Base." (Emphasis added). Further, 30 TAC § 351.65 reads as follows: "All future permits and amendments to existing permits pertaining to discharges of domestic wastewater effluent within the Cibolo Creek regional area **shall be issued only to [CCMA].**" (Emphasis added).

Although the Application does not contain any maps depicting the boundaries of the proposed service area of the CCWWTP, it does indicate that a portion of said service area is located within the corporate limits of the City of Schertz (the "*City*").² Because a significant portion of the City's corporate limits and extraterritorial jurisdiction are included within CCMA's service area—in addition to the fact that the City purchases wholesale wastewater service from CCMA and is named under 30 TAC § 351.62—CCMA is concerned that the Draft Permit authorizes GVSUD to provide service within the service area designated exclusively to CCMA. However, because GVSUD failed to provide a map of its proposed service area, CCMA cannot determine whether said service area overlaps with its own. Nevertheless, given the significant overlap of the City's corporate boundaries and CCMA's service area, CCMA believes it is more likely than not that GVSUD's proposed service area would infringe upon its own. Therefore, given the high likelihood that the Draft Permit authorizes the provision of service within CCMA's TCEQ-designated wastewater service area, the Application and Draft Permit very likely violate the TCEQ's regionalization regulations. Further, as discussed in more detail below, the contents of the Application and Draft Permit indicate that neither the Application nor its processing by TCEQ evaluated or assessed whether issuance of the Draft Permit would violate 30 TAC § 351.62 and/or 30 TAC § 351.65.

² Application Technical Reports at 21.

B. *The Application fails to comply with the State's regionalization policy.*

The TCEQ is required to implement the State's policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.³ In order to implement this regionalization policy, Section 1.B of the TCEQ's TPDES permit application form Domestic Technical Report 1.1 contains three questions related to the potential for regionalization of WWTPs, each tailored to address the question of whether existing nearby wastewater treatment facilities and/or collection systems could provide service to the service area proposed in the TPDES permit application.⁴ All three regionalization questions in Section 1.B are relevant to GVSUD's Application, and GVSUD has failed to complete the regionalization analysis and process in each instance. The TCEQ's issuance of the Draft Permit also demonstrates that this issue was not taken into consideration when it processed the Application.

For Section 1.B.1, the Instructions require non-city applicants to "indicate if any portion of the proposed service area is located in an incorporated city," and, if so, to "provide correspondence" demonstrating "consent to provide service or denial to provide service from the city."⁵ If the nearby city consents to provide service, the applicant must provide a cost analysis justifying the need for the proposed facility.⁶ The Application, received August 31, 2020, indicates that "City responses are pending,"⁷ but it is CCMA's understanding and belief that the City did respond to GVSUD. Therefore, because GVSUD never supplemented the Application to include the City's response(s), the TCEQ was rendered unable to take into consideration whether or not the City had the willingness and ability to provide service to the proposed service area of the CCWWTP under its wholesale agreement with CCMA. CCMA further understands and believes that, in its communications with GVSUD, the City requested that GVSUD clarify the location of the proposed service area, but GVSUD never provided such information. CCMA therefore contends that, based upon the Application, the processing of the Application, and the Draft Permit, the applicable regionalization analysis was never completed by GVSUD or taken into consideration by the TCEQ. Consequently, the Application and Draft Permit should be denied.

Similarly, Section 1.B.2 requires applicants to "[i]ndicate if any portion of the proposed service area is inside another utility's sewer Certificate of Convenience and Necessity [("CCN")] area."⁸ Here too, if the answer is yes, then the applicant must "provide justification and a cost analysis of expenditures that shows the cost of connecting to the CCN facilities versus the cost of the proposed facility or expansion."⁹ While GVSUD correctly indicated that a portion of the proposed service area is located within the City's corporate limits, it denies that said portion falls inside the City's sewer CCN service area.¹⁰ CCMA believes that this denial is incorrect. Again,

³ TWC § 26.081(a); *see also* TWC §§ 26.003, 26.0282; Instructions at 64.

⁴ Application Technical Reports at 21 – 22.

⁵ Instructions at 64.

⁶ *Id.*

⁷ Application Technical Reports at 21.

⁸ *Id.* at 22.

⁹ *Id.*

¹⁰ *Id.*

GVSUD failed to include the boundaries of the service area proposed to be served by the CCWWTP, as required by Domestic Technical Report 1.0. Rather, in its Application, GVSUD has only provided the “Clearwater Creek WWTP Area Map,” included in Attachment I, which depicts the “Clearwater Creek Sewershed” (the “*Sewershed Map*”). To the extent it is relevant to the proposed service area of the CCWWTP, attached hereto and incorporated herein for all purposes is **Attachment B**, which contains small and large scale maps of the City’s sewer CCN No. 20271. When compared to GVSUD’s Sewershed Map, it is clear that the sewershed depicted for the CCWWTP extends into the boundaries of the City’s sewer CCN. Significantly for CCMA, the overlapping areas of the City’s sewer CCN and the proposed sewershed are part of CCMA’s regional service area. In any case, given that it includes portions of the City’s sewer CCN service area, if GVSUD intends the CCWWTP to serve its entire sewershed, then GVSUD was required to justify the need for the CCWWTP based on a cost analysis included with the Application. It did not do so. Therefore, based upon the Application, the processing of the Application, and the Draft Permit, the potential overlap and applicable regionalization analysis was never taken into consideration by GVSUD or the TCEQ. Consequently, the Application and Draft Permit should be denied.

Finally, Section 1.B.3, concerns the existence of permitted domestic WWTPs or sanitary sewer collection systems located within a three-mile radius of the proposed wastewater treatment facility.¹¹ If such facilities exist, the applicant is, again, required to indicate, and provide supporting documentation, regarding any such neighboring utilities’ responses to mandatory correspondence from the applicant regarding wastewater service for the proposed service area.¹² Just as with Sections 1.B.1 and 1.B.2, if any of the nearby utilities consent to provide service, the applicant must provide a justification for the proposed facility and a comparison of the costs to construct it against those to connect to the applicable existing facility.¹³ While GVSUD properly disclosed the existence of nearby facilities, it indicated that no such facilities “have the capacity to accept or are willing to expand to accept the volume of wastewater proposed in [the Application].”¹⁴ As explained above, that is not accurate given the nature of the City’s communications with GVSUD, but that is also the case with regard to the communications between CCMA and GVSUD. Like the City, CCMA asked GVSUD to provide the location of the proposed service area, and it never received a direct, specific answer, obstructing the regionalization analysis. Thus, based upon the Application, the processing of the Application, and the Draft Permit, this applicable regionalization analysis was never taken into consideration. Consequently, the Application and Draft Permit should be denied.

C. The Application fails to sufficiently demonstrate need for the authorized discharge amount of 0.4 million gallons per day.

CCMA contends that the Application and Draft Permit should be denied because the Final Phase of the proposed CCWWTP is not needed. In conjunction with the TCEQ’s regionalization policy, Section 1 of Domestic Technical Report 1.1 requires a TPDES permit applicant to

¹¹ Instructions at 65; Application Technical Reports at 22.

¹² *Id.*

¹³ *Id.*

¹⁴ Application Technical Reports at 22.

“[p]rovide a detailed discussion regarding the need for any phase(s) not currently permitted.”¹⁵
The Instructions further clarify this requirement, stating:

Provide justification for the proposed flows . . . Provide an anticipated construction start date and operation schedule for each phase being proposed. If construction is dependent upon housing/commercial development, provide information from the developer. Provide information such as the size of the development (number of lots), the date construction on the development is scheduled to begin, and the anticipated growth rate of the development (number of houses per month or year). . . . If additional space is needed, submit the justification information as an attachment.

Attach population estimates and/or projections used to derive the flow estimates and anticipated growth rates for developments. Provide the source and basis upon which population figures were derived (census and/or other methodology). Also, provide population projections at the end of the design life of the treatment facility (usually 50+ years) and the source and basis upon which population figures were derived.¹⁶

Per the Instructions, “[f]ailure to provide sufficient justification for the continued need for the permit and/or each proposed phase may result in a recommendation for denial of the application or proposed phases.”¹⁷

Here, instead of providing the requisite “detailed discussion” outlined above, the Application merely states:

This requested permit is proposed to support planned residential and commercial growth in GVSUD’s sewer CCN area. GVSUD holds sewer CCN for proposed service area. The current contract for service equates to 950 EDUs of service or 232,750 gpm.¹⁸

First, CCMA contends that 232,750 gallons per minute is not an accurate indication of the treated effluent likely to be generated by 950 EDUs, or equivalent dwelling units. That amount of wastewater is equivalent to a wastewater discharge of 335.16 million gallons per day (“MGD”). Rather, CCMA asserts that GVSUD only intends to have a flow of 232,750 GPD (0.232750 MGD).

Second, with a total proposed discharge of 0.233 MGD, the Application seeks an excessive amount of treatment capacity. Thus, the Application does not demonstrate the need for the Draft Permit’s Final Phase authorization to discharge up to 0.4 MGD of treated effluent, and the Application and Draft Permit, as proposed, should be denied.

¹⁵ *Id.* at 21.

¹⁶ Instructions at 64.

¹⁷ *Id.*

¹⁸ Application Technical Reports at 21.

D. The Application raises concerns that the proposed discharge will not be in compliance with the TCEQ's antidegradation policy.

As indicated above, the Application and Draft Permit authorize the discharge of treated domestic wastewater from the proposed CCWWTP to Womans Hollow Creek, thence to Martinez Creek, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 TAC § 307.10) for Classified Segment No. 1902 are primary contact recreation 1, high aquatic life use, and 5.0 mg/L dissolved oxygen. Segment No. 1902 is also currently listed on the 303(d) List for bacteria in the water. Thus, CCMA has concerns that the discharge into Segment No. 1902, as proposed by the Draft Permit, would impact water quality in that watercourse.

Specifically, the Application and Draft Permit raise concerns with CCMA that the proposed discharge will neither be in compliance with the TCEQ's antidegradation policy nor maintain its current stream standard. Pursuant to 30 TAC § 307.5, the proposed discharge is subject to that antidegradation policy and implementation procedures under Tier 1 and Tier 2. Therefore, before approving the Application, the Commission must ensure that antidegradation will not occur as a result of the proposed discharge. Additionally, because Segment No. 1902 is an impaired water body on the TCEQ's 303(d) List, the proposed discharge may unnecessarily further downgrade the segment's water quality if statutory and regulatory requirements for antidegradation and stream standards are not met. Thus, due to these additional concerns, the Application and Draft Permit, as presented, should be denied.

Furthermore, the Application describes the unclassified Womans Hollow Creek as a "Wet Weather Creek,"¹⁹ despite containing information suggesting it may be intermittent or intermittent with perennial pools, stating that it is a "[s]low shallow running creek with perennial pools."²⁰ The Application also indicates that no perennial streams join the receiving water within three miles downstream of the discharge point.²¹ Martinez Creek, however, which is joined by Womans Hollow Creek less than three miles downstream of the discharge point, is included on the 303(d) List as Segment No. 1902A and described as a "[p]erennial stream."²² As such, the effluent set proposed in the Draft Permit may be based on an incorrect stream characterization and inconsistent with state and federal regulations.

E. GVSUD lacks sufficient legal title and/or rights to land to own and operate the proposed CCWWTP.

In addition to the foregoing bases for denying the Application, CCMA believes that the Application is deficient because it does not establish—and GVSUD cannot establish—that it holds sufficient legal rights to real property necessary to own and operate the CCWWTP. As evidenced by the Bexar Appraisal District reports attached hereto and incorporated herein for all purposes as

¹⁹ *Id.* at 30.

²⁰ *Id.* at 31.

²¹ *Id.* at 30.

²² Tex. Comm'n on Env'tl. Quality, *2020 Texas Integrated Report - Texas 303(d) List 88 (2020)*, www.tceq.texas.gov/waterquality/assessment/20twqi/20txir.

Attachment C, GVSUD does not own the land at the address provided for the proposed CCWWTP. However, pursuant to the Instructions:

If the owner of the land is not the same as the applicant, a long-term lease agreement for the life of the facility must be provided. A lease agreement can only be submitted if the facility is not a fixture of the land (e.g., above-ground package plant). . . . If the facility is considered a fixture of the land (e.g., ponds, units half-way in the ground), there are two options. The owner of the land can apply for the permit as a co-applicant or a copy of an executed deed recorded easement must be provided. A long-term lease agreement is not sufficient if the facility is considered a fixture of the land.

Both the long-term lease agreement and the deed recorded easement must give the facility owner sufficient rights to the land for the operation of the facility.”²³

In its Application, GVSUD incorrectly indicated that it owns the land where the CCWWTP will be located,²⁴ and the third page of TCEQ’s “Checklist for Admin Review of Municipal Application for Permit,” attached hereto and incorporated herein for all purposes as **Attachment D**, demonstrates that TCEQ relied upon that assertion in reviewing the Application. However, GVSUD is not the owner of the land where the proposed CCWWTP will be located, and it has not provided the TCEQ with any document demonstrating ownership or a long-term lease agreement. As such, GVSUD has failed to demonstrate that it possesses sufficient rights to the land for the operation of the proposed CCWWTP.

F. The Application contains a number of additional deficiencies.

After a careful review of the Application, CCMA believes that the Application has the following additional deficiencies, and that due to these deficiencies, the Application and Draft Permit should be denied:

1. **Service Area Map.** The Application does not contain a map clearly identifying the proposed service area for the CCWWTP. As noted briefly above, TCEQ requires GVSUD to provide a map showing the “boundaries of the area served by the treatment facility.”²⁵ However, it is uncertain whether GVSUD has provided such map. If the map provided by GVSUD in the Application to address this requirement is the Sewershed Map, showing the CCWWTP’s proposed sewershed, then GVSUD’s proposed service area boundaries are unclear; otherwise, the Application is lacking this important, required piece of information. In either case, the Sewershed Map does not indicate whether the CCWWTP is intended to serve the entire sewershed shown thereon, a portion of which extends into the City’s sewer CCN service area and the regional service area of CCMA.
2. **Sewage Sludge Solids Management Plan.** In Domestic Technical Report 1.0, Section 9, the TCEQ requires the applicant to select the anticipated sludge disposal method and

²³ Instructions at 33.

²⁴ Application Administrative Report at 8.

²⁵ *Id.* at 11.

provide sludge disposal site information, including the disposal site name, permit or registration number, and disposal site's county.²⁶ Section 9 also requires the applicant to indicate the method of transportation, hauler name, and hauler registration number.²⁷ In response, GVSUD did not provide most of this information, instead stating that the information is to be determined and admitting that neither a sludge disposal site nor hauler has been selected.²⁸ GVSUD also has not complied with the TCEQ's requirement to provide a copy of the contractual agreements demonstrating that the receiving facility will accept the sludge.²⁹ GVSUD's failure to identify a method for sludge disposal creates another deficiency in the Application and indicates that GVSUD's operation of the CCWWTP will not comply with federal and state requirements.

3. **Original Photographs.** The Application does not contain an original photograph of the proposed location for the CCWWTP, and thereby violates the Instructions, which indicate that applicants "must" submit "[a]t least one photograph of the new . . . treatment unit(s) location."³⁰
4. **Pretreatment Program.** The Application is inconsistent as to whether GVSUD has an approved pretreatment program under 40 CFR Part 403. In Domestic Technical Report 1.0, GVSUD indicates it does not have such a program, but GVSUD's answer to the first question in Section D of Domestic Worksheet 6.0 indicates otherwise. Without clarity as to whether GVSUD does have an approved pretreatment program, it is impossible to determine whether it should have completed Domestic Worksheets 4.0, 5.0, or some portion thereof, in addition to completing Domestic Worksheet 6.0.
5. **Buffer Zone.** Next, CCMA asserts that GVSUD's Application fails to provide proof of a sufficient buffer zone compliance method. Section 3 of Domestic Administrative Report 1.1 requires a TPDES permit applicant to indicate how the buffer zone requirements of 30 TAC § 309.13(e) will be met.³¹ The Instructions further specify that "[t]he buffer zone, either 150 or 500 feet from the treatment units . . . can be met by ownership, legal restrictions preventing residential structures within the buffer zone, an approved nuisance odor prevention plan, or a variance to the buffer zone."³² GVSUD indicated it would satisfy the buffer zone requirements through ownership,³³ but as explained in more detail above, GVSUD possesses no ownership interest, nor legal right sufficient to comply with the requirements of 30 TAC § 309.13(e). Specifically, the Instructions indicate that "[o]wnership means that the applicant owns all the land surrounding the treatment units that fall within the buffer zone,"³⁴ which GVSUD does not. Furthermore, 30 TAC § 309.13(e) provides that "wastewater treatment plant units may not be located closer than 150 feet to the nearest property line." As shown on the maps included in the Application,

²⁶ Application Technical Reports at 12 – 13.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* at 13.

³⁰ Instructions at 43.

³¹ Application Administrative Report at 14.

³² Instructions at 43.

³³ Application Administrative Report at 14

³⁴ Instructions at 43.

GVSUD's proposed 150-foot buffer zone is rectangular. That does not properly buffer a 150-foot radius around the proposed facility. In any case, the maps depict the buffer zone extending beyond the boundary of the CCWWTP property.

6. **Nuisance Odors.** In addition to the buffer zone issues described above, an additional, unneeded treatment and disposal facility, if not operated properly, may result in nuisance odors that will adversely affect the quality of life of nearby residents and the public. In accordance with 30 TAC § 309.13(e), the Applicant must demonstrate that sufficient measures to prevent nuisance odors will be undertaken. It is not in the public interest to issue a new discharge authorization that may result in nuisance odors when regionalized wastewater services are available, particularly when nearby schools are located within the three-mile radius of the proposed CCWWTP.

For the above-cited reasons, CCMA recommends that the TCEQ deny the Application and Draft Permit.

III. REQUEST FOR PUBLIC MEETING

CCMA requests a public meeting regarding the Application in light of the issues raised in this letter. The TCEQ's regulations in 30 TAC § 55.154(c) provide that "[a]t any time, the executive director or the Office of the Chief Clerk may hold public meetings," and that "[t]he executive director or the Office of the Chief Clerk shall hold a public meeting if: (1) the executive director determines that there is a substantial or significant degree of public interest in an application." Pursuant to 30 TAC § 55.150, this opportunity to request a public meeting under 30 TAC § 55.154(c) applies to applications for a new TPDES permit, such as the Application. Accordingly, CCMA, for the benefit of its citizens, has a substantial and significant degree of public interest in the Application. CCMA is willing to work with the TCEQ and GVSUD to determine a location for such a public meeting.

IV. REQUEST FOR CONTESTED CASE HEARING

CCMA also requests a contested case hearing regarding the Application, Draft Permit, and each and every issue raised in CCMA's public comments, and any and all supplements and/or amendments thereto. For the reasons set forth herein, CCMA is an affected person, as defined by 30 TAC § 55.203. CCMA has a personal justiciable interest to a legal right, duty, privilege, power, or economic interest that is not common to the general public that would be adversely affected should the Draft Permit be granted. In determining whether a person is an affected person, the TCEQ may consider, among other factors, (1) "whether the interest claimed is one protected by the law under which the application will be considered; (2) distance restrictions or other limitations imposed by law on the affected interest; (3) whether a reasonable relationship exists between the interest claimed and the activity regulated; . . . and (7) *for governmental entities, their statutory authority over or interest in the issues relevant to the application.*"³⁵ The TCEQ may also consider "the merits of the underlying application and supporting documentation . . . , including

³⁵ 30 TAC § 55.203(c) (emphasis added).

whether the application meets the requirements for permit issuance.”³⁶ All such considerations are applicable to CCMA, and, as noted in its public comments in Section II, above, CCMA has a particular interest in the issues relevant to the Application because the Application indicates that the proposed service area for the CCWWTP is very likely located within its TCEQ-designated regional wastewater service area.

V. CONCLUSION

CCMA reserves its right to supplement these public comments and this request for a contested case hearing as it learns more about the Application—additional information may become apparent through a public meeting (and thereby-extended comment period) regarding this Application. CCMA appreciates your consideration of these public comments and requests for a public meeting and contested case hearing.

Thank you for your consideration of this important matter. If you or your staff have any questions regarding this matter, please contact me at your convenience.

Sincerely,



Maris M. Chambers

MMC/dsr
Enclosures

cc: Kenneth Greenwald, President, CCMA
Clint Ellis, General Manager, CCMA

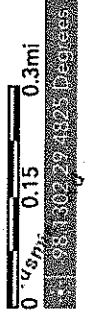
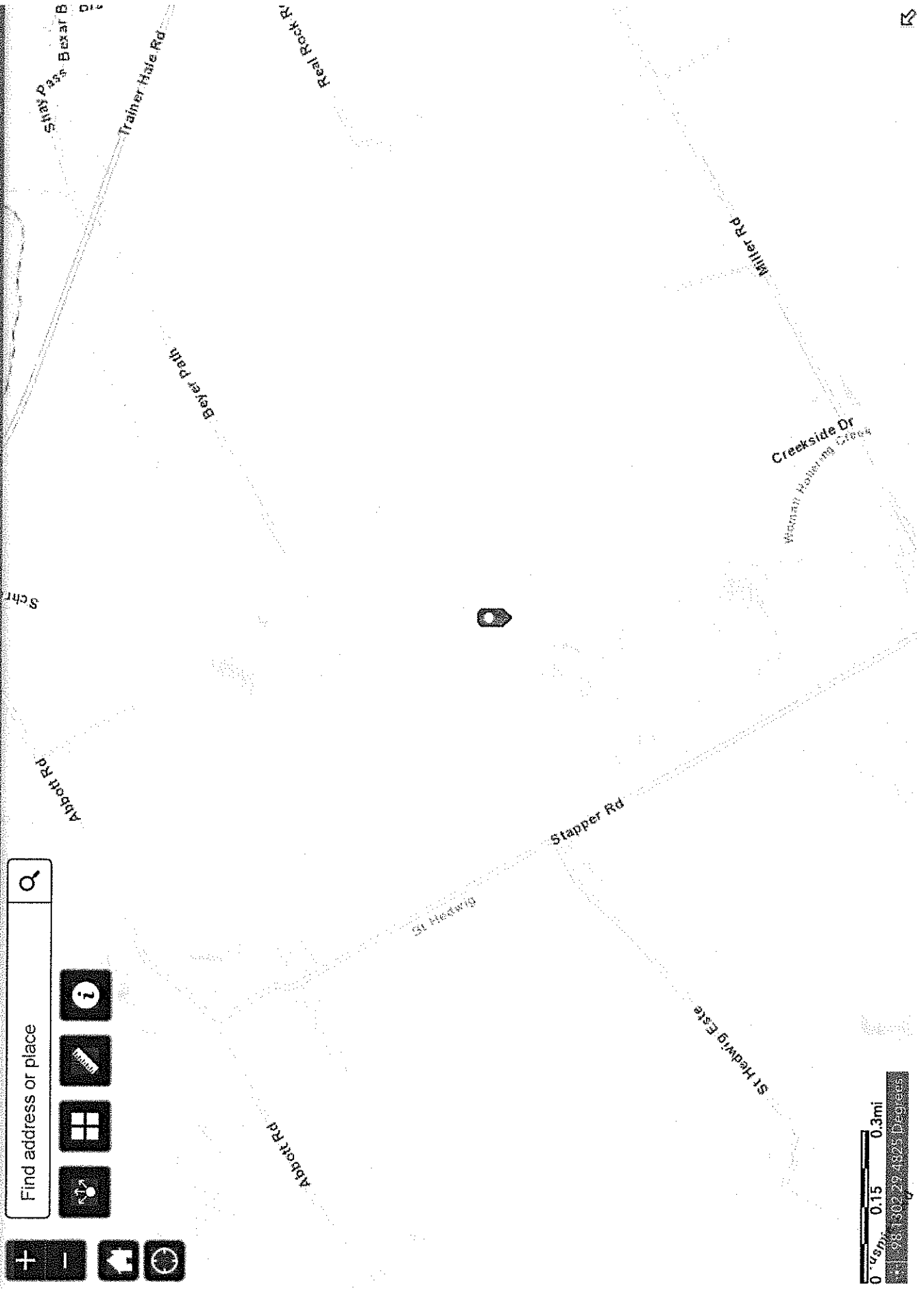
³⁶ *Id.* § 55.203(d).

Attachment A



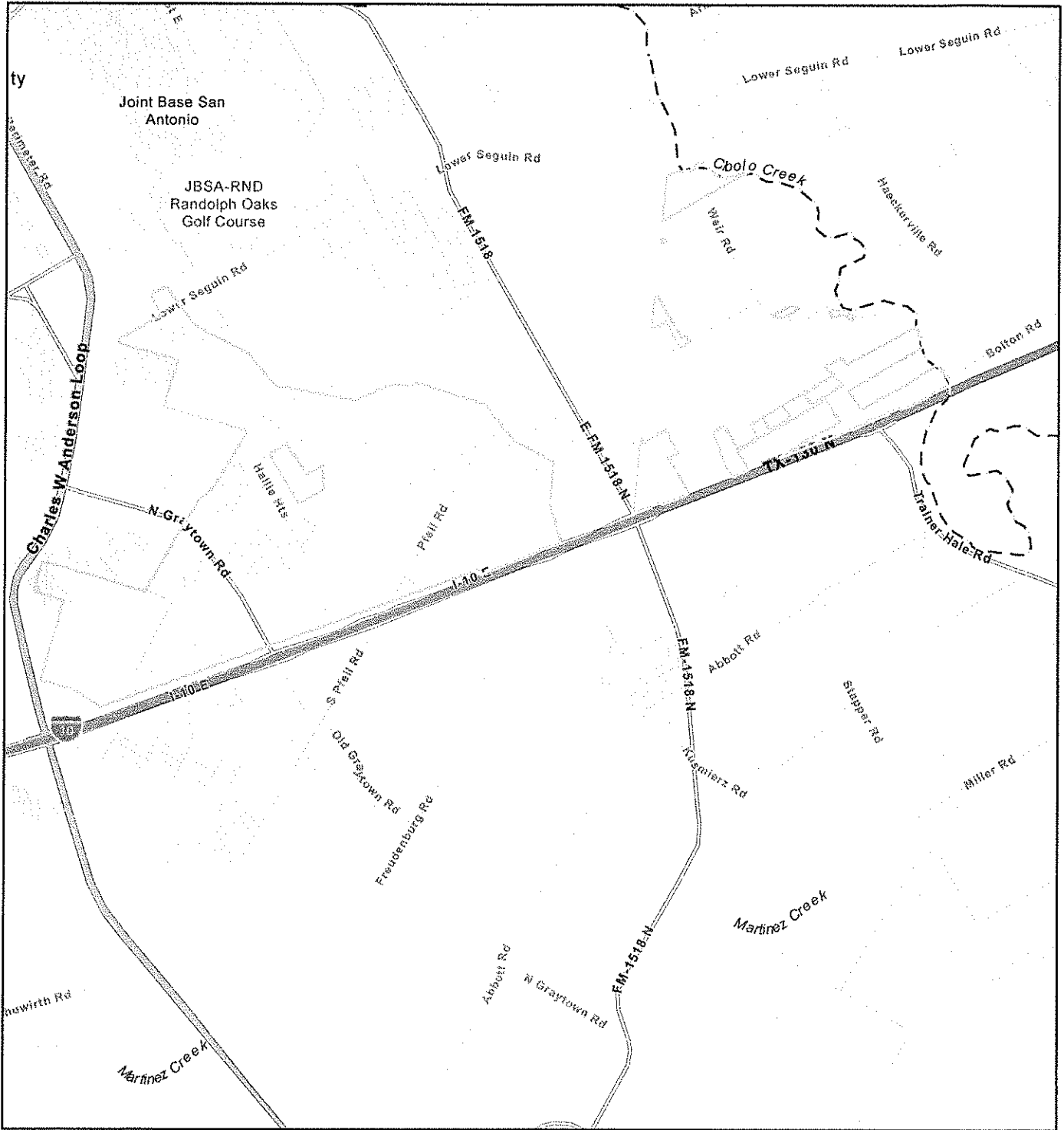
Find address or place

Search

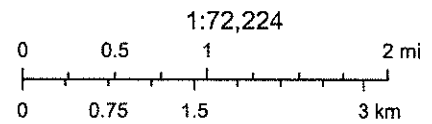


Attachment B

City of Schertz Sewer CCN No. 20271



July 29, 2021

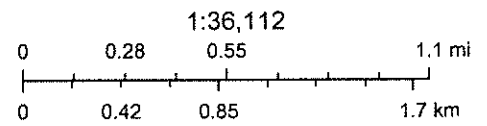


Texas Parks & Wildlife, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA

City of Schertz Sewer CCN No. 20271(Large Scale)



July 29, 2021



Texas Parks & Wildlife, Esri, HERE, Garmin, SafeGraph, INCREMENT P, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA

Attachment C

Bexar CAD

Property Search Map Search

Property Search Results > 1 - 6 of 6 for Year 2021

Export Results

New Search

Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a single map.

Property Address Legal Description

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value	
<input type="checkbox"/> 1166658	80400-000-1880	Mobile Home	4060 STAPPER RD TX	DUNCAN CRAIG & JOANN		\$44,290	<input checked="" type="radio"/> View Details <input checked="" type="radio"/> View Map
<input type="checkbox"/> 1172641	04019-000-1882	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	DUNCAN HAZEL JOANN		\$5,390	<input checked="" type="radio"/> View Details <input checked="" type="radio"/> View Map
<input type="checkbox"/> 169912	04019-000-1880	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL W & SUTTON CAROLYN & DUNCAN HAZEL J		\$37,730	<input checked="" type="radio"/> View Details <input checked="" type="radio"/> View Map
<input type="checkbox"/> 1172711	04019-000-1883	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL WILLIAM		\$12,150	<input checked="" type="radio"/> View Details <input checked="" type="radio"/> View Map
<input type="checkbox"/> 169348	04019-000-0191	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL WILLIAM		\$114,590	<input checked="" type="radio"/> View Details <input checked="" type="radio"/> View Map
<input type="checkbox"/> 169913	04019-000-1881	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SUTTON DONALD J & CAROLYN R		\$176,210	<input checked="" type="radio"/> View Details <input checked="" type="radio"/> View Map

Page: 1

**Protest status and date information current as of Jul 28 2021 1:22AM.
2021 and prior year appraisal data current as of Jul 2 2021 6:19AM
For property information, contact (210) 242-2432 or (210) 224-8511 or
email.
For website information, contact (210) 242-2500.**

Attachment D

~~print NRT packet for permit review~~

~~GD054E permit
print preverifications & M&M email~~

CHECK LIST FOR ADMIN REVIEW OF MUNICIPAL APPLICATION FOR PERMIT		
Permit No. WQ00 <u>15917001</u>	TX <u>0140540</u>	MGD <u>0.4</u>
CN <u>600684294</u>	RN <u>111093126</u>	County: <u>Bexar</u> Region No. <u>13</u>
Facility: () Major (✓) Minor	App Rvd Date: <u>8/31/2020</u>	Permit Expiration Date: <u>NEW</u>
(✓) Inactive () Active	Segment No. <u>1902</u>	

Note: A minor facility is generally one in which the final flow is less than 1.0 MGD.

Application Review Date: 10/16/2020

A copy of the pre-tech review was provided by the Municipal Permits Team (for new, major amendments and major facilities).

A copy of the groundwater review was provided (for TLAP new, major amendment, SADD minor amendment, and all applications with (or proposing) Class B sludge provisions).

For new and major amendment applications that propose surface water discharge, the standards review for RWA comments is included.

Coastal Zone sheet is included. Yes No

Fees or Penalties Owed: No [] Yes Amount Owed: _____

SECTION 1 APPLICATION FEES

Application Fees: The appropriate item checked and payment verified in receipt rpt or boexi rpt. Note: copies of checks should be removed and shredded.

Municipal Fees

Proposed/Final Phase Flow	New/Major Amend.	Renewals	Minor Amendment or Modification <u>without</u> Renewal [] \$150.00 (for any flow)
< .05 MGD	[] \$350.00	[] \$315.00	
≥ .05 but < .10 MGD	[] \$550.00	[] \$515.00	
≥ .10 but < .25 MGD	[] \$850.00	[] \$815.00	
≥ .25 but < .50 MGD	<input checked="" type="checkbox"/> \$1,250.00	[] 1,215.00	
≥ .50 but < 1.0 MGD	[] \$1,650.00	[] 1,615.00	
≥ 1.0 MGD	[] \$2,050.00	[] 2,015.00	

SECTION 2 TYPE OF APPLICATION

The Type of application is marked

Reason for amendment or modification (if applicable). Also, check Tech. Report 1.1 Section 4 on page 3 (Unbuilt Phases) and Section 1.A on page 20 (Justification of permit need).

SECTION 3 FACILITY OWNER (APPLICANT) AND CO-APPLICANT

Legal name of applicant is listed (*the owner of the facility must apply for the permit*)

Legal name of co-applicant is listed (*if required to apply with facility owner*)

Core Data Form (CDF) is provided. A separate CDF is required for each customer.

Section I – General Information

Reason for submittal is marked.

Customer (CN) and Regulated Entity (RN) Reference Nos. provided – verify with Central Registry

Section II – Customer Information

Customer legal name is provided and it matches name on admin report

Texas SOS/Filing number is provided – verify with SOS

Texas State Tax ID is provided – verify with Texas Comptroller

Type of customer is marked – refer to information below

Corporation: Check with Secretary of State (SOS) at: <https://direct.sos.state.tx.us/acct/acct-login.asp> verify the entity status and charter number – print page. Verify correct legal spelling of applicant's name. Check spelling with SOS against the name listed in the application. (Permit must be issued in name as filed with SOS.) The applicant must be "In existence and active" before the application can be processed further.

Those entities subject to state franchise taxes: If applicable, check with Comptroller (website at: <http://ecpa.cpa.state.tx.us/coa/coaStart.html>. Verify the tax identification number is correct. Note: Non-profit organizations and partnerships are not subject to the state franchise tax.

Individual: Complete Attachment 1 of Admin. Report 1.0 The complete legal name, including the middle name; and all other information is required. This info is required by Chapter 26.027C of the Texas Water Code. A separate form is required for each individual.

Utility District: Check IWUD to verify that district is not dissolved (inactive is O.K. to process)

Trust: A copy of an executed trust agreement is provided. Verify that applicant's name is the same as the name in the trust agreement. NOTE: Executed trust must show signatures of trustees or beneficiaries forming the trust and which county it is recorded in.

Partnership: Verify with Secretary of State (SOS) that partnership is registered, active, and has a filing number. Check spelling with SOS against the name submitted in Item 1; Check that SOS # is correct; Print page from SOS website. OR if the partnership is not listed with the SOS, a copy of the partnership agreement is provided by the applicant. The agreement must: give the name of the partnership as provided on the application for permit; list names of partners; bear signatures of the partners; state the terms of the partnership; and must be recorded in the county where the facility (plant) is located.

Municipality/Governmental Agencies/School Districts: City, County, ISD, Fed, etc. – applicable info is listed.

Other _____

Number of employees is marked

Customer role is marked

Mailing address for the applicant is provided - verify on USPS website. This address is used on the permit.

Email address is provided - using GM email in app

Telephone number is provided

Section III – Regulated Entity Information

Regulated Entity Name is provided and it matches name on admin report

Street address or location description of facility is adequately described. If different from current permit, new permit may be required. Use USPS website/GIS mapping to confirm street address

The county where the facility is located is provided

The name of the nearest city is provided

The zip code is provided

The longitude and latitude of the facility is provided – check mapit

Primary SIC Code is provided

Permit No. listed under appropriate programs- if not listed, add it

Section IV – Preparer Information

Name, title, telephone number, and email address is provided

Section V – Authorized Signature

Company name, title, printed name, phone number, signature, and date provided

SECTION 4 APPLICATION CONTACT INFORMATION

Administrative and Technical contact name, address, electronic information provided

SECTION 5 PERMIT CONTACT INFORMATION

Permit (2) contact names, addresses, electronic information provided

SECTION 6 BILLING INFORMATION

Billing contact name, address, electronic information provided

SECTION 7 REPORTING INFORMATION

DMR/MER contact name, address, electronic information provided

SECTION 8 NOTICE INFORMATION

Minor Amendment *without* Renewal – NORI not required. Skip review of notice information.

Name, address and phone number of one person responsible for publishing NORI is provided

Method of sending NORI package is provided

Name and phone number of contact to be in NORI is provided

Location where application will be available is provided and is in the county where the facility is located - the location must be a building supported by taxpayer funds. Note: If discharge is directly into water body that borders two counties, application must be placed in a public facility in both counties and the notice must be published in both counties

Bilingual Items 1 – 5 are completed. If "Yes" to question 1 and "Yes" to either question 2, 3 or 4, then e.5 must be completed

SECTION 9 REGULATED ENTITY and PERMITTED SITE INFORMATION

Permit No. and Expiration date is listed, if not, verify with permit or PARIS

Name of project or site is provided. Should correspond to Item 22 on CDF.

Owner of the facility identified in the application is the same as the name given in Section 3.A

NOTE: THE OWNER OF THE FACILITY IS REQUIRED TO APPLY FOR THE PERMIT

(Refer to legal policy memo for complete definition and discussion of facility.)

Marked whether ownership of the facility is public, private or both

Owner of the land where permitted facility is or will be located is the **SAME** as the applicant.

The owner of the land on which the facility is located is **DIFFERENT FROM** the owner of the facility: A copy of a lease agreement or easement, with a term for the duration of the permit, between applicant and landowner, has been provided. See Lease Agreement/Easement Memo dated 2/14/06, that states that a lease is sufficient for pond systems, and that details the provisions that a lease agreement or easement must contain. OR, landowner can apply as a co-permittee. Lease must identify property by legal description or map.

Effluent Disposal Site Owner:

N/A - (no effluent disposal proposed)

If land disposal is authorized in permit or proposed, the applicant **OWNS** land on which site is located

If applicant **DOES NOT OWN** land where site is located, a long-term lease agreement is provided which includes: a term of at least 5 years; is current or it includes an option to renew the term; is between the current applicant and the landowner; and includes description of property by legal description or map.

(For new TLAP permits only: A copy of an executed option to purchase agreement may be provided to show that applicant will have ownership of the land upon permit approval.)

Sewage Sludge Disposal Site Owner:

N/A - (no sludge disposal proposed)

If sludge is authorized in permit or proposed, the applicant **OWNS** land on which disposal site is located, otherwise lease is needed unless Class B sludge is land applied. Check the permit under Sludge Provisions to determine if sludge is authorized. Note: For BLU sludge application – lease is not needed; Landowner just needs to sign sludge affidavit (if different from applicant)

If sludge disposal is proposed or authorized in the permit, the applicant must also submit the applicable sludge forms.

SECTION 10 DISCHARGE INFORMATION

- Checked if treatment facility location in permit is correct.
- Checked if discharge info in permit is correct. If applicable, the discharge route description is adequately described and describes the discharge route to the nearest major watercourse. Changing the point of discharge and route from the current permit description requires a major amendment
- The name of the city (or nearest city) where the outfall(s) is/will be located has been provided
- The county where the outfall is located is provided
- The longitude and latitude of the outfall is provided
- Marked item regarding authorization for discharge into a city, county, or state ditch. If applicable, correspondence is provided. Email TXDOT if discharge is to a state highway right-of-way or roadside ditch.
- For a daily average flow of 5 MGD or more: the names of all counties located within 100 miles downstream from the point of discharge. These counties will be listed on contact sheet.

SECTION 11 DISPOSAL (TLAP) INFORMATION

- The written location description of the disposal site is adequately described. (NOTE: A CHANGE IN LOCATION OR INCREASE IN ACREAGE REQUIRES A MAJOR AMENDMENT. A decrease in acreage may also be a major amendment (due to flow rate) - check with permit writer)
- The name of the city (or nearest city) has been provided
- The county where the disposal site is located is provided
- The longitude and latitude of the disposal site is provided
- The written flow of effluent from the facility to the effluent disposal site is adequately described
- The nearest watercourse to the disposal site is listed

SECTION 12 MISCELLANEOUS INFORMATION

- Identified whether or not facility or discharge are on Indian land (If yes, we do not have permit authority.)
- For permits that allow sewage disposal the location description is adequately described. For an already-existing permit, check to see that the location has not changed
- Must indicate whether any former TCEQ employees who were paid for services regarding this application
- Fees or Penalties Owed: No Yes - See page 1 of checklist

SECTION 13 ATTACHMENTS

- Lease agreement or deed recorded easement, if the land where the treatment facility is located or the effluent disposal site are not owned by the applicant or co-applicant
- An ORIGINAL or equivalent FULL-SIZED USGS 7.5 minute topographic map (8 1/2 x 11 acceptable for amendment and renewal applications) is provided and labeled showing: applicant's property boundary treatment facility boundaries point of discharge highlighted discharge route for three miles downstream or until it reaches a classified segment scale, effluent disposal site(s) pond(s) sludge disposal/land application site an area of not less than one mile in all directions of the site

need full size

All original or equivalent full sized maps must show:

- Color map Clear contour lines Upper left corner must identify map as USGS Department of the Interior Geological Survey Lower left corner, datum & project information Bottom, magnetic declination Bottom, must show scale Bottom, identify contour intervals Bottom, national map accuracy std. statement Bottom, show State of TX and quad location Around map, lat and long coordinates Bottom, quadrangle name Bottom, must identify map date

SECTION 14 SIGNATURE PAGE

Note: The signature information below lists the proper signatories for the various entities and the current version of the application contains a paragraph referencing 30 TAC 305.44. The person signing the application verifies that he or she is authorized, under this rule, to sign the application. We must verify that the title meets the requirements or signatory authority has been delegated.

Original Signature Page is required.

Signature must be properly notarized – check that signature date and notarized date are the same.

Owner Co-Permittee

- City - Elected official or principle executive officer of the city may be public works director.
- Individual: only the individual signs for himself/herself.
- Partnership: General Partner or exec officer
- Corporation: at least level of VP (CEO, Chairman of Board, Secretary can be equiv. to V.P., Member or General Manager for LLC, Manager of one or more manufacturing, production, or operating facilities employing more than 250 persons - refer to 30 TAC 305.44)
- Utility District: at least the level of vice president, on Board of Directors or District Manager
- Water Authority: Regional managers.
- Independent School Districts: at least level of the Assistant Superintendent or board members.
- Governmental Agencies: Division Directors or Regional Directors.
- Trust: The trustee that has been identified in the trust agreement.
- Other: _____

ADMIN REPORT 1.1 For All New or Major Amendment Applications

SECTION 1 Affected Landowner Information -

Landowner Map:

- The applicant's complete property boundaries are delineated which includes boundaries of contiguous property owned by the applicant
- For domestic facilities, show the buffer zone and identify all of the landowners whose property is located within the buffer zone - *tech address*
- The property boundaries of the landowners surrounding the applicant's property have been clearly delineated on the map
- The location of the facility within applicant's property is shown.

For TPDES applications:

- The point(s) of discharge is clearly identified on the map and the discharge route(s) is highlighted.
- The scale of map is provided to measure one mile downstream or if discharge is into a lake, bay estuary, or affected by tides, 1/2 mile up & down stream is measured.
- The property boundaries of landowners adjacent to the discharge route(s) for one mile downstream from the point of discharge have been clearly delineated and the route is clearly delineated. OR If discharge is into a lake, bay estuary, or affected by tides, the property boundaries of landowners 1/2 mile up & downstream and those property owners across the lake along the shore line that fall within a 1/2 mile radius of the point of discharge are clearly delineated on the map.

For TLAP applications (i.e., irrigation, evaporation, etc.):

- The boundaries of the disposal site is clearly identified on the map.
- The boundaries of all landowners surrounding the disposal site.
- Cross-referenced list of landowners is provided.
- Disk or four sets of labels were provided
- Source of landowners' info was provided.
- Provided response regarding permanent school fund land. If information filled out on General Land Office, then indicate so on the contact sheet.

SECTION 2 Original Photographs

- The original (color) ground level photos of treatment unit area, disposal or discharge areas (2 photos – one upstream, one downstream) have been provided
- Plot plan or map showing location and direction of each photo

SECTION 3 Buffer Zone Map *tech address*

Buffer zone map (8 1/2 by 11): The permit writer will review this during the pre-tech review. Any deficiencies will be addressed by them.

SUPPLEMENTAL PERMIT INFORMATION FORM (SPIF)

SPIF is provided - TPDES only

TECHNICAL REPORT – MUNICIPAL/DOMESTIC APPLICATIONS

Minor Amendment *without* Renewal. Review not required. Just make sure report is provided.

THE FOLLOWING ITEMS APPLY TO ALL APPLICATIONS:

The existing permitted design flow (including all permit phases) is indicated

If flow indicated is greater than permitted, a major amendment is required.

If flow amount is less than permitted amount, confirm with applicant that they are requesting to reduce the flow.

For facilities that have not been constructed the anticipated construction and operation dates are provided for all phases.

Site Drawing must be submitted (*see email from Lana 1/10/2019*).

The permit authorizes irrigation/evaporation/subsurface disposal method and the information has been addressed in the technical report. Verify the acreage. If the acreage has changed from what is currently permitted, a major amendment is required.

The applicable worksheets must be completed:

Worksheet 3.0 - required for land disposal of effluent

Worksheet 3.1 - required for land disposal (new and major amendment only)

Worksheet 3.2 - required for subsurface land disposal (new and major amendment only)

Worksheet 3.3 - required for subsurface area drip dispersal systems (SADDS) (new and major amendment); may be required for renewal on a case-by-case basis.

SADDS Applications: Compliance history items must be completed for SADDS disposal. When the application is administratively complete, a copy of the application and a transmittal letter must be sent to the State Department of Health Services. See the folder titled "SADDS" (under the Individual Permit Review folder) for a template of the letter.

Worksheet 7.0 – required for SADD applications (new and major amendment only) - We do not review the form; we just make sure that it is submitted. If it is not submitted, request it in a NOD.

Sludge disposal and/or land application is authorized in the permit on property owned or under applicant's control.

If facility is beneficially applying class B sludge on the same site as the facility, the applicant must submit the Beneficial Land Use of Sewage Sludge (Class B) Permit Application - Form No. 10451 (See Class B Sludge Permit checklist). The applicant must also submit the appropriate sludge application fee.

If authorization is for sludge processing, storage, disposal, composting, marketing and distribution of sludge, sludge surface disposal, or sludge monofill or for temporary storage in sludge lagoons, the applicant must submit the Domestic Wastewater Permit Application: Sewage Sludge Technical Report – Form No. 10056.

Check for:

required signatures (if applicable)

site acreage acreage application area site boundaries shown on USGS map

Notes: If the applicant is disposing or land applying sludge on land owned or under their control, but it is not authorized in their permit or by any other TCEQ authorization, a major amendment is required.

If the application is for a new permit or major amendment, then you need to check for the appropriate affected landowner requirements.

[] Worksheet 6.0 must be addressed if a domestic facility is labeled as public or both, (not required for federal agencies or water treatment plants)

THE FOLLOWING ITEMS ONLY APPLY TO MINOR RENEWAL APPLICATIONS:

- [] The type of treatment plant has been indicated.
- [] The list of units and their dimensions have been provided
- [] The flow diagram has been provided.
- [] The required grab sample test results have been provided for all constituents - *not required if plant not operational.*
- [] Sludge disposal is authorized off site, and the ultimate sludge disposal method has been identified.
- [] Worksheet 2.0 - For TPDES permits - the stream data has been addressed.
- [] Worksheet 4.0 - For discharge permits: If the applicant has a permitted phase equal to or greater than 1 MGD or more than one phase, and interim or final phase(s) that have not been constructed has a flow equal to or greater than 1 MGD, the applicant must perform the all of the required effluent testing to renew that phase.

WHEN APPLICATION IS NOT ADMINISTRATIVELY COMPLETE:

Complete NOD. See NOD SOP

WHEN APPLICATION IS ADMINISTRATIVELY COMPLETE:

Complete NORI package. See NORI SOP
NORI not required for minor amendment. Complete the Routing and Contact (list "n/a" for item regarding person responsible for publication of the notice) Blue sheets only.

Prepare SPIF forms (only for TPDES permits)

- checked application type
- entered county name
- entered administrative completeness date
- ensured permit number is on form
- *check agency receiving SPIF

Minor amendments - ALL agencies BUT Texas Historical Commission and Army Corps of Engineers

Renewals - All agencies BUT Texas Historical Commission

New and Major Amendments - All agencies

check that the segment number (if known) is entered in receiving water body information.

On the accompanying map, delineate the discharge route in such a way that copies will reflect the highlighted discharge route.

***NOTE:** Copy of SPIFs not required for Houston - US Fish and Wildlife and Galveston-US Army Corps of Engineers

Admin Complete PARIS Entry and Other Reminders

WO Folder - Application Search

Application Summary Tab—verify application info

Admin Review Tab

- Admin Review Begin Date
- Admin Complete Date
- SPIF
- NORI

Public Participation Tab – No longer required to enter public notice details. See Katherine's email dated 3/30/2017.

CR Folder – RE Search

AI Detail Screen—verify facility info

Enter Contact Info – Contact List

- Owner
- Applicant
- Technical
- Billing (To edit existing info – select Billing Maintenance)
- MER (TLAP only)
- Remove CN affiliation for MER contact (TLAP and TPDES)

OTHER

- Copy of notice, contact sheet, and labels to I/Drive
- SADDs – Application to Dept. of Health Services
- Email TXDOT if discharge is to a state highway right-of-way or roadside ditch.
- Email NORI
- Update facility name (if needed in PARIS)
- Update coordinates (if needed in PARIS), make sure correct link in Notice
- EPA ID CN, location address, facility name (if needed in PARIS)

Attachment B

The "*Appraisal District Reports*"

Bexar CAD

Property Search Map Search

Property Search Results > 1 - 2 of 2 for Year 2022

[Export Results](#)

[New Search](#)

Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a single map.

Property Address Legal Description

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value	
<input type="checkbox"/> 991095	05193-000-1028	Real	14394 INTERSTATE 10 E CONVERSE, TX 78109	GREEN VALLEY SPECIAL UTILITY		N/A	View Details View Map
<input type="checkbox"/> 1056538	05193-000-1561	Real	E IH 10 CONVERSE, TX 78109	GREEN VALLEY SPECIAL UTILITY		N/A	View Details View Map

Page: 1

2022 data current as of Dec 16 2021 1:19AM.
2021 and prior year data current as of Dec 3 2021 6:20AM
For property information, contact (210) 242-2432 or (210) 224-8511 or email.
For website information, contact (210) 242-2500.

This year is not certified and ALL values will be represented with "N/A".

Website version: 1.2.2.33

Database last updated on: 12/16/2021 1:19 AM

© N. Harris Computer Corporation

Bexar CAD

Property Search Map Search

Property Search Results > 1 - 6 of 6 for Year 2022

Export Results

New Search

Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a single map.

Property Address Legal Description

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value	
<input type="checkbox"/> 1166658	80400-000-1880	Mobile Home	4060 STAPPER RD TX	DUNCAN CRAIG & JOANN		N/A	View Details View Map
<input type="checkbox"/> 1172641	04019-000-1882	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map
<input type="checkbox"/> 1172711	04019-000-1883	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map
<input type="checkbox"/> 169913	04019-000-1881	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map
<input type="checkbox"/> 169348	04019-000-0191	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map
<input type="checkbox"/> 169912	04019-000-1880	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map

Page: 1

2022 data current as of Dec 16 2021 1:19AM.

2021 and prior year data current as of Dec 3 2021 6:20AM

For property information, contact (210) 242-2432 or (210) 224-8511 or email.

For website information, contact (210) 242-2500.

This year is not certified and ALL values will be represented with "N/A".

Website version: 1.2.2.33

Database last updated on: 12/16/2021 1:19 AM

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Mehgan Taack

From: PUBCOMMENT-OCC
Sent: Monday, December 20, 2021 10:57 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0015917001
Attachments: 2021.12.17 City of Saint Hedwig Request for Contested Case Hearing re_ Proposed TPDES Permit No. WQ0015917001..pdf

H
RFR

From: mchambers@lglawfirm.com <mchambers@lglawfirm.com>
Sent: Friday, December 17, 2021 3:19 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0015917001

REGULATED ENTY NAME CLEARWATER CREEK WWTP

RN NUMBER: RN111093126

PERMIT NUMBER: WQ0015917001

DOCKET NUMBER:

COUNTY: BEXAR

PRINCIPAL NAME: GREEN VALLEY SPECIAL UTILIITY DISTRICT

CN NUMBER: CN600684294

FROM

NAME: Maris Chambers

E-MAIL: mchambers@lglawfirm.com

COMPANY: Lloyd Gosselink Rochelle & Townsend, P.C.

ADDRESS: 816 CONGRESS AVE Suite 1900
AUSTIN TX 78701-2442

PHONE: 5123225804

FAX: 5124720532

COMMENTS: Please find attached the Request for Contested Case Hearing and/or Reconsideration of the Executive Director's Decision on Application for Proposed TPDES Permit No. WQ0015917001.

Ms. Chambers' Direct Line: (512) 322-5804
Email: mchambers@lglawfirm.com

December 17, 2021

Ms. Laurie Gharis, MC-105
Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

VIA ELECTRONIC FILING

Re: Request for Contested Case Hearing and/or Request for Reconsideration of the Executive Director's Decision on Application for Proposed TPDES Permit No. WQ0015917001 (EPA I.D. No. TX0140546)
Applicant: Green Valley Special Utility District (CN600684294)
Site Name: Clearwater Creek Wastewater Treatment Plant (RN111093126)

Dear Ms. Gharis:

My client, the City of Saint Hedwig (the "*City*"), hereby requests a contested case hearing and/or reconsideration of the Executive Director's decision regarding the above-referenced application ("*Application*") filed by Green Valley Special Utility District ("*GVSUD*") for a new Texas Pollutant Discharge Elimination System ("*TPDES*") permit and the associated draft TPDES Permit No. WQ0015917001 ("*Draft Permit*").

I. BACKGROUND

A. Description of Facility

In its Application, GVSUD requests authorization from the Texas Commission on Environmental Quality ("*TCEQ*") to discharge treated domestic wastewater at a daily average flow not to exceed 400,000 gallons per day ("*GPD*") at the proposed Clearwater Creek Wastewater Treatment Plant (the "*CCWWTP*"). The Draft Permit includes an Interim I phase with a daily average flow not to exceed 0.10 million gallons per day ("*MGD*"), an Interim II phase with a daily average flow not to exceed 0.20 MGD, and a Final phase with a daily average flow not to exceed 0.40 MGD. The CCWWTP is to be located at 4060 Stapper Road, Saint Hedwig, Bexar County, Texas 78152, and is intended to serve areas located in the extraterritorial jurisdiction ("*ETJ*") of the City of San Antonio and other outlying areas of Bexar County. If the Draft Permit is issued, the CCWWTP will be an activated sludge process plant operated in the extended aeration mode.

The proposed discharge route for the treated wastewater is from the site of the CCWWTP to Woman Hollering Creek (also known as Womans Hollow Creek),¹ thence to Martinez Creek in Segment No. 1902A of the San Antonio River Basin, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. Woman Hollering Creek is characterized by the TCEQ as an unclassified intermittent stream with perennial pools and presumed to have a limited aquatic life use and corresponding dissolved oxygen criteria. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 Texas Administrative Code (“*TAC*”) § 307.10) for Classified Segment No. 1902 are primary contact recreation, high aquatic life use, and 5.0 mg/L dissolved oxygen. Classified Segment Nos. 1902 and 1902A are currently listed on the 2020 Texas Integrated Report – Texas 303(d) List of impaired and threatened waters (the “*303(d) List*”) for bacteria in the water.

B. Procedural History

TCEQ received the Application on August 31, 2020, and the Executive Director (“*ED*”) declared it administratively complete on October 30, 2020. On November 13, 2020, GVSUD published the Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (“*NORP*”) in English in the *San Antonio Express-News* and the *Austin American-Statesman*. Then, on November 25, 2020, GVSUD published the NORI in Spanish in *Conexión*. An amended NORI was issued on April 30, 2021, revising the discharge route description and street address for the proposed CCWWTP and correcting the address for public viewing and copying of the Application. GVSUD published the amended NORI in English in the *San Antonio Express-News* and in Spanish in *Conexión* on May 12, 2021.

The Notice of Application and Preliminary Decision (“*NAPD*”), indicating that the ED had completed the technical review of the Application and prepared the Draft Permit, was issued on June 17, 2021. On June 30, 2021, GVSUD published the *NAPD* in English in the *San Antonio Express-News* and in Spanish in *Conexión*. Next, the ED issued a Notice of Public Meeting on August 3, 2021, which was published in the *San Antonio Express-News* on August 5, 2021. Pursuant to 30 TAC § 55.152(b), because such public meeting was held on September 14, 2021, the deadline to provide public comment on the Application and Draft Permit closed at the close of that meeting. The City timely filed public comments on September 14, 2021, and also participated in the informal discussion and formal comment phases of the September 14, 2021 public meeting. The ED filed his Response to Public Comment (“*RTC*”) on November 15, 2021, and notice of the ED’s final decision that the Application meets the requirements of applicable law was mailed on November 18, 2021. Therefore, this request is timely filed.

II. REQUEST FOR CONTESTED CASE HEARING

The City requests a contested case hearing based on the following relevant and material disputed issues of fact, all of which were raised by the City during the public comment period. In

¹ As demonstrated by the screenshot from TCEQ’s Location Mapper tool, included in the Public Comments, Request for Public Meeting, and Hearing Request timely filed by the City on September 14, 2021, which shows, according to the *NAPD*, “the exact location” of the CCWWTP, the correct name of the proposed receiving water is Woman Hollering Creek, not Womans Hollow Creek, as referred to in the NORI, Amended NORI, *NAPD*, and Application. As such, Woman Hollering Creek will be used throughout the remainder of this request.

support thereof, the Public Comments, Request for Public Meeting, and Hearing Request timely filed by the City on September 14, 2021 (the “*Public Comments*”), attached hereto as Attachment A, are reasserted and incorporated herein for all purposes.

A. Legal Standards and Requirements for Hearing Requests

In order to be granted, a contested case hearing request must (1) be filed by an affected person, and (2) comply with the applicable form and filing requirements set forth in the Texas Water Code (“*TWC*”) and TAC. Specifically, TCEQ “may not grant a request for a contested case hearing unless [it] determines that the request was filed by an affected person as defined by Section 5.115” of the TWC.² Procedurally, a contested case hearing request must also satisfy the conditions prescribed by TCEQ rules adopted in Title 30 TAC, Chapter 55.³

1. The City is an affected person.

For the purpose of an administrative hearing involving a contested matter, TWC § 5.115 defines an “affected person” as one “who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the administrative hearing.”⁴ Section 5.115 further clarifies that “[a]n interest common to members of the general public does not qualify as a personal justiciable interest.”⁵ As directed by the TWC, TCEQ has adopted rules specifying factors to be considered in determining whether a person is an affected person entitled to standing in a contested case hearing.⁶ Those rules specify that “all factors shall be considered,” including, but not limited to, the following:

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person;
- (6) whether the requestor timely submitted comments on the application that were not withdrawn; and

² Tex. Water Code § 5.556.

³ 30 Tex. Admin. Code §§ 55.101, .201.

⁴ Tex. Water Code § 5.115; *accord* 30 Tex. Admin. Code § 55.203.

⁵ *Id.*

⁶ Tex. Water Code § 5.115; 30 Tex. Admin. Code § 55.203.

- (7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.⁷

Considering the factors enumerated above, the City is an “affected person” as such term is defined by TWC § 5.115:

- The Texas Local Government Code (“*LGC*”) authorizes municipalities to “purchase, construct, or operate a [wastewater] utility system inside or outside the municipal boundaries;” “regulate the system in a manner that protects the interests of the municipality;” “extend the lines of [their] utility systems outside the municipal boundaries;” and “sell . . . sewer . . . service to any person outside its boundaries.”⁸ Further, “[a] municipality may . . . require property owners to connect to [its] sewer system.”⁹ Therefore, the City has statutory authority over and interest in the issues relevant to the Application because the proposed CCWWTP is to be located in the City’s ETJ.
- The City timely submitted comments on the Application that were not withdrawn.

2. The form and filing of this hearing request comply with all applicable procedural requirements.

TCEQ’s procedural requirements for contested case hearing requests are set forth in 30 TAC § 55.201. Pursuant to that Section, a contested case hearing request must be (1) submitted in writing, (2) timely filed “no later than 30 days after the chief clerk mails (or otherwise transmits) the [ED]’s decision and response to comments,” and (3) based on an issue or issues raised in the requestor’s own timely filed, and not later withdrawn, public comments.¹⁰ A hearing request must also:

- (1) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request;
- (2) identify the person’s personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor’s location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
- (4) list all relevant and material disputed issues of fact that were raised by the requestor during the public comment period and that are the basis of the hearing request. To facilitate the

⁷ 30 Tex. Admin. Code § 55.203(c); *accord* Tex. Water Code § 5.115.

⁸ Tex. Loc. Gov’t Code § 552.001; *accord id.* § 552.002, .906.

⁹ *Id.* § 214.013.

¹⁰ 30 Tex. Admin. Code § 55.201; *accord* Tex. Water Code § 5.115.

commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director's responses to the requestor's comments that the requestor disputes, the factual basis of the dispute, and list any disputed issues of law; and

(5) provide any other information specified in the public notice of application.¹¹

Here, this request complies with TCEQ's form and filing requirements for contested case hearing requests. As demonstrated in Section I.B, above, this request is timely filed. As noted in the above introduction to this Section II and described in more detail, herein, this request is based on the City's timely-filed written Public Comments and other oral public comments submitted at the September 14, 2021 public meeting. The required contact information for the City, for purposes of this request, is as follows:

Maris M. Chambers
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
Phone: (512) 322-5804
Fax: (512) 472-0532
Email: mchambers@lglawfirm.com

Section II.A.1, above, identifies the City's personal justiciable interest affected by the Application, including a number of brief, but specific, written statements explaining the City's proximity to the proposed CCWWTP and how and why the City will be adversely affected by the proposed CCWWTP in a manner not common to members of the general public. An explicit request for a contested case hearing is contained, among other places, in the introductory paragraph of this Section II. Finally, Section II.B, below, lists the relevant and material disputed issues of fact raised by the City during the public comment period and specifies those of the ED's responses to public comment that the City disputes. Thus, the City has satisfied all of the procedural requirements for contested case hearing requests.

B. Contested Issues

This hearing request is based upon the following relevant and material disputed issues of fact raised in the City's Public Comments and the ED's disputed responses thereto.

1. The Application fails to comply with the state's regionalization policy.

The Application does not meet TCEQ's requirements for TPDES permit issuance because GVSUD failed to provide sufficient information regarding regionalization. Further, if issued, the Draft Permit would violate the state's policy "to encourage and promote the development and use of regional and areawide waste collection, treatment, and disposal systems to serve the waste

¹¹ 30 Tex. Admin. Code § 55.201.

disposal needs of the citizens of the state.”¹² As noted by the ED, in order to implement this regionalization policy, the “Domestic Wastewater Permit Application Technical Report requires information concerning need and regionalization for wastewater treatment plants.”¹³ Specifically, because “TCEQ uses the threshold of three miles to determine if there is another entity in the vicinity that is willing and able to accept wastewater from a proposed facility,” TPDES permit applicants “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 has sufficient existing capacity to accept the additional wastewater.”¹⁴ If so, the application must contain documentation demonstrating consent or denial by the owner of such facilities to provide the service proposed by the application.¹⁵ Further, if such an entity consents to provide service, the application must include a cost analysis justifying the need for the proposed facility.¹⁶ Given the intended location of the CCWWTP and its proposed service area, such documentation should have been included in the Application, but it was not. Rather, applying the standard enumerated in the RTC, the Application lacks any evidence to demonstrate whether two neighboring entities with “wastewater treatment plant[s] or sewer collection lines within the area [have] sufficient existing capacity to accept the additional wastewater.”¹⁷ Therefore, the Application does not meet the requirements for permit issuance, and the City disputes the ED’s determination that “GVSUD has complied with the regionalization policy.”¹⁸ Furthermore, because the proposed CCWWTP is to be located within less than 2.5 miles of CCMA’s existing regional wastewater treatment plant, and portions of the proposed service area for the CCWWTP are located within the City of Schertz’ corporate limits and sewer CCN, the Draft Permit, if issued, would violate the state’s regionalization policy.

2. The Application fails to sufficiently demonstrate a need for the authorized discharge amount of 0.4 million gallons per day.

The City contends that the Application does not demonstrate a need for the proposed CCWWTP and that the Draft Permit, if issued, should not include the Final phase authorizing a daily average flow not to exceed 0.40 MGD. As noted by the ED, TWC § 26.0282 of the TWC provides that “in considering the issuance, amendment, or renewal of a permit to discharge waste, [TCEQ] may deny or alter the terms and conditions of the proposed permit, amendment, or renewal based on consideration of need.”¹⁹ To facilitate this consideration by TCEQ, Section 1 of Domestic Technical Report 1.1 requires a TPDES permit applicant to “[p]rovide a detailed discussion regarding the need for any phase(s) not currently permitted.”²⁰ Instead of providing the requisite “detailed discussion,” the Application states only: “This requested permit is proposed to support planned residential and commercial growth in GVSUD’s sewer CCN area. The current

¹² Tex. Water Code § 26.003; *see also id.* §§ 26.081, 26.0282; Instructions at 64.

¹³ RTC at 19.

¹⁴ *Id.*

¹⁵ Instructions at 64 – 65.

¹⁶ *Id.*; Technical Reports at 21 – 22.

¹⁷ RTC at 19.

¹⁸ *Id.*; Tex. Water Code § 26.0282.

¹⁹ Technical Reports 38

²⁰ *Id.* at 21.

contract for service equates to 950 EDUs of service or 232,750 gpm.”²¹ First, the City contends that 232,750 gallons per minute is not an accurate indication of the treated effluent likely to be generated by 950 EDUs, or equivalent dwelling units because that amount of wastewater is equivalent to a wastewater discharge of 335.16 MGD. Second, with a total proposed discharge of 0.233 MGD, the Application seeks an excessive amount of treatment capacity. Though the ED contends that “GVSUD provided additional information to justify the ultimate flow and detailed information regarding the number of connections,” no such information was included in the administrative record available to the City.²² Consequently, the City cannot confirm the veracity of that statement and contends that a factual dispute exists as to whether GVSUD has demonstrated a need for the Final phase of the Draft Permit. Third, to the extent that any of the 0.4 MGD of wastewater treatment capacity is to be utilized from raw wastewater generated within the Regional Area or the sewer CCN area of Schertz, then such capacity is not needed because GVSUD cannot treat that wastewater; rather, such wastewater can only be treated by CCMA and retail wastewater service within Schertz’s sewer CCN boundaries can only be provided by Schertz. Thus, the Application does not demonstrate a need for the proposed CCWWTP; and the Draft Permit, if issued, should not include the Final phase.

3. The Application raises concerns that the proposed discharge will not be in compliance with the TCEQ’s antidegradation policy.

As indicated above, the Application and Draft Permit authorize the discharge of treated domestic wastewater from the proposed CCWWTP to Woman Hollering Creek, thence to Martinez Creek in Segment No. 1902A of the San Antonio River Basin, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 TAC § 307.10) for Classified Segment No. 1902 are primary contact recreation 1, high aquatic life use, and 5.0 mg/L dissolved oxygen. Segment Nos. 1902 and 1902A are also currently listed on the 303(d) List for bacteria in the water. Furthermore, these Segments are already subject to the discharge from the Woman Hollering Wastewater Treatment Facility jointly owned and operated by CCMA and the City of Schertz. Thus, the City has concerns that the discharge into Segment Nos. 1902 and 1902A, as proposed by the Draft Permit, would impact water quality in that watercourse and disputes the ED’s contention that “[t]he effluent limits in the [D]raft [P]ermit have been calculated to maintain and protect the existing instream uses.”²³ Further, because Classified Segment Nos. 1902 and 1902A are already listed on the 303(d) List for bacteria in the water, the authorization of an additional, unnecessary discharge into these Segments could degrade water quality therein. That interest is not only protected by the law under which the Application should have been considered, but a reasonable relationship also exists between the interest and the proposed discharge.

²¹ Technical Reports at 21.

²² RTC at 21.

²³ *Id.* at 13.

4. GVSUD lacks sufficient legal title and/or rights to land to own and operate the proposed CCWWTP.

The Application fails to meet the requirements for permit issuance because GVSUD lacks sufficient legal title and/or rights to land to own and operate the proposed CCWWTP. As evidenced by the Bexar Appraisal District reports attached to and incorporated in the City's Public Comments, GVSUD does not own the land at the address provided for the proposed CCWWTP.²⁴ Having provided such documentation to TCEQ, the City contests the ED's reliance on the fact that, according to the Application, it does.²⁵ In support of the City's contention that GVSUD lacks sufficient rights to the land where the proposed CCWWTP is to be located, attached hereto and incorporated herein for all purposes as **Attachment B** are updated Bexar Appraisal District reports (the "*Appraisal District Reports*") showing that GVSUD has not obtained ownership of the property at 4060 Stapper Road in the time since the City filed its Public Comments on September 14, 2021. Furthermore, the disputed issue of whether GVSUD has sufficient rights to the land where the CCWWTP is to be located is relevant and material to the determination of whether GVSUD can, as indicated in its Application, satisfy buffer zone compliance requirements through ownership, which is relevant to whether the Application meets the requirements for permit issuance.

5. The Application does not contain a map clearly identifying the proposed service area for the CCWWTP.

The City disputes the ED's contention that "GVSUD was not required to describe the area it will serve or include a map of the service area."²⁶ On the contrary, the Instructions direct TPDES applicants like GVSUD to "[p]rovide a site drawing . . . that shows the boundaries of the treatment facility and the area served by the treatment facility,"²⁷ and the Technical Reports state that such applicants must "[p]rovide a site drawing for the facility that shows . . . [t]he boundaries of the area served by the treatment facility."²⁸ However, it is uncertain whether GVSUD has provided the ED with such a map because the "Clearwater Creek WWTP Area Map" included in the Application as "Attachment B: Site Drawing" depicts only the "Clearwater Creek Sewershed" and does not indicate whether or how that sewershed relates to the proposed service area. Therefore, there is reason to doubt "the merits of the underlying application and supporting documentation in [TCEQ]'s administrative record" and "whether the [A]pplication meets the requirements for permit issuance."²⁹ Further, there is reason to question "the analysis and opinions of the [ED]," which may be based upon GVSUD's incomplete Application.³⁰

²⁴ Public Comments at 7.

²⁵ RTC at 26 – 27.

²⁶ *Id.* at 21.

²⁷ Instructions at 51.

²⁸ Technical Reports at 3.

²⁹ 30 Tex. Admin. Code § 55.203.

³⁰ *Id.*

6. The Application lacks the requisite Sewage Sludge Solids Management Plan.

The City disputes the ED's contention that "[f]or all new permit applications, the applicant has the option to identify the name and permit number of the disposal site after the draft permit is issued" and that "GVSUD may wait until it needs to dispose of the sludge before determining the method of sludge disposal, contracting with a hauler and disposal site."³¹ On the contrary, the Instructions state:

If sewage sludge is transported to another wastewater treatment facility or permitted sludge processing facility for further treatment, provide a written statement or a copy of contractual agreements confirming that the identified wastewater treatment facility will accept the sludge. . . . If a statement or contract is not provided, authorization for disposal of sewage sludge will not be included in a permit. . . . Provide detailed information for each disposal site. The information must include the name of the site, the site's permit or registration number, and the county in which each disposal site is located. . . . Provide the method used to transport the sludge to the disposal site. The hauler's sludge transporter registration number must also be provided, if applicable. Check whether the sludge is hauled in liquid, semi-liquid, semi-solid, or solid form.³²

Further, none of the language in Domestic Technical Report 1.0, Section 9, which requires a TPDES permit applicant to select the anticipated sludge disposal method and provide sludge disposal site information, including the disposal site name, permit or registration number, and disposal site's county, suggests such requirements are optional.³³ The ED's RTC also fails to address the City's timely submitted public comment indicating that GVSUD has also failed to comply with TCEQ's requirement to provide a copy of the contractual agreements demonstrating that the receiving facility will accept the sludge.³⁴ Because it lacks the required sludge-related information and documentation, there is reason to doubt "the merits of the underlying application and supporting documentation in [TCEQ]'s administrative record" and "whether the [A]pplication meets the requirements for permit issuance."³⁵ Further, there is reason to question "the analysis and opinions of the [ED]," which may be based upon an incomplete application.³⁶

7. The Application lacks the requisite original photographs.

Under the Instructions, TPDES permit applicants "must" submit "[a]t least one photograph of the new . . . treatment unit(s) location."³⁷ This requirement is implemented by Section 2 of the Administrative Report, which requires "[a]t least one original photograph of the new . . . treatment

³¹ RTC at 27.

³² Instructions at 59 (emphasis in original).

³³ Technical Reports at 12 – 13.

³⁴ *Id.* at 13; Public Comments at 8.

³⁵ 30 Tex. Admin. Code § 55.203.

³⁶ *Id.*

³⁷ Instructions at 43.

unit location.”³⁸ TCEQ regulations define a treatment unit as any “component of a wastewater treatment facility.”³⁹ Therefore, the City disputes the ED’s contention that “GVSUD complied with this requirement.”⁴⁰ The Application and supporting documents made available to the City do not contain an original photograph of the proposed location for the CCWWTP. Consequently, there is reason to doubt “the merits of the underlying [A]pplication and supporting documentation in [TCEQ]’s administrative record,” and “whether the [A]pplication meets the requirements for permit issuance,”⁴¹ which indicates that there is reason to question the “the analysis and opinions of the [ED]” to the extent they are based on an incomplete application.⁴²

8. The Application is inconsistent as to whether GVSUD has an approved pretreatment program under 40 CFR Part 403.

In Domestic Technical Report 1.0, GVSUD indicates it does not have an approved pretreatment program,⁴³ but GVSUD’s answer to the first question in Section D of Domestic Worksheet 6.0 indicates otherwise.⁴⁴ Nevertheless, the RTC provides that, “[a]ccording to the [ED]’s review[,] GVSUD’s [A]pplication does not contain any inconstant [sic] information regarding whether GVSUD has an approved pretreatment program.”⁴⁵ The RTC further states that “[d]uring technical review the [ED] confirmed that GVSUD does not require a pretreatment program.”⁴⁶ The Application and supporting documents made available to the City do not support that contention, and no such documentation was cited or produced by the ED. Without clarity as to whether GVSUD has an approved pretreatment program, it is impossible to determine whether it should have completed Domestic Worksheets 4.0, 5.0, or some portion thereof, in addition to completing Domestic Worksheet 6.0. As such, there is reason to doubt “the merits of the underlying application and supporting documentation in [TCEQ]’s administrative record” and “whether the [A]pplication meets the requirements for permit issuance.”⁴⁷ Consequently, there is reason to question “the analysis and opinions of the [ED],” which may be based upon an incomplete application.⁴⁸

9. The Application fails to provide proof of a sufficient buffer zone compliance method.

Section 3 of Domestic Administrative Report 1.1 requires a TPDES permit applicant to “indicate how the buffer zone requirements [of 30 TAC § 309.13(e)] will be met.”⁴⁹ The Instructions further specify that “[t]he buffer zone, either 150 or 500 feet from the treatment units . . . can be met by ownership, legal restrictions preventing residential structures within the buffer

³⁸ Administrative Report at 14.

³⁹ 30 Tex. Admin. Code § 217.2.

⁴⁰ RTC at 17.

⁴¹ 30 Tex. Admin. Code § 55.203.

⁴² *Id.*

⁴³ Technical Reports at 7.

⁴⁴ *Id.* at 69.

⁴⁵ RTC at 27.

⁴⁶ *Id.*

⁴⁷ 30 Tex. Admin. Code § 55.203.

⁴⁸ *Id.*

⁴⁹ Administrative Report at 14.

zone, an approved nuisance odor prevention plan, or a variance to the buffer zone.”⁵⁰ GVSUD indicated it would satisfy the buffer zone requirements through ownership,⁵¹ but as explained in more detail in Section II.B.4, above, GVSUD possesses no ownership interest nor legal right sufficient to comply with the requirements of 30 TAC § 309.13(e). As evidenced by the Appraisal District Reports included in **Attachment B**, GVSUD does not own the land at the address provided for the proposed CCWWTP. Specifically, the Instructions indicate that “[o]wnership means that the applicant owns all the land surrounding the treatment units that fall within the buffer zone,”⁵² which GVSUD does not. Furthermore, 30 TAC § 309.13(e) provides that “wastewater treatment plant units may not be located closer than 150 feet to the nearest property line.” As shown on the maps included in the Application, GVSUD’s proposed 150-foot buffer zone is rectangular. That does not properly buffer a 150-foot radius around the proposed facility. In any case, the maps depict the buffer zone extending beyond the boundary of the proposed location for the CCWWTP. Having provided documentation demonstrating GVSUD lacks the ownership rights to select ownership as the method of buffer zone compliance, the City contests the ED’s reliance on the fact that, “[a]ccording to GVSUD[,] it will own the required buffer zone.”⁵³ As such, there is reason to doubt “the merits of the underlying application and supporting documentation in [TCEQ]’s administrative record” and “whether the [A]pplication meets the requirements for permit issuance.”⁵⁴ Further, there is reason to question “the analysis and opinions of the [ED],” which may be based upon an incomplete application.⁵⁵

10. Nuisance Odors.

In addition to the buffer zone issues described above, an additional, unneeded treatment and disposal facility, if not operated properly, may result in nuisance odors that will adversely affect the quality of life of nearby residents and the public. In accordance with 30 TAC § 309.13(e), the applicant must demonstrate that sufficient measures to prevent nuisance odors will be undertaken. This is recognized by the ED in the RTC, which states that “30 TAC § 309.13(e) requires domestic wastewater treatment facilities to meet buffer zone requirements for the abatement and control of nuisance odors.”⁵⁶ Nevertheless, the ED contends that “[b]ecause GVSUD owns the buffer zone, nuisance odor is not expected to occur as a result of the permitted activities at the [proposed CCWWTP].”⁵⁷ Again, the Application fails to demonstrate that GVSUD has met the buffer zone requirements, as explained in more detail in Sections II.B.4 and II.B.9, above, so it also fails to demonstrate that nuisance odors will be controlled. It is not in the public interest to issue a new discharge authorization that may result in nuisance odors when regionalized wastewater services are available, particularly when nearby schools are located within the three-mile radius of the proposed CCWWTP. This is especially true given that the City has submitted documentation calling into question GVSUD’s ability to implement the buffer zone compliance method identified in the Application. As such, there is reason to doubt “the merits of

⁵⁰ Instructions at 43.

⁵¹ Administrative Report at 14

⁵² Instructions at 43.

⁵³ RTC at 23.

⁵⁴ 30 Tex. Admin. Code § 55.203.

⁵⁵ *Id.*

⁵⁶ RTC at 23.

⁵⁷ *Id.* at 27.

the underlying application and supporting documentation in [TCEQ]'s administrative record," and "whether the [A]pplication meets the requirements for permit issuance,"⁵⁸ meaning there is also reason to question the "the analysis and opinions of the [ED]."⁵⁹

Given the above-cited relevant and material disputed issues of fact and ED responses to the City's Public Comments, the City requests a contested case hearing concerning the Application and Draft Permit.

III. REQUEST FOR RECONSIDERATION

As noted above, the City requests that the ED reconsider its decision to grant the Application and issue the Draft Permit. Under TCEQ's rules, "[a] request for reconsideration . . . must be filed no later than 30 days after the chief clerk mails (or otherwise transmits) the executive director's decision and response to comments."⁶⁰ Unlike a contested case hearing request, which must be filed by an affected person, "[a]ny person, other than a state agency that is prohibited by law from contesting the issuance of a permit or license . . . may file a request for reconsideration of the [ED]'s decision."⁶¹ Such a request "must be in writing" and filed "with the chief clerk within the [30-day] time" noted above.⁶² Like a contested case hearing request, a request for reconsideration "should also contain the name, address, daytime telephone number, and, where possible, fax number of the person who files the request."⁶³ The request must also "expressly state that the person is requesting reconsideration of the [ED]'s decision, and give reasons why the decision should be reconsidered."

This request complies with TCEQ's form and filing requirements for requests for reconsideration of the ED's decision. This request is timely filed. It includes the City's contact information and states that the City is requesting reconsideration of the ED's decision. Finally, the City incorporates the relevant and material disputed issues of fact and ED responses to the City's Public Comments, included in Section II.B, above, into this Section III as the reason why the ED's decision to grant the Application and issue the Draft Permit should be reconsidered.

IV. CONCLUSION

The City appreciates TCEQ's consideration of this request, and for the foregoing reasons, respectfully requests that TCEQ either deny the Application or grant this request for a contested case hearing and/or reconsideration of the ED's decision regarding the Application and Draft Permit. Should you have any questions or concerns related hereto, please feel free to contact me using the information provided above.

⁵⁸ 30 Tex. Admin. Code § 55.203.

⁵⁹ *Id.*

⁶⁰ *Id.* § 55.201(a).

⁶¹ *Id.* § 55.201(e).

⁶² *Id.*

⁶³ *Id.*

December 17, 2021

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Sincerely,

A handwritten signature in black ink that reads "Maris Chambers". The signature is written in a cursive style with a large initial "M" and a decorative flourish at the end.

Maris M. Chambers

MMC/dsr
Enclosures

cc: Dee Grimm, Mayor, City of Saint Hedwig
Cynthia Trevino, Attorney, City of Saint Hedwig

Attachment A

The "*Public Comments*"

Ms. Chambers' Direct Line: (512) 322-5804
Email: mchambers@lglawfirm.com

September 14, 2021

Ms. Laurie Gharis, MC-105
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

VIA ELECTRONIC FILING

Re: Public Comments and Request for Contested Case Hearing
Application for Proposed TPDES Permit No. WQ0015917001
(EPA I.D. No. TX0140546)
Applicant: Green Valley Special Utility District (CN600684294)
Site Name: Clearwater Creek Wastewater Treatment Plant (RN111093126)

Dear Ms. Gharis:

The City of Saint Hedwig, Texas ("*City*"), my client, hereby submits this letter to the Texas Commission on Environmental Quality ("*TCEQ*"), providing formal public comments and requesting a contested case hearing regarding the above-referenced application ("*Application*") of Green Valley Special Utility District ("*GVSUD*") for a new Texas Pollutant Discharge Elimination System ("*TPDES*") permit, and the proposed draft permit for such Application ("*Draft Permit*"). These comments are timely filed.

I represent the City regarding the Application and Draft Permit. Please include me on the TCEQ's mailing list for all filings in the above-referenced Application. My mailing/contact information is as follows:

Ms. Maris M. Chambers
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
mchambers@lglawfirm.com
Phone: (512) 322-5804
Fax: (512) 472-0532

I. **BACKGROUND**

In its Application, GVSUD requests authorization from the TCEQ to discharge treated domestic wastewater at a daily average flow not to exceed 400,000 gallons per day ("*GPD*") at the proposed Clearwater Creek Wastewater Treatment Plant (the "*CCWWTP*"). The CCWWTP is to be located in Bexar County, Texas, and the proposed discharge route for the treated wastewater is

September 14, 2021

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from the plant site to Womans Hollow Creek,¹ thence to Martinez Creek, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 Texas Administrative Code (“*TAC*”) § 307.10) for Classified Segment No. 1902 are primary contact recreation, high aquatic life use, and 5.0 mg/L dissolved oxygen. Classified Segment No. 1902 is currently listed on the 2020 Texas Integrated Report – Texas 303(d) List of impaired and threatened waters (the “*303(d) List*”). The listings are for bacteria in the water from the confluence with the San Antonio River in Karnes County to a point 100 meters (110 yards) downstream of IH 10 in Bexar/Guadalupe County.

The Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (“*NORI*”) was issued on October 30, 2020 and published on November 13, 2020. An amended *NORI* was issued on April 30, 2021 and published on May 12, 2021. The Notice of Application and Preliminary Decision (“*NAPD*”) was issued on June 17, 2021 and published on June 30, 2021. The original deadline to file public comments was July 30, 2021, but given the substantial degree of public interest in the Application, the Executive Director of the TCEQ has scheduled a public meeting, pursuant to 30 TAC § 55.154, in order to allow for further public input on the Application and Draft Permit. As such, the current deadline to file public comments regarding the Application and Draft Permit is September 14, 2021, at the close of the public meeting. To this end, presented below are the City’s timely filed public comments raising significant disputed issues of fact that are relevant and material to the TCEQ’s decision on the Application and are the basis for the City’s request for a contested case hearing, should the Application not be remanded back to technical review and/or denied outright.

The City requests that the TCEQ deny the Application and corresponding Draft Permit because GVSUD has not provided all of the information required in TCEQ application forms TCEQ-10053 (06/25/2018) Municipal Wastewater Application Administrative Report (“*Administrative Report*”) and TCEQ-10054 (06/01/2017) Domestic Wastewater Permit Application, Technical Reports (“*Technical Reports*”). In addition, the Application and Draft Permit fail to: (1) meet the state and TCEQ’s regionalization requirements; (2) demonstrate a need for the Final Phase of the Draft Permit; (3) satisfy water quality, antidegradation, and stream standard requirements; and (4) include other information and documentation required by TCEQ form TCEQ-10053ins (06/25/2018) Instructions for Completing the Domestic Wastewater Permit Application (“*Instructions*”). Further, the CCWWTP is to be located in the City’s extraterritorial jurisdiction (“*ETF*”), but will serve none of its residents. In fact, rather than provide value to the citizens of the rural farming community, the proposed CCWWTP would instead have a negative effect, threatening the quality of water and rich agricultural soil upon which the City and its residents rely.

¹ As demonstrated by the screenshot from TCEQ’s Location Mapper tool, attached hereto and incorporated herein for all purposes as **Attachment A**, which shows, according to the *NAPD*, “the exact location” of the CCWWTP, the correct name of the proposed receiving water is Woman Hollering Creek, not Womans Hollow Creek, as referred to in the *NORI*, Amended *NORI*, *NAPD*, and Application.

II. PUBLIC COMMENTS

The City asserts that the Application and Draft Permit should be denied because the Application does not meet applicable statutory and regulatory requirements for a TPDES permit application; the Draft Permit fails to meet Texas Water Code (“*TWC*”), Chapter 26, and the TCEQ’s regionalization requirements for wastewater treatment plants (“*WWTPs*”); and GVSUD has not demonstrated a need for the CCWWTP. The City further maintains that the Application and Draft Permit should be denied because: (i) the Application is incomplete given that GVSUD asserts that it has an approved pretreatment program; (ii) fails to adequately protect against the CCWWTP’s negative impacts on water quality, antidegradation, and stream standards; (iii) GVSUD has not secured ownership/possession of the real property interests necessary to properly construct and operate the CCWWTP; and (iv) the Application fails to include other required elements, such as a sufficient Sewage Sludge Solids Management Plan, map of the proposed service area, and the requisite original photograph of the proposed location for the CCWWTP. In addition, the Application and Draft Permit should be denied due to nuisance odors that will result from the permitting of the CCWWTP, especially given GVSUD’s failure to satisfy all buffer zone requirements. Finally, the Draft Permit, if issued, threatens to degrade the quality of water and rich agricultural soil upon which the City and its residents rely without providing said residents, none of whom will be served by the proposed CCWWTP, with any benefits whatsoever.

A. *The Application fails to comply with the State’s regionalization policy.*

The TCEQ is required to implement the state’s policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.² In order to implement this regionalization policy, Section 1.B of the TCEQ’s TPDES permit application form Domestic Technical Report 1.1 contains three questions related to the potential for regionalization of WWTPs, each tailored to address the question of whether existing nearby wastewater treatment facilities and/or collection systems could provide service to the service area proposed in the TPDES permit application.³ All three regionalization questions in Section 1.B are relevant to GVSUD’s Application, and GVSUD has failed to complete the regionalization analysis and process in each instance. The TCEQ’s issuance of the Draft Permit also demonstrates that this issue was not taken into consideration when it processed the Application.

For Section 1.B.1, the Instructions require non-city applicants to “indicate if any portion of the proposed service area is located in an incorporated city,” and, if so, to “provide correspondence” demonstrating “consent to provide service or denial to provide service from the city.”⁴ If the nearby city consents to provide service, the applicant must provide a cost analysis justifying the need for the proposed facility.⁵ The Application, received August 31, 2020, indicates that “City responses are pending,”⁶ but GVSUD never supplemented the Application to include

² TWC § 26.081(a); *see also* TWC §§ 26.003, 26.0282; Instructions at 64.

³ Application Technical Reports at 21 – 22.

⁴ Instructions at 64.

⁵ *Id.*

⁶ Application Technical Reports at 21.

any responses received, including the response provided by the City on July 15, 2020—forty-seven (47) days prior to the date the Application was received by TCEQ. By failing to include the City's response letter in the Application, GVSUD expressly withheld information essential to TCEQ's required regionalization analysis. Consequently, the Application and Draft Permit should be denied.

Similarly, Section 1.B.2 requires applicants to “[i]ndicate if any portion of the proposed service area is inside another utility’s sewer Certificate of Convenience and Necessity [“**CCN**”] area.”⁷ Here too, if the answer is yes, then the applicant must “provide justification and a cost analysis of expenditures that shows the cost of connecting to the CCN facilities versus the cost of the proposed facility or expansion.”⁸ In the Application, GVSUD indicated that no portion of the proposed service area is located inside another utility’s CCN service area.⁹ The City believes that this denial is incorrect. While the boundaries of the proposed service area for the CCWWTP are unclear because they are not shown on the “Clearwater Creek WWTP Area” map (the “**CCWWTP Area Map**”) included in the Application, as required by Domestic Technical Report 1.0, the sewershed shown on that map very obviously extends into the sewer CCN service area held by the City of Schertz. For reference, see **Attachment B**, attached hereto and included herein for all purposes, which contains small and large scale maps of the City of Schertz’ sewer CCN No. 20271. As you can see, when compared with the “Water and Sewer CCN Viewer” map provided by the Public Utility Commission of Texas, it is clear that the sewershed depicted for the CCWWTP extends into the boundaries of the City of Schertz’ sewer CCN. Therefore, if GVSUD intends the CCWWTP to serve its entire sewershed, then GVSUD was required to justify the need for the CCWWTP based on a cost analysis included with the Application, which it did not. Therefore, because GVSUD also failed to include this additional regionalization information in the Application, TCEQ was prevented from considering and addressing the likely overlap, further inhibiting the requisite regionalization analysis. Consequently, the Application and Draft Permit should be denied.

Finally, Section 1.B.3, concerns the existence of permitted domestic WWTPs or sanitary sewer collection systems located within a three-mile radius of the proposed wastewater treatment facility.¹⁰ If such facilities exist, then the applicant is, again, required to indicate, and provide supporting documentation, regarding any such neighboring utilities’ responses to mandatory correspondence from the applicant regarding wastewater service for the proposed service area.¹¹ Just as with Sections 1.B.1 and 1.B.2, if any of the nearby utilities consent to provide service, the applicant must provide a justification for the proposed facility and a comparison of the costs to construct it against those to connect to the applicable existing facility.¹² While GVSUD properly disclosed the existence of nearby facilities, it indicated that no such facilities “have the capacity to accept or are willing to expand to accept the volume of wastewater proposed in [the Application].”¹³ As explained above, the City is unable to verify the accuracy of that assertion

⁷ *Id.* at 22.

⁸ *Id.*

⁹ *Id.*

¹⁰ Instructions at 65; Application Technical Reports at 22.

¹¹ *Id.*

¹² *Id.*

¹³ Application Technical Reports at 22.

because GVSUD failed to provide any responses to the letters sent to neighboring cities and utilities potentially capable of providing service. Further, given that the City's response to GVSUD's correspondence was not included in the Application, it is likely that other neighboring entities' responses may also have been withheld from TCEQ. For example, the City of Schertz is undertaking a large project to complete a sanitary sewer system that will collect and convey wastewater to the Cibolo Creek Municipal Authority water reclamation plant off of Trainer Hale Road, less than two miles from the proposed CCWWTP. In fact, that wastewater treatment plant, and its sewershed, are included in the sewershed depicted on GVSUD's CCWWTP Area Map. Therefore, these entities may have informed GVSUD of their willingness and/or ability to provide service to the proposed service area, but the TCEQ lacks the information to determine whether that is the case, further obstructing the regionalization analysis. Because this regionalization information was not available to TCEQ, and therefore never taken into consideration, the Application and Draft Permit should be denied.

B. The Application fails to sufficiently demonstrate need for the authorized discharge amount of 0.4 million gallons per day.

The City contends that the Application and Draft Permit should be denied because the Final Phase of the proposed CCWWTP is not needed. In conjunction with the TCEQ's regionalization policy, Section 1 of Domestic Technical Report 1.1 requires a TPDES permit applicant to "[p]rovide a detailed discussion regarding the need for any phase(s) not currently permitted."¹⁴ The Instructions further clarify this requirement, stating:

Provide justification for the proposed flows . . . Provide an anticipated construction start date and operation schedule for each phase being proposed. If construction is dependent upon housing/commercial development, provide information from the developer. Provide information such as the size of the development (number of lots), the date construction on the development is scheduled to begin, and the anticipated growth rate of the development (number of houses per month or year). . . . If additional space is needed, submit the justification information as an attachment.

Attach population estimates and/or projections used to derive the flow estimates and anticipated growth rates for developments. Provide the source and basis upon which population figures were derived (census and/or other methodology). Also, provide population projections at the end of the design life of the treatment facility (usually 50+ years) and the source and basis upon which population figures were derived.¹⁵

Per the Instructions, "[f]ailure to provide sufficient justification for the continued need for the permit and/or each proposed phase may result in a recommendation for denial of the application or proposed phases."¹⁶

¹⁴ *Id.* at 21.

¹⁵ Instructions at 64.

¹⁶ *Id.*

Here, instead of providing the requisite “detailed discussion” outlined above, the Application merely states:

This requested permit is proposed to support planned residential and commercial growth in GVSUD’s sewer CCN area. GVSUD holds sewer CCN for proposed service area. The current contract for service equates to 950 EDUs of service or 232,750 gpm.¹⁷

First, the City contends that 232,750 gallons per minute is not an accurate indication of the treated effluent likely to be generated by 950 EDUs (equivalent dwelling units). That amount of wastewater is equivalent to a wastewater discharge of 335.16 million gallons per day (“**MGD**”). Rather, the City asserts that GVSUD only intends to have a flow of 232,750 GPD (0.232750 MGD).

Second, with a total proposed discharge of 0.233 MGD, the Application seeks an excessive and unnecessary amount of treatment capacity. Thus, the Application does not demonstrate the need for the Draft Permit’s Final Phase authorization to discharge up to 0.4 MGD of treated effluent, and the Application and Draft Permit, as proposed, should be denied.

C. The Application raises concerns that the proposed discharge will not be in compliance with the TCEQ’s antidegradation policy.

As indicated above, the Application and Draft Permit authorize the discharge of treated domestic wastewater from the proposed CCWWTP to Womans Hollow Creek, thence to Martinez Creek, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 TAC § 307.10) for Classified Segment No. 1902 are primary contact recreation 1, high aquatic life use, and 5.0 mg/L dissolved oxygen. Segment No. 1902 is also currently listed on the 303(d) List for bacteria in the water. Thus, the City has concerns that the discharge into Segment No. 1902, as proposed by the Draft Permit, would impact water quality in that watercourse. Again, the City’s residents depend primarily on agriculture to make a living. The substantially agricultural character of the City is demonstrated by the fact that the City has projected that it will receive absolutely no income from occupancy certificates or subdivision platting fees during Fiscal Year 2021-2022. For reference, the proposed City budget for Fiscal Year 2021-2022 is attached hereto as **Attachment C**. As such, any degradation of water quality would adversely impact City residents’ ability to water livestock and crops and could also damage the area’s rich soils, which make the City a particularly productive agricultural area. Therefore, water quality impacts are likely to have substantial adverse impacts on the longstanding way of life in the City.

Specifically, the Application and Draft Permit raise concerns with the City that the proposed discharge will neither be in compliance with the TCEQ’s antidegradation policy nor maintain its current stream standard. Pursuant to 30 TAC § 307.5, the proposed discharge is subject to that antidegradation policy and implementation procedures under Tier 1 and Tier 2.

¹⁷ Application Technical Reports at 21.

Therefore, before approving the Application, the Commission must ensure that antidegradation will not occur as a result of the proposed discharge. Additionally, because Segment No. 1902 is an impaired water body on the TCEQ's 303(d) List, the proposed discharge may unnecessarily further downgrade the segment's water quality if statutory and regulatory requirements for antidegradation and stream standards are not met. Thus, due to these additional concerns, the Application and Draft Permit, as presented, should be denied.

Furthermore, the Application describes the unclassified Womans Hollow Creek as a "Wet Weather Creek,"¹⁸ despite containing information suggesting it may be intermittent or intermittent with perennial pools, stating that it is a "[s]low shallow running creek with perennial pools."¹⁹ The Application also indicates that no perennial streams join the receiving water within three miles downstream of the discharge point.²⁰ Martinez Creek, however, which is joined by Womans Hollow Creek less than three miles downstream of the discharge point, is included on the 303(d) List as Segment No. 1902A and described as a "[p]erennial stream."²¹ As such, the effluent set proposed in the Draft Permit may be based on an incorrect stream characterization and inconsistent with state and federal regulations.

D. GVSUD lacks sufficient legal title and/or rights to land to own and operate the proposed CCWWTP.

In addition to the foregoing bases for denying the Application, the City believes that the Application is deficient because it does not establish—and GVSUD cannot establish—that it holds sufficient legal rights to real property necessary to own and operate the CCWWTP. As evidenced by the Bexar Appraisal District reports attached hereto and incorporated herein for all purposes as **Attachment D**, GVSUD does not own the land at the address provided for the proposed CCWWTP. However, pursuant to the Instructions:

If the owner of the land is not the same as the applicant, a long-term lease agreement for the life of the facility must be provided. A lease agreement can only be submitted if the facility is not a fixture of the land (e.g., above-ground package plant). . . . If the facility is considered a fixture of the land (e.g., ponds, units half-way in the ground), there are two options. The owner of the land can apply for the permit as a co-applicant or a copy of an executed deed recorded easement must be provided. A long-term lease agreement is not sufficient if the facility is considered a fixture of the land.

Both the long-term lease agreement and the deed recorded easement must give the facility owner sufficient rights to the land for the operation of the facility."²²

¹⁸ *Id.* at 30.

¹⁹ *Id.* at 31.

²⁰ *Id.* at 30.

²¹ Tex. Comm'n on Env'tl. Quality, *2020 Texas Integrated Report - Texas 303(d) List 88* (2020), www.tceq.texas.gov/waterquality/assessment/20twqi/20txir.

²² Instructions at 33.

In its Application, GVSUD incorrectly indicated that it owns the land where the CCWWTP will be located,²³ and the third page of TCEQ's "Checklist for Admin Review of Municipal Application for Permit," attached hereto and incorporated herein for all purposes as **Attachment E**, demonstrates that TCEQ relied upon that assertion in reviewing the Application. However, GVSUD is not the owner of the land where the proposed CCWWTP will be located, and it has not provided the TCEQ with any document demonstrating ownership or a long-term lease agreement. As such, GVSUD has failed to demonstrate that it possesses sufficient rights to the land for the operation of the proposed CCWWTP.

E. The Application contains a number of additional deficiencies.

After a careful review of the Application, the City believes that the Application has the following additional deficiencies, and that due to these deficiencies, the Application and Draft Permit should be denied:

1. **Service Area Map.** The Application does not contain a map clearly identifying the proposed service area for the CCWWTP. As noted briefly above, TCEQ requires GVSUD to provide a map showing the "boundaries of the area served by the treatment facility."²⁴ However, it is uncertain whether GVSUD has provided such map. If the map provided by GVSUD in the Application to address this requirement is the CCWWTP Area Map, showing the CCWWTP's proposed sewershed, then GVSUD's proposed service area boundaries are unclear; otherwise, the Application is lacking this important, required piece of information. In either case, the CCWWTP Area Map does not indicate whether the CCWWTP is intended to serve the entire sewershed shown thereon, a portion of which extends into the City of Schertz' sewer CCN service area.
2. **Sewage Sludge Solids Management Plan.** In Domestic Technical Report 1.0, Section 9, the TCEQ requires the applicant to select the anticipated sludge disposal method and provide sludge disposal site information, including the disposal site name, permit or registration number, and disposal site's county.²⁵ Section 9 also requires the applicant to indicate the method of transportation, hauler name, and hauler registration number.²⁶ In response, GVSUD did not provide most of this information, instead stating that the information is to be determined and admitting that neither a sludge disposal site nor hauler has been selected.²⁷ GVSUD also has not complied with the TCEQ's requirement to provide a copy of the contractual agreements demonstrating that the receiving facility will accept the sludge.²⁸ GVSUD's failure to identify a method for sludge disposal creates another deficiency in the Application and indicates that GVSUD's operation of the CCWWTP will not comply with federal and state requirements.

²³ Application Administrative Report at 8.

²⁴ *Id.* at 11.

²⁵ Application Technical Reports at 12 – 13.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 13.

3. **Original Photographs.** The Application does not contain an original photograph of the proposed location for the CCWWTP, and thereby violates the Instructions, which indicate that applicants “must” submit “[a]t least one photograph of the new . . . treatment unit(s) location.”²⁹
4. **Pretreatment Program.** The Application is inconsistent as to whether GVSUD has an approved pretreatment program under 40 CFR Part 403. In Domestic Technical Report 1.0, GVSUD indicates it does not have such a program, but GVSUD’s answer to the first question in Section D of Domestic Worksheet 6.0 indicates otherwise. Without clarity as to whether GVSUD does have an approved pretreatment program, it is impossible to determine whether it should have completed Domestic Worksheets 4.0, 5.0, or some portion thereof, in addition to completing Domestic Worksheet 6.0.
5. **Buffer Zone.** Next, the City asserts that GVSUD’s Application fails to provide proof of a sufficient buffer zone compliance method. Section 3 of Domestic Administrative Report 1.1 requires a TPDES permit applicant to indicate how the buffer zone requirements of 30 TAC § 309.13(e) will be met.³⁰ The Instructions further specify that “[t]he buffer zone, either 150 or 500 feet from the treatment units . . . can be met by ownership, legal restrictions preventing residential structures within the buffer zone, an approved nuisance odor prevention plan, or a variance to the buffer zone.”³¹ GVSUD indicated it would satisfy the buffer zone requirements through ownership,³² but as explained in more detail above, GVSUD possesses no ownership interest, nor legal right sufficient to comply with the requirements of 30 TAC § 309.13(e). Specifically, the Instructions indicate that “[o]wnership means that the applicant owns all the land surrounding the treatment units that fall within the buffer zone,”³³ which GVSUD does not. Furthermore, 30 TAC § 309.13(e) provides that “wastewater treatment plant units may not be located closer than 150 feet to the nearest property line.” As shown on the maps included in the Application, GVSUD’s proposed 150-foot buffer zone is rectangular. That does not properly buffer a 150-foot radius around the proposed facility. In any case, the maps depict the buffer zone extending beyond the boundary of the CCWWTP property.
6. **Nuisance Odors.** In addition to the buffer zone issues described above, an additional, unneeded treatment and disposal facility, if not operated properly, may result in nuisance odors that will adversely affect the quality of life of nearby residents and the public. In accordance with 30 TAC § 309.13(e), the Applicant must demonstrate that sufficient measures to prevent nuisance odors will be undertaken. It is not in the public interest to issue a new discharge authorization that may result in nuisance odors when regionalized wastewater services are available, particularly when nearby schools are located within the three-mile radius of the proposed CCWWTP.

²⁹ Instructions at 43.

³⁰ Application Administrative Report at 14.

³¹ Instructions at 43.

³² Application Administrative Report at 14

³³ Instructions at 43.

For the above-cited reasons, the City recommends that the TCEQ deny the Application and Draft Permit.

III. REQUEST FOR CONTESTED CASE HEARING

The City requests a contested case hearing regarding the Application, Draft Permit, and each and every issue raised in the City's public comments, and any and all supplements and/or amendments thereto. For the reasons set forth herein, the City is an affected person, as defined by 30 TAC § 55.203. The City has a personal justiciable interest to a legal right, duty, privilege, power, or economic interest that is not common to the general public that would be adversely affected should the Draft Permit be granted. In determining whether a person is an affected person, the TCEQ may consider, among other factors, (1) "whether the interest claimed is one protected by the law under which the application will be considered; (2) distance restrictions or other limitations imposed by law on the affected interest; (3) whether a reasonable relationship exists between the interest claimed and the activity regulated; . . . (5) likely impact of the regulated activity on use of the impacted natural resource by the person; . . . and (7) *for governmental entities, their statutory authority over or interest in the issues relevant to the application.*"³⁴ The TCEQ may also consider "the merits of the underlying application and supporting documentation . . . , including whether the application meets the requirements for permit issuance."³⁵

IV. CONCLUSION

The City reserves its right to supplement these public comments and this request for a contested case hearing as it learns more about the Application—additional information may become apparent through the public meeting (and thereby-extended comment period) regarding this Application. The City appreciates your consideration of these public comments and request for a contested case hearing.

Thank you for your consideration of this important matter. If you or your staff have any questions regarding this matter, please contact me at your convenience.

Sincerely, .



Maris M. Chambers

MMC/dsr
Enclosures

cc: Dee Grimm, Mayor, City of Saint Hedwig
Cynthia Trevino, Attorney, City of Saint Hedwig

³⁴ 30 TAC § 55.203(c) (emphasis added).

³⁵ *Id.* § 55.203(d).

Attachment A



Location Mapper

Version 4.1

User Guide



Find address or place



Scht

Abbot Rd

State Park, Bexar Co

Trainer Hole Rd
Beyer Path

Abbot Rd

Real Rock R

St Hedwig

Stapper Rd

St Hedwig Esle

Miller Rd

Creekside Dr
Woods Hollowing Creek

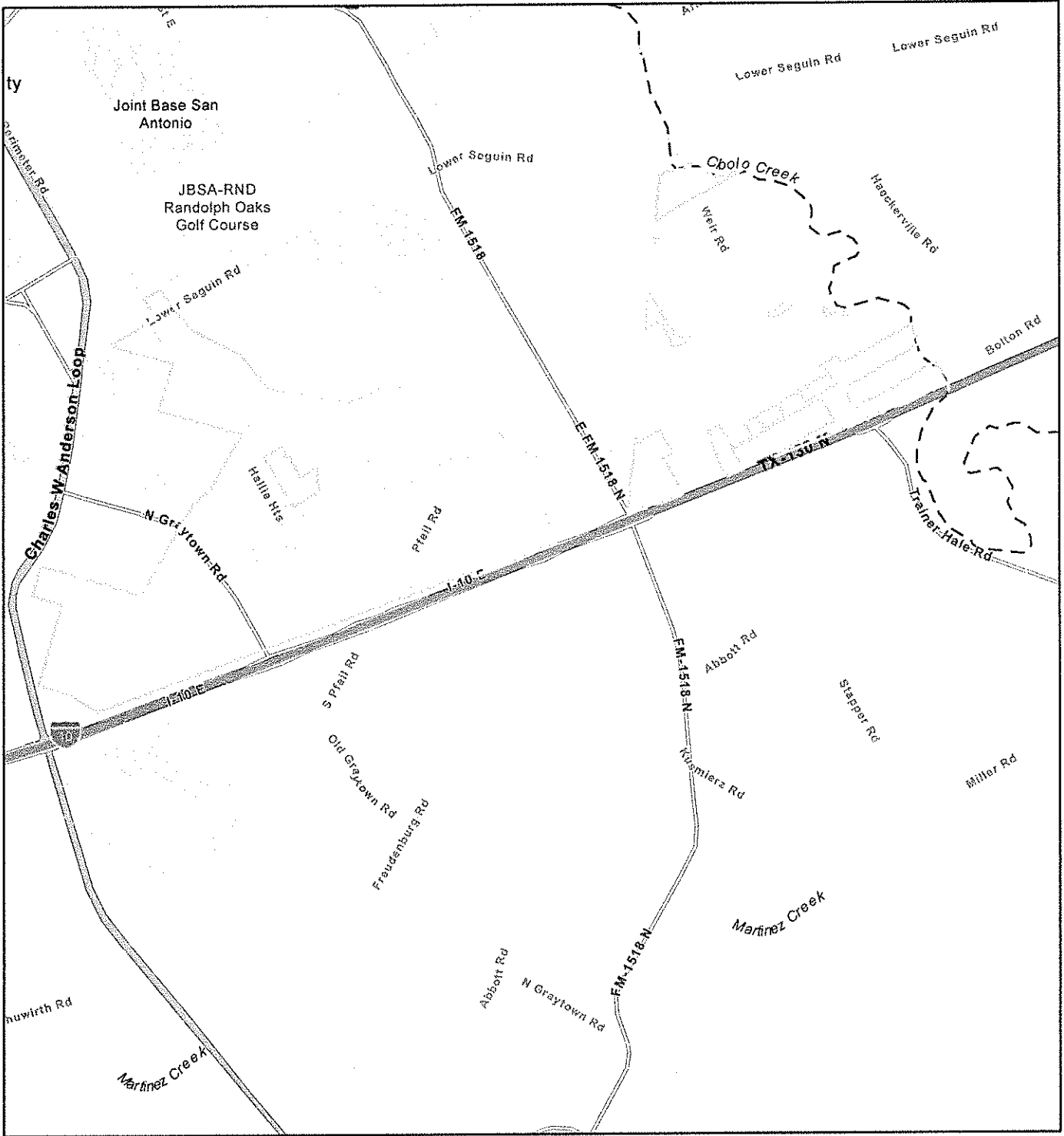
0 0.15 0.3mi

38° 50' 23.4625 Degrees

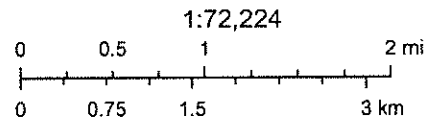


Attachment B

City of Schertz Sewer CCN No. 20271



July 29, 2021

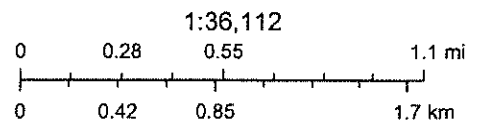


Texas Parks & Wildlife, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA

City of Schertz Sewer CCN No. 20271(Large Scale)



July 29, 2021



Texas Parks & Wildlife, Esri, HERE, Garmin, SafeGraph, INCREMENT P, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA

Attachment C



City of Saint Hedwig

**FISCAL YEAR 2021-2022
PROPOSED CITY BUDGET**

This budget will raise more total property taxes than last year's budget by \$27,818, which is a 3.61% increase from last year's budget, and of that amount \$20,284 is tax revenue to be raised from new property added to the tax roll this year.

**City of Saint Hedwig
FY 2021-2022 Proposed Budget**

	<u>Oct 1, 2020 - Sep 30, 2021</u> <u>Adopted Budget FY21</u>	<u>Oct 1, 2021 - Sep 30, 2022</u> <u>Proposed Budget FY22</u>
Ordinary Income/Expense		
Income		
Ad Valorem Taxes	650,000.00	797,971.00
Building Permits		
Board of Adj Fee	0.00	0.00
Building Permits Issued	7,000.00	7,000.00
Occupancy Certificate	0.00	0.00
Subdivision Platting Fees	0.00	0.00
Variance Fees	0.00	0.00
Building Permits - Other	0.00	0.00
Total Building Permits	<u>7,000.00</u>	<u>7,000.00</u>
Donations		
Park Benches	0.00	0.00
Total Donations	<u>0.00</u>	<u>0.00</u>
Franchise Fees		
Electric	90,000.00	90,000.00
Telephone	2,500.00	2,500.00
Total Franchise Fees	<u>92,500.00</u>	<u>92,500.00</u>
Interest		
Regular Savings	15,000.00	7,500.00
Total Interest	<u>15,000.00</u>	<u>7,500.00</u>
Miscellaneous Income		
Rebates	0.00	0.00
Printing Fee	0.00	0.00
Miscellaneous Income - Other	0.00	0.00
Total Miscellaneous Income	<u>0.00</u>	<u>0.00</u>
Sales Tax Collected	90,000.00	200,000.00
Alcoholic Beverages Tax Coll	0.00	0.00
School Crossing Guards	0.00	0.00
VIT Overages	0.00	0.00
Total Income	<u>854,500.00</u>	<u>1,104,971.00</u>
Expense		
Reconciliation Discrepancies	0.00	0.00
Capital Improvements		
6011 - Security System	0.00	0.00
6013 - Park		
6013 - Park - Other	0.00	0.00
6013a - Trees	0.00	0.00
6013c - Electric Poles	0.00	0.00
6013h - Benches	0.00	0.00
6013 - Park - Other	60,000.00	60,000.00
Total 6013 - Park	<u>60,000.00</u>	<u>60,000.00</u>
6014 - Irrigation System	0.00	0.00
6016 - Computer Equipment	750.00	750.00
6019 - Building Improvements		
6019 - Bldg improvement	0.00	0.00
6019a - Air Conditioning	0.00	0.00
6019 - Building Improvements - Other	30,000.00	77,971.00
Total 6019 - Building Improvements	<u>30,000.00</u>	<u>77,971.00</u>
Total Capital Improvements	<u>90,750.00</u>	<u>138,721.00</u>
6023 - Lawn Mowing Equipment	0.00	95,000.00
Operational Costs		
5010 - Security	1,200.00	1,200.00
5011 - Budget Accountant	6,500.00	6,500.00
5335 - Computer Maintenance	1,000.00	1,000.00
5211 - Gas and Electric		
5211 - City Hall & Park	5,400.00	5,400.00
5211a - Street Lights	3,000.00	3,000.00
5211 - Gas and Electric -Other	0.00	0.00
Total 5211 - Gas and Electric	<u>8,400.00</u>	<u>8,400.00</u>
5212 - Water	3,500.00	3,500.00
5215 - Telephone	5,900.00	5,900.00
5216 - Internet Access	1,000.00	1,000.00
5219 - Domain - Website & Email	4,000.00	4,000.00
5220 - Alarm System Services	500.00	500.00
5221 - Port-A-Potty	2,000.00	2,000.00
5225 - Exterminator	350.00	350.00
5230 - Postage and Delivery	500.00	500.00
5235 - Printing/Copying	750.00	750.00
5240 - Public Notice	2,000.00	2,000.00
5270 - Insurance		
5271 - Building & Equipment	1,000.00	1,164.00
5272 - General Liability	1,150.00	999.00
5273 - Errors & Omissions	1,150.00	1,754.00
5274 - Automobile Liability	100.00	75.00
5275 - Workers' Compensation	2,000.00	1,177.00
5276 - Law Enforcement	700.00	943.00
5277 - Mobile Equipment	350.00	304.00
5278 - Insurance - Other	700.00	0.00
Total 5270 - Insurance	<u>7,150.00</u>	<u>6,416.00</u>

**City of Saint Hedwig
FY 2021-2022 Proposed Budget**

	<u>Oct 1, 2020 - Sep 30, 2021</u>	<u>Oct 1, 2021 - Sep 30, 2022</u>
	<u>Adopted Budget FY21</u>	<u>Proposed Budget FY22</u>
5280 - Bank Service Charges	1,000.00	1,000.00
5290 - Bond Principal Expense		
5291 - Municipal Bldg & Land	0.00	0.00
5292 - Road Improvements	0.00	0.00
Total 5290 - Bond Principal Expense	0.00	0.00
5295 - Bond Interest Expense		
5296 - Municipal Bldg & Land	0.00	0.00
5297 - Road Improvements	0.00	0.00
Total 5295 - Bond Interest Expense	0.00	0.00
5330 - Election Costs		
5330 - Election Costs-Other	5,000.00	4,500.00
5331 - Judges, Clerks	2,500.00	0.00
5332 - Ballots	500.00	0.00
5330 - Election Costs - Other	0.00	0.00
Total 5330 - Election Costs	8,000.00	4,500.00
5340 - Cleaning Service	1,500.00	1,500.00
5360 - City Attorney Services	25,000.00	25,000.00
5365 - Acctg & Audit Service	7,500.00	8,450.00
5368 - Master Planner	0.00	0.00
5370 - Appraisal District Serv	3,500.00	3,500.00
5375 - City Planning Commission	750.00	750.00
5380 - Membership Dues	1,000.00	1,000.00
5385 - Building Inspector	15,000.00	15,000.00
5400 - Engineering Services		
5410 - Road Engineer	93,330.00	80,000.00
Total 5400 - Engineering Services	93,330.00	80,000.00
Total Operational Costs	201,330.00	182,716.00
Personnel Services		
5005 - Salaries, Reg. Employee	24,918.00	39,936.00
5006 - Mayor's Stipend	0.00	0.00
5007 - Salaries, Other (Mayor)	14,400.00	19,200.00
5008 - Code Compliance Officer	10,688.00	33,280.00
5009 - Maintenance Man	30,000.00	30,000.00
5009 - Maintenance Man Add'l	0.00	17,160.00
5020 - Social Security Employer	5,974.00	8,653.71
5025 - Medicare Employer	1,472.00	2,023.65
5077 - Employee Health Insurance		9,600.00
Personnel Services - Other	0.00	0.00
Total Personnel Services	87,450.00	159,853.56
Town Marshall Expenses		
5077 - Vehicle		22,500.00
5077 - Vehicle Equipment		3,920.00
5077 - Office Equipment		11,120.00
5077 - Software		4,710.00
5077 - Operating Costs		6,048.00
5077 - Town Marshall Salary		26,000.00
5077 - Consulting Fees		8,000.00
Total Town Marshall Expenses		82,298.00
Municipal Court Expense		5,000.00
Total Municipal Court Expense		5,000.00
Supplies and Materials		
5601 - Office Supplies	3,500.00	3,500.00
5609 - ROW Trash Pickup	1,800.00	1,800.00
5610 - ROW Shredding	15,000.00	15,000.00
5611 - ROW Spraying	8,000.00	8,000.00
5612 - ROW Tree Trimming	20,000.00	20,000.00
5620 - Road Maint -Supplies	12,000.00	12,000.00
5621 - Road Maint-Contract	1,674,670.00	1,200,000.00
5630 - Drainage	180,000.00	30,000.00
5640 - Sign Maintenance		
5641 - Sign Purchase	5,500.00	5,500.00
Total 5640 - Sign Maintenance	5,500.00	5,500.00
5650 - Building Maintenance		
5650 - Building Maint. - Other	3,000.00	3,000.00
5651 - Maintenance Supplies	6,500.00	6,500.00
5650 - Building Maintenance - Other	0.00	0.00
Total 5650 - Building Maintenance	9,500.00	9,500.00
5660 - Repairs		
5661 - Tractor Repair & Mainten	10,000.00	3,500.00
5662 - Machinery Fuel	3,500.00	3,500.00
5660 - Repairs - Other	0.00	0.00
Total 5660 - Repairs	13,500.00	7,000.00
Total Supplies and Materials	1,943,470.00	1,312,300.00
Travel, Training, & Prof Dues		
5112 - Mileage	3,500.00	3,500.00
5120 - Training	1,000.00	1,000.00
5125 - Meetings	1,000.00	1,000.00
5140 - Professional Dues	1,000.00	1,000.00
Total Travel, Training, & Prof Dues	6,500.00	6,500.00

**City of Saint Hedwig
FY 2021-2022 Proposed Budget**

	<u>Oct 1, 2020 - Sep 30, 2021</u>	<u>Oct 1, 2021 - Sep 30, 2022</u>
	<u>Adopted Budget FY21</u>	<u>Proposed Budget FY22</u>
Total Expense	2,329,500.00	1,982,388.56
Net Ordinary Income	(1,475,000.00)	(877,417.56)
Other Income/Expense		
Other Income		
Transfers from Reserve	1,475,000.00	877,417.56
Total Other Income	1,475,000.00	877,417.56
Net Other Income	1,475,000.00	877,417.56
Net Income	0.00	(0.00)

Attachment D

Bexar CAD

Property Search Results > 1 - 6 of 6 for Year 2021

Export Results

New Search

Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a single map.

Property Address Legal Description

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value	
<input type="checkbox"/> 1166658	80400-000-1880	Mobile Home	4060 STAPPER RD TX	DUNCAN CRAIG & JOANN		\$44,290	View Details View Map
<input type="checkbox"/> 1172641	04019-000-1882	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	DUNCAN HAZEL JOANN		\$5,390	View Details View Map
<input type="checkbox"/> 169912	04019-000-1880	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL W & SUTTON CAROLYN & DUNCAN HAZEL J		\$37,730	View Details View Map
<input type="checkbox"/> 1172711	04019-000-1883	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL WILLIAM		\$12,150	View Details View Map
<input type="checkbox"/> 169348	04019-000-0191	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL WILLIAM		\$114,590	View Details View Map
<input type="checkbox"/> 169913	04019-000-1881	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SUTTON DONALD J & CAROLYN R		\$176,210	View Details View Map

Page: 1

Protest status and date information current as of Jul 28 2021 1:22AM.
2021 and prior year appraisal data current as of Jul 2 2021 6:19AM
For property information, contact (210) 242-2432 or (210) 224-8511 or
email.
For website information, contact (210) 242-2500.

Attachment E

~~print N&T packet for permit review~~

~~GOOD REPORT~~
~~print verifications & M&D email~~

CHECK LIST FOR ADMIN REVIEW OF MUNICIPAL APPLICATION FOR PERMIT		
Permit No. WQ00 <u>15917001</u>	TX <u>0140540</u>	MGD <u>0.4</u>
CN <u>600684294</u>	RN <u>111093126</u>	County: <u>Bexar</u> Region No. <u>13</u>
Facility: () Major (✓) Minor	App Rcvd Date: <u>8/31/2020</u>	Permit Expiration Date: <u>NEW</u>
(✓) Inactive () Active	Segment No. <u>1902</u>	

Note: A minor facility is generally one in which the final flow is less than 1.0 MGD.

Application Review Date: 10/16/2020

- A copy of the pre-tech review was provided by the Municipal Permits Team (for new, major amendments and major facilities).
- A copy of the groundwater review was provided (for TLAP new, major amendment, SADD minor amendment, and all applications with (or proposing) Class B sludge provisions).
- For new and major amendment applications that propose surface water discharge, the standards review for RWA comments is included.
- Coastal Zone sheet is included. Yes No

Fees or Penalties Owed: No [] Yes Amount Owed: _____

SECTION 1 APPLICATION FEES

Application Fees: The appropriate item checked and payment verified in receipt rpt or boxi rpt. Note: copies of checks should be removed and shredded.

Municipal Fees

Proposed/Final Phase Flow	New/Major Amend.	Renewals	Minor Amendment or Modification <u>without</u> Renewal
< .05 MGD	[] \$350.00	[] \$315.00	[] \$150.00 (for any flow)
≥ .05 but < .10 MGD	[] \$550.00	[] \$515.00	
≥ .10 but < .25 MGD	[] \$850.00	[] \$815.00	
≥ .25 but < .50 MGD	<input checked="" type="checkbox"/> \$1,250.00	[] 1,215.00	
≥ .50 but < 1.0 MGD	[] \$1,650.00	[] 1,615.00	
≥ 1.0 MGD	[] \$2,050.00	[] 2,015.00	

SECTION 2 TYPE OF APPLICATION

- The Type of application is marked
- Reason for amendment or modification (if applicable). Also, check Tech. Report 1.1 Section 4 on page 3 (Unbuilt Phases) and Section 1.A on page 20 (Justification of permit need).

SECTION 3 FACILITY OWNER (APPLICANT) AND CO-APPLICANT

- Legal name of applicant is listed (*the owner of the facility must apply for the permit*)
- Legal name of co-applicant is listed (*if required to apply with facility owner*)

Core Data Form (CDF) is provided. A separate CDF is required for each customer.

Section I – General Information

Reason for submittal is marked.

Customer (CN) and Regulated Entity (RN) Reference Nos. provided – verify with Central Registry

Section II – Customer Information

Customer legal name is provided and it matches name on admin report

Texas SOS/Filing number is provided – verify with SOS

Texas State Tax ID is provided – verify with Texas Comptroller

Type of customer is marked – refer to information below

Corporation: Check with Secretary of State (SOS) at: <https://direct.sos.state.tx.us/acct/acct-login.asp> verify the entity status and charter number – print page. Verify correct legal spelling of applicant's name. Check spelling with SOS against the name listed in the application. (Permit must be issued in name as filed with SOS.) The applicant must be "**In existence and active**" before the application can be processed further.

Those entities subject to state franchise taxes: If applicable, check with Comptroller (website at: <http://ecpa.cpa.state.tx.us/coa/coaStart.html>. Verify the tax identification number is correct. Note: Non-profit organizations and partnerships are not subject to the state franchise tax.

Individual: Complete Attachment 1 of Admin. Report 1.0 The complete legal name, including the middle name; and all other information is required. This info is required by Chapter 26.027C of the Texas Water Code. A separate form is required for each individual.

Utility District: Check IWUD to verify that district is not dissolved (inactive is O.K. to process)

Trust: A copy of an executed trust agreement is provided. Verify that applicant's name is the same as the name in the trust agreement. NOTE: Executed trust must show signatures of trustees or beneficiaries forming the trust and which county it is recorded in.

Partnership: Verify with Secretary of State (SOS) that partnership is registered, active, and has a filing number. Check spelling with SOS against the name submitted in Item 1; Check that SOS # is correct; Print page from SOS website. OR if the partnership is not listed with the SOS, a copy of the partnership agreement is provided by the applicant. The agreement must: give the name of the partnership as provided on the application for permit; list names of partners; bear signatures of the partners; state the terms of the partnership; and must be recorded in the county where the facility (plant) is located.

Municipality/Governmental Agencies/School Districts: City, County, ISD, Fed, etc. – applicable info is listed.

Other _____

Number of employees is marked

Customer role is marked

Mailing address for the applicant is provided - verify on USPS website. This address is used on the permit.

Email address is provided *using GM email in app*

Telephone number is provided

Section III – Regulated Entity Information

Regulated Entity Name is provided and it matches name on admin report

Street address or location description of facility is adequately described. If different from current permit, new permit may be required. Use USPS website/GIS mapping to confirm street address

The county where the facility is located is provided

The name of the nearest city is provided

The zip code is provided

The longitude and latitude of the facility is provided – check mapit

Primary SIC Code is provided

Permit No. listed under appropriate programs- if not listed, add it

Section IV – Preparer Information

Name, title, telephone number, and email address is provided

Section V – Authorized Signature

Company name, title, printed name, phone number, signature, and date provided

SECTION 4 APPLICATION CONTACT INFORMATION

Administrative and Technical contact name, address, electronic information provided

SECTION 5 PERMIT CONTACT INFORMATION

Permit (2) contact names, addresses, electronic information provided

SECTION 6 BILLING INFORMATION

Billing contact name, address, electronic information provided

SECTION 7 REPORTING INFORMATION

DMR/MER contact name, address, electronic information provided

SECTION 8 NOTICE INFORMATION

Minor Amendment without Renewal – NORI not required. Skip review of notice information.

Name, address and phone number of one person responsible for publishing NORI is provided

Method of sending NORI package is provided

Name and phone number of contact to be in NORI is provided

Location where application will be available is provided and is in the county where the facility is located - the location must be a building supported by taxpayer funds. Note: If discharge is directly into water body that borders two counties, application must be placed in a public facility in both counties and the notice must be published in both counties

Bilingual Items 1 – 5 are completed. If "Yes" to question 1 and "Yes" to either question 2, 3 or 4, then e.5 must be completed

SECTION 9 REGULATED ENTITY and PERMITTED SITE INFORMATION

Permit No. and Expiration date is listed, if not, verify with permit or PARIS

Name of project or site is provided. Should correspond to Item 22 on CDF.

Owner of the facility identified in the application is the same as the name given in Section 3.A

NOTE: THE OWNER OF THE FACILITY IS REQUIRED TO APPLY FOR THE PERMIT

(Refer to legal policy memo for complete definition and discussion of facility.)

Marked whether ownership of the facility is public, private or both

Owner of the land where permitted facility is or will be located is the **SAME** as the applicant.

The owner of the land on which the facility is located is **DIFFERENT FROM** the owner of the facility: A copy of a lease agreement or easement, with a term for the duration of the permit, between applicant and landowner, has been provided. See Lease Agreement/Easement Memo dated 2/14/06, that states that a lease is sufficient for pond systems, and that details the provisions that a lease agreement or easement must contain. OR, landowner can apply as a co-permittee. Lease must identify property by legal description or map.

Effluent Disposal Site Owner:

N/A - (no effluent disposal proposed)

If land disposal is authorized in permit or proposed, the applicant **OWNS** land on which site is located

If applicant **DOES NOT OWN** land where site is located, a long-term lease agreement is provided which includes: a term of at least 5 years; is current or it includes an option to renew the term; is between the current applicant and the landowner; and includes description of property by legal description or map.

(For new TLAP permits only: A copy of an executed option to purchase agreement may be provided to show that applicant will have ownership of the land upon permit approval.)

Sewage Sludge Disposal Site Owner:

N/A - (no sludge disposal proposed)

If sludge is authorized in permit or proposed, the applicant **OWNS** land on which disposal site is located, otherwise lease is needed unless Class B sludge is land applied. Check the permit under Sludge Provisions to determine if sludge is authorized. Note: For BLU sludge application – lease is not needed; Landowner just needs to sign sludge affidavit (if different from applicant)

If sludge disposal is proposed or authorized in the permit, the applicant must also submit the applicable sludge forms.

SECTION 10 DISCHARGE INFORMATION

- Checked if treatment facility location in permit is correct.
- Checked if discharge info in permit is correct. If applicable, the discharge route description is adequately described and describes the discharge route to the nearest major watercourse. Changing the point of discharge and route from the current permit description requires a major amendment
- The name of the city (or nearest city) where the outfall(s) is/will be located has been provided
- The county where the outfall is located is provided
- The longitude and latitude of the outfall is provided
- Marked item regarding authorization for discharge into a city, county, or state ditch. If applicable, correspondence is provided. Email TXDOT if discharge is to a state highway right-of-way or roadside ditch.
- For a daily average flow of 5 MGD or more: the names of all counties located within 100 miles downstream from the point of discharge. These counties will be listed on contact sheet.

SECTION 11 DISPOSAL (TLAP) INFORMATION

- The written location description of the disposal site is adequately described. (NOTE: A CHANGE IN LOCATION OR INCREASE IN ACREAGE REQUIRES A MAJOR AMENDMENT. A decrease in acreage may also be a major amendment (due to flow rate) - check with permit writer)
- The name of the city (or nearest city) has been provided
- The county where the disposal site is located is provided
- The longitude and latitude of the disposal site is provided
- The written flow of effluent from the facility to the effluent disposal site is adequately described
- The nearest watercourse to the disposal site is listed

SECTION 12 MISCELLANEOUS INFORMATION

- Identified whether or not facility or discharge are on Indian land (If yes, we do not have permit authority.)
- For permits that allow sewage disposal the location description is adequately described. For an already-existing permit, check to see that the location has not changed
- Must indicate whether any former TCEQ employees who were paid for services regarding this application
- Fees or Penalties Owed: No Yes - See page 1 of checklist

SECTION 13 ATTACHMENTS

- Lease agreement or deed recorded easement, if the land where the treatment facility is located or the effluent disposal site are not owned by the applicant or co-applicant
- An ORIGINAL or equivalent FULL-SIZED USGS 7.5 minute topographic map (8 1/2 x 11 acceptable for amendment and renewal applications) is provided and labeled showing: applicant's property boundary treatment facility boundaries point of discharge highlighted discharge route for three miles downstream or until it reaches a classified segment scale, effluent disposal site(s) pond(s) sludge disposal/land application site an area of not less than one mile in all directions of the site

need full size

All original or equivalent full sized maps must show:

- Color map Clear contour lines Upper left corner must identify map as USGS Department of the Interior Geological Survey Lower left corner, datum & project information Bottom, magnetic declination Bottom, must show scale Bottom, identify contour intervals Bottom, national map accuracy std. statement Bottom, show State of TX and quad location Around map, lat and long coordinates Bottom, quadrangle name Bottom, must identify map date

SECTION 14 SIGNATURE PAGE

Note: The signature information below lists the proper signatories for the various entities and the current version of the application contains a paragraph referencing 30 TAC 305.44. The person signing the application verifies that he or she is authorized, under this rule, to sign the application. We must verify that the title meets the requirements or signatory authority has been delegated.

Original Signature Page is required.

Signature must be properly notarized – check that signature date and notarized date are the same.

Owner Co-Permittee

- City - Elected official or principle executive officer of the city may be public works director.
- Individual: only the individual signs for himself/herself.
- Partnership: General Partner or exec officer
- Corporation: at least level of VP (CEO, Chairman of Board, Secretary can be equiv. to V.P., Member or General Manager for LLC, Manager of one or more manufacturing, production, or operating facilities employing more than 250 persons - refer to 30 TAC 305.44)
- Utility District: at least the level of vice president, on Board of Directors or District Manager
- Water Authority: Regional managers.
- Independent School Districts: at least level of the Assistant Superintendent or board members.
- Governmental Agencies: Division Directors or Regional Directors.
- Trust: The trustee that has been identified in the trust agreement.
- Other: _____

ADMIN REPORT 1.1 For All New or Major Amendment Applications

SECTION 1 Affected Landowner Information -

Landowner Map:

- The applicant's complete property boundaries are delineated which includes boundaries of contiguous property owned by the applicant
- For domestic facilities, show the buffer zone and identify all of the landowners whose property is located within the buffer zone - *tech address*
- The property boundaries of the landowners surrounding the applicant's property have been clearly delineated on the map
- The location of the facility within applicant's property is shown.

For TPDES applications:

- The point(s) of discharge is clearly identified on the map and the discharge route(s) is highlighted.
- The scale of map is provided to measure one mile downstream or if discharge is into a lake, bay estuary, or affected by tides, 1/2 mile up & down stream is measured.
- The property boundaries of landowners adjacent to the discharge route(s) for one mile downstream from the point of discharge have been clearly delineated and the route is clearly delineated. OR If discharge is into a lake, bay estuary, or affected by tides, the property boundaries of landowners 1/2 mile up & downstream and those property owners across the lake along the shore line that fall within a 1/2 mile radius of the point of discharge are clearly delineated on the map.

For TLAP applications (i.e., irrigation, evaporation, etc.):

- The boundaries of the disposal site is clearly identified on the map.
- The boundaries of all landowners surrounding the disposal site.
- Cross-referenced list of landowners is provided.
- Disk or four sets of labels were provided
- Source of landowners' info was provided.
- Provided response regarding permanent school fund land. If information filled out on General Land Office, then indicate so on the contact sheet.

SECTION 2 Original Photographs

- The original (color) ground level photos of treatment unit area, disposal or discharge areas (2 photos – one upstream, one downstream) have been provided
- Plot plan or map showing location and direction of each photo

SECTION 3 Buffer Zone Map *tech address*

Buffer zone map (8 1/2 by 11): The permit writer will review this during the pre-tech review. Any deficiencies will be addressed by them.

SUPPLEMENTAL PERMIT INFORMATION FORM (SPIF)

SPIF is provided - TPDES only

TECHNICAL REPORT – MUNICIPAL/DOMESTIC APPLICATIONS

Minor Amendment *without* Renewal. Review not required. Just make sure report is provided.

THE FOLLOWING ITEMS APPLY TO ALL APPLICATIONS:

The existing permitted design flow (including all permit phases) is indicated

If flow indicated is greater than permitted, a major amendment is required.

If flow amount is less than permitted amount, confirm with applicant that they are requesting to reduce the flow.

For facilities that have not been constructed the anticipated construction and operation dates are provided for all phases.

Site Drawing must be submitted (*see email from Lana 1/10/2019*).

The permit authorizes irrigation/evaporation/subsurface disposal method and the information has been addressed in the technical report. Verify the acreage. If the acreage has changed from what is currently permitted, a major amendment is required.

The applicable worksheets must be completed:

Worksheet 3.0 - required for land disposal of effluent

Worksheet 3.1 - required for land disposal (new and major amendment only)

Worksheet 3.2 - required for subsurface land disposal (new and major amendment only)

Worksheet 3.3 - required for subsurface area drip dispersal systems (SADDS) (new and major amendment); may be required for renewal on a case-by-case basis.

SADDS Applications: Compliance history items must be completed for SADDS disposal. When the application is administratively complete, a copy of the application and a transmittal letter must be sent to the State Department of Health Services. See the folder titled "SADDS" (under the Individual Permit Review folder) for a template of the letter.

Worksheet 7.0 – required for SADD applications (new and major amendment only) - We do not review the form; we just make sure that it is submitted. If it is not submitted, request it in a NOD.

Sludge disposal and/or land application is authorized in the permit on property owned or under applicant's control. If facility is beneficially applying class B sludge on the same site as the facility, the applicant must submit the Beneficial Land Use of Sewage Sludge (Class B) Permit Application - Form No. 10451 (See Class B Sludge Permit checklist). The applicant must also submit the appropriate sludge application fee.

If authorization is for sludge processing, storage, disposal, composting, marketing and distribution of sludge, sludge surface disposal, or sludge monofill or for temporary storage in sludge lagoons, the applicant must submit the Domestic Wastewater Permit Application: Sewage Sludge Technical Report – Form No. 10056.

Check for:

required signatures (if applicable)

site acreage acreage application area site boundaries shown on USGS map

Notes: If the applicant is disposing or land applying sludge on land owned or under their control, but it is not authorized in their permit or by any other TCEQ authorization, a major amendment is required.

If the application is for a new permit or major amendment, then you need to check for the appropriate affected landowner requirements.

[] Worksheet 6.0 must be addressed if a domestic facility is labeled as public or both, (not required for federal agencies or water treatment plants)

THE FOLLOWING ITEMS ONLY APPLY TO MINOR RENEWAL APPLICATIONS:

- [] The type of treatment plant has been indicated.
- [] The list of units and their dimensions have been provided
- [] The flow diagram has been provided.
- [] The required grab sample test results have been provided for all constituents - *not required if plant not operational.*
- [] Sludge disposal is authorized off site, and the ultimate sludge disposal method has been identified.
- [] Worksheet 2.0 - For TPDES permits - the stream data has been addressed.
- [] Worksheet 4.0 - For discharge permits: If the applicant has a permitted phase equal to or greater than 1 MGD or more than one phase, and interim or final phase(s) that have not been constructed has a flow equal to or greater than 1 MGD, the applicant must perform the all of the required effluent testing to renew that phase.

WHEN APPLICATION IS NOT ADMINISTRATIVELY COMPLETE:

Complete NOD. See NOD SOP

WHEN APPLICATION IS ADMINISTRATIVELY COMPLETE:

Complete NORI package. See NORI SOP
NORI not required for minor amendment. Complete the Routing and Contact (list "n/a" for item regarding person responsible for publication of the notice) Blue sheets only.

Prepare SPIF forms (only for TPDES permits)

- checked application type
- entered county name
- entered administrative completeness date
- ensured permit number is on form
- *check agency receiving SPIF

Minor amendments - ALL agencies BUT Texas Historical Commission and Army Corps of Engineers

Renewals - All agencies BUT Texas Historical Commission

New and Major Amendments - All agencies

- check that the segment number (if known) is entered in receiving water body information.
- On the accompanying map, delineate the discharge route in such a way that copies will reflect the highlighted discharge route.

***NOTE:** Copy of SPIFs not required for Houston - US Fish and Wildlife and Galveston-US Army Corps of Engineers

Admin Complete PARIS Entry and Other Reminders

WO Folder - Application Search

Application Summary Tab--verify application info

Admin Review Tab

- Admin Review Begin Date
- Admin Complete Date
- SPIF
- NORI

Public Participation Tab – No longer required to enter public notice details. See Katherine's email dated 3/30/2017.

CR Folder – RE Search

AI Detail Screen--verify facility info

Enter Contact Info – Contact List

- Owner
- Applicant
- Technical
- Billing (To edit existing info – select Billing Maintenance)
- MER (TLAP only)
- Remove CN affiliation for MER contact (TLAP and TPDES)

OTHER

- Copy of notice, contact sheet, and labels to I/Drive
- SADDs – Application to Dept. of Health Services
- Email TXDOT if discharge is to a state highway right-of-way or roadside ditch.
- Email NORI
- Update facility name (if needed in PARIS)
- Update coordinates (if needed in PARIS), make sure correct link in Notice
- EPA ID CN, location address, facility name (if needed in PARIS)

Attachment B

The "*Appraisal District Reports*"

Bexar CAD

[Property Search](#) [Map Search](#)

Property Search Results > 1 - 2 of 2 for Year 2022

[Export Results](#)

[New Search](#)

Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a single map.

Property Address Legal Description

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value	
<input type="checkbox"/> 991095	05193-000-1028	Real	14394 INTERSTATE 10 E CONVERSE, TX 78109	GREEN VALLEY SPECIAL UTILITY		N/A	View Details View Map
<input type="checkbox"/> 1056538	05193-000-1561	Real	E IH 10 CONVERSE, TX 78109	GREEN VALLEY SPECIAL UTILITY		N/A	View Details View Map

Page: 1

2022 data current as of Dec 16 2021 1:19AM.
2021 and prior year data current as of Dec 3 2021 6:20AM
For property information, contact (210) 242-2432 or (210) 224-8511 or email.
For website information, contact (210) 242-2500.

This year is not certified and ALL values will be represented with "N/A".

Website version: 1.2.2.33

Database last updated on: 12/16/2021 1:19 AM

© N. Harris Computer Corporation

Bexar CAD

[Property Search](#) [Map Search](#)

Property Search Results > 1 - 6 of 6 for Year 2022

[Export Results](#)

[New Search](#)

Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a single map.

Property Address Legal Description

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value	
<input type="checkbox"/> 1166658	80400-000-1880	Mobile Home	4060 STAPPER RD TX	DUNCAN CRAIG & JOANN		N/A	View Details View Map
<input type="checkbox"/> 1172641	04019-000-1882	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map
<input type="checkbox"/> 1172711	04019-000-1883	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map
<input type="checkbox"/> 169913	04019-000-1881	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map
<input type="checkbox"/> 169348	04019-000-0191	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map
<input type="checkbox"/> 169912	04019-000-1880	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map

Page: 1

2022 data current as of Dec 16 2021 1:19AM.

2021 and prior year data current as of Dec 3 2021 6:20AM

For property information, contact (210) 242-2432 or (210) 224-8511 or email.

For website information, contact (210) 242-2500.

This year is not certified and ALL values will be represented with "N/A".

Lori Rowe

From: PUBCOMMENT-OCC
Sent: Wednesday, September 15, 2021 3:46 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0015917001
Attachments: 2021.09.14 City of Saint Hedwig Public Comments and Request for CCH in Opposition of Clearwater Creek WWTP.pdf

H

From: mchambers@lglawfirm.com <mchambers@lglawfirm.com>
Sent: Tuesday, September 14, 2021 7:24 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0015917001

REGULATED ENTY NAME CLEARWATER CREEK WWTP

RN NUMBER: RN111093126

PERMIT NUMBER: WQ0015917001

DOCKET NUMBER:

COUNTY: BEXAR

PRINCIPAL NAME: GREEN VALLEY SPECIAL UTILITY DISTRICT

CN NUMBER: CN600684294

FROM

NAME: Maris Chambers

E-MAIL: mchambers@lglawfirm.com

COMPANY: Lloyd Gosselink Rochelle & Townsend, P.C.

ADDRESS: 816 CONGRESS AVE Suite 1900
AUSTIN TX 78701-2442

PHONE: 5123225804

FAX: 5124720532

COMMENTS: Please find attached the public comments and request for a contested case hearing filed on behalf of the City of Saint Hedwig, Texas, in opposition to the approval of Green Valley Special Utility District's application for the proposed TPDES Permit No. WQ0015917001.

Ms. Chambers' Direct Line: (512) 322-5804
Email: mchambers@lglawfirm.com

September 14, 2021

Ms. Laurie Gharis, MC-105
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

VIA ELECTRONIC FILING

Re: Public Comments and Request for Contested Case Hearing
Application for Proposed TPDES Permit No. WQ0015917001
(EPA I.D. No. TX0140546)
Applicant: Green Valley Special Utility District (CN600684294)
Site Name: Clearwater Creek Wastewater Treatment Plant (RN111093126)

Dear Ms. Gharis:

The City of Saint Hedwig, Texas ("**City**"), my client, hereby submits this letter to the Texas Commission on Environmental Quality ("**TCEQ**"), providing formal public comments and requesting a contested case hearing regarding the above-referenced application ("**Application**") of Green Valley Special Utility District ("**GVSUD**") for a new Texas Pollutant Discharge Elimination System ("**TPDES**") permit, and the proposed draft permit for such Application ("**Draft Permit**"). These comments are timely filed.

I represent the City regarding the Application and Draft Permit. Please include me on the TCEQ's mailing list for all filings in the above-referenced Application. My mailing/contact information is as follows:

Ms. Maris M. Chambers
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
mchambers@lglawfirm.com
Phone: (512) 322-5804
Fax: (512) 472-0532

I. **BACKGROUND**

In its Application, GVSUD requests authorization from the TCEQ to discharge treated domestic wastewater at a daily average flow not to exceed 400,000 gallons per day ("**GPD**") at the proposed Clearwater Creek Wastewater Treatment Plant (the "**CCWWTP**"). The CCWWTP is to be located in Bexar County, Texas, and the proposed discharge route for the treated wastewater is

from the plant site to Womans Hollow Creek,¹ thence to Martinez Creek, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 Texas Administrative Code (“*TAC*”) § 307.10) for Classified Segment No. 1902 are primary contact recreation, high aquatic life use, and 5.0 mg/L dissolved oxygen. Classified Segment No. 1902 is currently listed on the 2020 Texas Integrated Report – Texas 303(d) List of impaired and threatened waters (the “*303(d) List*”). The listings are for bacteria in the water from the confluence with the San Antonio River in Karnes County to a point 100 meters (110 yards) downstream of IH 10 in Bexar/Guadalupe County.

The Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (“*NORI*”) was issued on October 30, 2020 and published on November 13, 2020. An amended *NORI* was issued on April 30, 2021 and published on May 12, 2021. The Notice of Application and Preliminary Decision (“*NAPD*”) was issued on June 17, 2021 and published on June 30, 2021. The original deadline to file public comments was July 30, 2021, but given the substantial degree of public interest in the Application, the Executive Director of the TCEQ has scheduled a public meeting, pursuant to 30 TAC § 55.154, in order to allow for further public input on the Application and Draft Permit. As such, the current deadline to file public comments regarding the Application and Draft Permit is September 14, 2021, at the close of the public meeting. To this end, presented below are the City’s timely filed public comments raising significant disputed issues of fact that are relevant and material to the TCEQ’s decision on the Application and are the basis for the City’s request for a contested case hearing, should the Application not be remanded back to technical review and/or denied outright.

The City requests that the TCEQ deny the Application and corresponding Draft Permit because GVSUD has not provided all of the information required in TCEQ application forms TCEQ-10053 (06/25/2018) Municipal Wastewater Application Administrative Report (“*Administrative Report*”) and TCEQ-10054 (06/01/2017) Domestic Wastewater Permit Application, Technical Reports (“*Technical Reports*”). In addition, the Application and Draft Permit fail to: (1) meet the state and TCEQ’s regionalization requirements; (2) demonstrate a need for the Final Phase of the Draft Permit; (3) satisfy water quality, antidegradation, and stream standard requirements; and (4) include other information and documentation required by TCEQ form TCEQ-10053ins (06/25/2018) Instructions for Completing the Domestic Wastewater Permit Application (“*Instructions*”). Further, the CCWWTP is to be located in the City’s extraterritorial jurisdiction (“*ETF*”), but will serve none of its residents. In fact, rather than provide value to the citizens of the rural farming community, the proposed CCWWTP would instead have a negative effect, threatening the quality of water and rich agricultural soil upon which the City and its residents rely.

¹ As demonstrated by the screenshot from TCEQ’s Location Mapper tool, attached hereto and incorporated herein for all purposes as [Attachment A](#), which shows, according to the *NAPD*, “the exact location” of the CCWWTP, the correct name of the proposed receiving water is Woman Hollering Creek, not Womans Hollow Creek, as referred to in the *NORI*, Amended *NORI*, *NAPD*, and Application.

II. PUBLIC COMMENTS

The City asserts that the Application and Draft Permit should be denied because the Application does not meet applicable statutory and regulatory requirements for a TPDES permit application; the Draft Permit fails to meet Texas Water Code (“*TWC*”), Chapter 26, and the TCEQ’s regionalization requirements for wastewater treatment plants (“*WWTPs*”); and GVSUD has not demonstrated a need for the CCWWTP. The City further maintains that the Application and Draft Permit should be denied because: (i) the Application is incomplete given that GVSUD asserts that it has an approved pretreatment program; (ii) fails to adequately protect against the CCWWTP’s negative impacts on water quality, antidegradation, and stream standards; (iii) GVSUD has not secured ownership/possession of the real property interests necessary to properly construct and operate the CCWWTP; and (iv) the Application fails to include other required elements, such as a sufficient Sewage Sludge Solids Management Plan, map of the proposed service area, and the requisite original photograph of the proposed location for the CCWWTP. In addition, the Application and Draft Permit should be denied due to nuisance odors that will result from the permitting of the CCWWTP, especially given GVSUD’s failure to satisfy all buffer zone requirements. Finally, the Draft Permit, if issued, threatens to degrade the quality of water and rich agricultural soil upon which the City and its residents rely without providing said residents, none of whom will be served by the proposed CCWWTP, with any benefits whatsoever.

A. The Application fails to comply with the State’s regionalization policy.

The TCEQ is required to implement the state’s policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.² In order to implement this regionalization policy, Section 1.B of the TCEQ’s TPDES permit application form Domestic Technical Report 1.1 contains three questions related to the potential for regionalization of WWTPs, each tailored to address the question of whether existing nearby wastewater treatment facilities and/or collection systems could provide service to the service area proposed in the TPDES permit application.³ All three regionalization questions in Section 1.B are relevant to GVSUD’s Application, and GVSUD has failed to complete the regionalization analysis and process in each instance. The TCEQ’s issuance of the Draft Permit also demonstrates that this issue was not taken into consideration when it processed the Application.

For Section 1.B.1, the Instructions require non-city applicants to “indicate if any portion of the proposed service area is located in an incorporated city,” and, if so, to “provide correspondence” demonstrating “consent to provide service or denial to provide service from the city.”⁴ If the nearby city consents to provide service, the applicant must provide a cost analysis justifying the need for the proposed facility.⁵ The Application, received August 31, 2020, indicates that “City responses are pending,”⁶ but GVSUD never supplemented the Application to include

² TWC § 26.081(a); *see also* TWC §§ 26.003, 26.0282; Instructions at 64.

³ Application Technical Reports at 21 – 22.

⁴ Instructions at 64.

⁵ *Id.*

⁶ Application Technical Reports at 21.

any responses received, including the response provided by the City on July 15, 2020—forty-seven (47) days prior to the date the Application was received by TCEQ. By failing to include the City’s response letter in the Application, GVSUD expressly withheld information essential to TCEQ’s required regionalization analysis. Consequently, the Application and Draft Permit should be denied.

Similarly, Section 1.B.2 requires applicants to “[i]ndicate if any portion of the proposed service area is inside another utility’s sewer Certificate of Convenience and Necessity [“(CCN”) area.”⁷ Here too, if the answer is yes, then the applicant must “provide justification and a cost analysis of expenditures that shows the cost of connecting to the CCN facilities versus the cost of the proposed facility or expansion.”⁸ In the Application, GVSUD indicated that no portion of the proposed service area is located inside another utility’s CCN service area.⁹ The City believes that this denial is incorrect. While the boundaries of the proposed service area for the CCWWTP are unclear because they are not shown on the “Clearwater Creek WWTP Area” map (the “*CCWWTP Area Map*”) included in the Application, as required by Domestic Technical Report 1.0, the sewershed shown on that map very obviously extends into the sewer CCN service area held by the City of Schertz. For reference, see **Attachment B**, attached hereto and included herein for all purposes, which contains small and large scale maps of the City of Schertz’ sewer CCN No. 20271. As you can see, when compared with the “Water and Sewer CCN Viewer” map provided by the Public Utility Commission of Texas, it is clear that the sewershed depicted for the CCWWTP extends into the boundaries of the City of Schertz’ sewer CCN. Therefore, if GVSUD intends the CCWWTP to serve its entire sewershed, then GVSUD was required to justify the need for the CCWWTP based on a cost analysis included with the Application, which it did not. Therefore, because GVSUD also failed to include this additional regionalization information in the Application, TCEQ was prevented from considering and addressing the likely overlap, further inhibiting the requisite regionalization analysis. Consequently, the Application and Draft Permit should be denied.

Finally, Section 1.B.3, concerns the existence of permitted domestic WWTPs or sanitary sewer collection systems located within a three-mile radius of the proposed wastewater treatment facility.¹⁰ If such facilities exist, then the applicant is, again, required to indicate, and provide supporting documentation, regarding any such neighboring utilities’ responses to mandatory correspondence from the applicant regarding wastewater service for the proposed service area.¹¹ Just as with Sections 1.B.1 and 1.B.2, if any of the nearby utilities consent to provide service, the applicant must provide a justification for the proposed facility and a comparison of the costs to construct it against those to connect to the applicable existing facility.¹² While GVSUD properly disclosed the existence of nearby facilities, it indicated that no such facilities “have the capacity to accept or are willing to expand to accept the volume of wastewater proposed in [the Application].”¹³ As explained above, the City is unable to verify the accuracy of that assertion

⁷ *Id.* at 22.

⁸ *Id.*

⁹ *Id.*

¹⁰ Instructions at 65; Application Technical Reports at 22.

¹¹ *Id.*

¹² *Id.*

¹³ Application Technical Reports at 22.

because GVSUD failed to provide any responses to the letters sent to neighboring cities and utilities potentially capable of providing service. Further, given that the City's response to GVSUD's correspondence was not included in the Application, it is likely that other neighboring entities' responses may also have been withheld from TCEQ. For example, the City of Schertz is undertaking a large project to complete a sanitary sewer system that will collect and convey wastewater to the Cibolo Creek Municipal Authority water reclamation plant off of Trainer Hale Road, less than two miles from the proposed CCWWTP. In fact, that wastewater treatment plant, and its sewershed, are included in the sewershed depicted on GVSUD's CCWWTP Area Map. Therefore, these entities may have informed GVSUD of their willingness and/or ability to provide service to the proposed service area, but the TCEQ lacks the information to determine whether that is the case, further obstructing the regionalization analysis. Because this regionalization information was not available to TCEQ, and therefore never taken into consideration, the Application and Draft Permit should be denied.

B. The Application fails to sufficiently demonstrate need for the authorized discharge amount of 0.4 million gallons per day.

The City contends that the Application and Draft Permit should be denied because the Final Phase of the proposed CCWWTP is not needed. In conjunction with the TCEQ's regionalization policy, Section 1 of Domestic Technical Report 1.1 requires a TPDES permit applicant to "[p]rovide a detailed discussion regarding the need for any phase(s) not currently permitted."¹⁴ The Instructions further clarify this requirement, stating:

Provide justification for the proposed flows . . . Provide an anticipated construction start date and operation schedule for each phase being proposed. If construction is dependent upon housing/commercial development, provide information from the developer. Provide information such as the size of the development (number of lots), the date construction on the development is scheduled to begin, and the anticipated growth rate of the development (number of houses per month or year). . . . If additional space is needed, submit the justification information as an attachment.

Attach population estimates and/or projections used to derive the flow estimates and anticipated growth rates for developments. Provide the source and basis upon which population figures were derived (census and/or other methodology). Also, provide population projections at the end of the design life of the treatment facility (usually 50+ years) and the source and basis upon which population figures were derived.¹⁵

Per the Instructions, "[f]ailure to provide sufficient justification for the continued need for the permit and/or each proposed phase may result in a recommendation for denial of the application or proposed phases."¹⁶

¹⁴ *Id.* at 21.

¹⁵ Instructions at 64.

¹⁶ *Id.*

Here, instead of providing the requisite “detailed discussion” outlined above, the Application merely states:

This requested permit is proposed to support planned residential and commercial growth in GVSUD’s sewer CCN area. GVSUD holds sewer CCN for proposed service area. The current contract for service equates to 950 EDUs of service or 232,750 gpm.¹⁷

First, the City contends that 232,750 gallons per minute is not an accurate indication of the treated effluent likely to be generated by 950 EDUs (equivalent dwelling units). That amount of wastewater is equivalent to a wastewater discharge of 335.16 million gallons per day (“MGD”). Rather, the City asserts that GVSUD only intends to have a flow of 232,750 GPD (0.232750 MGD).

Second, with a total proposed discharge of 0.233 MGD, the Application seeks an excessive and unnecessary amount of treatment capacity. Thus, the Application does not demonstrate the need for the Draft Permit’s Final Phase authorization to discharge up to 0.4 MGD of treated effluent, and the Application and Draft Permit, as proposed, should be denied.

C. The Application raises concerns that the proposed discharge will not be in compliance with the TCEQ’s antidegradation policy.

As indicated above, the Application and Draft Permit authorize the discharge of treated domestic wastewater from the proposed CCWWTP to Womans Hollow Creek, thence to Martinez Creek, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 TAC § 307.10) for Classified Segment No. 1902 are primary contact recreation 1, high aquatic life use, and 5.0 mg/L dissolved oxygen. Segment No. 1902 is also currently listed on the 303(d) List for bacteria in the water. Thus, the City has concerns that the discharge into Segment No. 1902, as proposed by the Draft Permit, would impact water quality in that watercourse. Again, the City’s residents depend primarily on agriculture to make a living. The substantially agricultural character of the City is demonstrated by the fact that the City has projected that it will receive absolutely no income from occupancy certificates or subdivision platting fees during Fiscal Year 2021-2022. For reference, the proposed City budget for Fiscal Year 2021-2022 is attached hereto as Attachment C. As such, any degradation of water quality would adversely impact City residents’ ability to water livestock and crops and could also damage the area’s rich soils, which make the City a particularly productive agricultural area. Therefore, water quality impacts are likely to have substantial adverse impacts on the longstanding way of life in the City.

Specifically, the Application and Draft Permit raise concerns with the City that the proposed discharge will neither be in compliance with the TCEQ’s antidegradation policy nor maintain its current stream standard. Pursuant to 30 TAC § 307.5, the proposed discharge is subject to that antidegradation policy and implementation procedures under Tier 1 and Tier 2.

¹⁷ Application Technical Reports at 21.

Therefore, before approving the Application, the Commission must ensure that antidegradation will not occur as a result of the proposed discharge. Additionally, because Segment No. 1902 is an impaired water body on the TCEQ's 303(d) List, the proposed discharge may unnecessarily further downgrade the segment's water quality if statutory and regulatory requirements for antidegradation and stream standards are not met. Thus, due to these additional concerns, the Application and Draft Permit, as presented, should be denied.

Furthermore, the Application describes the unclassified Womans Hollow Creek as a "Wet Weather Creek,"¹⁸ despite containing information suggesting it may be intermittent or intermittent with perennial pools, stating that it is a "[s]low shallow running creek with perennial pools."¹⁹ The Application also indicates that no perennial streams join the receiving water within three miles downstream of the discharge point.²⁰ Martinez Creek, however, which is joined by Womans Hollow Creek less than three miles downstream of the discharge point, is included on the 303(d) List as Segment No. 1902A and described as a "[p]erennial stream."²¹ As such, the effluent set proposed in the Draft Permit may be based on an incorrect stream characterization and inconsistent with state and federal regulations.

D. GVSUD lacks sufficient legal title and/or rights to land to own and operate the proposed CCWWTP.

In addition to the foregoing bases for denying the Application, the City believes that the Application is deficient because it does not establish—and GVSUD cannot establish—that it holds sufficient legal rights to real property necessary to own and operate the CCWWTP. As evidenced by the Bexar Appraisal District reports attached hereto and incorporated herein for all purposes as **Attachment D**, GVSUD does not own the land at the address provided for the proposed CCWWTP. However, pursuant to the Instructions:

If the owner of the land is not the same as the applicant, a long-term lease agreement for the life of the facility must be provided. A lease agreement can only be submitted if the facility is not a fixture of the land (e.g., above-ground package plant). . . . If the facility is considered a fixture of the land (e.g., ponds, units half-way in the ground), there are two options. The owner of the land can apply for the permit as a co-applicant or a copy of an executed deed recorded easement must be provided. A long-term lease agreement is not sufficient if the facility is considered a fixture of the land.

Both the long-term lease agreement and the deed recorded easement must give the facility owner sufficient rights to the land for the operation of the facility."²²

¹⁸ *Id.* at 30.

¹⁹ *Id.* at 31.

²⁰ *Id.* at 30.

²¹ Tex. Comm'n on Env'tl. Quality, *2020 Texas Integrated Report - Texas 303(d) List 88* (2020), www.tceq.texas.gov/waterquality/assessment/20twqi/20txir.

²² Instructions at 33.

In its Application, GVSUD incorrectly indicated that it owns the land where the CCWWTP will be located,²³ and the third page of TCEQ's "Checklist for Admin Review of Municipal Application for Permit," attached hereto and incorporated herein for all purposes as **Attachment E**, demonstrates that TCEQ relied upon that assertion in reviewing the Application. However, GVSUD is not the owner of the land where the proposed CCWWTP will be located, and it has not provided the TCEQ with any document demonstrating ownership or a long-term lease agreement. As such, GVSUD has failed to demonstrate that it possesses sufficient rights to the land for the operation of the proposed CCWWTP.

E. The Application contains a number of additional deficiencies.

After a careful review of the Application, the City believes that the Application has the following additional deficiencies, and that due to these deficiencies, the Application and Draft Permit should be denied:

1. **Service Area Map.** The Application does not contain a map clearly identifying the proposed service area for the CCWWTP. As noted briefly above, TCEQ requires GVSUD to provide a map showing the "boundaries of the area served by the treatment facility."²⁴ However, it is uncertain whether GVSUD has provided such map. If the map provided by GVSUD in the Application to address this requirement is the CCWWTP Area Map, showing the CCWWTP's proposed sewershed, then GVSUD's proposed service area boundaries are unclear; otherwise, the Application is lacking this important, required piece of information. In either case, the CCWWTP Area Map does not indicate whether the CCWWTP is intended to serve the entire sewershed shown thereon, a portion of which extends into the City of Schertz' sewer CCN service area.
2. **Sewage Sludge Solids Management Plan.** In Domestic Technical Report 1.0, Section 9, the TCEQ requires the applicant to select the anticipated sludge disposal method and provide sludge disposal site information, including the disposal site name, permit or registration number, and disposal site's county.²⁵ Section 9 also requires the applicant to indicate the method of transportation, hauler name, and hauler registration number.²⁶ In response, GVSUD did not provide most of this information, instead stating that the information is to be determined and admitting that neither a sludge disposal site nor hauler has been selected.²⁷ GVSUD also has not complied with the TCEQ's requirement to provide a copy of the contractual agreements demonstrating that the receiving facility will accept the sludge.²⁸ GVSUD's failure to identify a method for sludge disposal creates another deficiency in the Application and indicates that GVSUD's operation of the CCWWTP will not comply with federal and state requirements.

²³ Application Administrative Report at 8.

²⁴ *Id.* at 11.

²⁵ Application Technical Reports at 12 – 13.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 13.

3. **Original Photographs.** The Application does not contain an original photograph of the proposed location for the CCWWTP, and thereby violates the Instructions, which indicate that applicants “must” submit “[a]t least one photograph of the new . . . treatment unit(s) location.”²⁹
4. **Pretreatment Program.** The Application is inconsistent as to whether GVSUD has an approved pretreatment program under 40 CFR Part 403. In Domestic Technical Report 1.0, GVSUD indicates it does not have such a program, but GVSUD’s answer to the first question in Section D of Domestic Worksheet 6.0 indicates otherwise. Without clarity as to whether GVSUD does have an approved pretreatment program, it is impossible to determine whether it should have completed Domestic Worksheets 4.0, 5.0, or some portion thereof, in addition to completing Domestic Worksheet 6.0.
5. **Buffer Zone.** Next, the City asserts that GVSUD’s Application fails to provide proof of a sufficient buffer zone compliance method. Section 3 of Domestic Administrative Report 1.1 requires a TPDES permit applicant to indicate how the buffer zone requirements of 30 TAC § 309.13(e) will be met.³⁰ The Instructions further specify that “[t]he buffer zone, either 150 or 500 feet from the treatment units . . . can be met by ownership, legal restrictions preventing residential structures within the buffer zone, an approved nuisance odor prevention plan, or a variance to the buffer zone.”³¹ GVSUD indicated it would satisfy the buffer zone requirements through ownership,³² but as explained in more detail above, GVSUD possesses no ownership interest, nor legal right sufficient to comply with the requirements of 30 TAC § 309.13(e). Specifically, the Instructions indicate that “[o]wnership means that the applicant owns all the land surrounding the treatment units that fall within the buffer zone,”³³ which GVSUD does not. Furthermore, 30 TAC § 309.13(e) provides that “wastewater treatment plant units may not be located closer than 150 feet to the nearest property line.” As shown on the maps included in the Application, GVSUD’s proposed 150-foot buffer zone is rectangular. That does not properly buffer a 150-foot radius around the proposed facility. In any case, the maps depict the buffer zone extending beyond the boundary of the CCWWTP property.
6. **Nuisance Odors.** In addition to the buffer zone issues described above, an additional, unneeded treatment and disposal facility, if not operated properly, may result in nuisance odors that will adversely affect the quality of life of nearby residents and the public. In accordance with 30 TAC § 309.13(e), the Applicant must demonstrate that sufficient measures to prevent nuisance odors will be undertaken. It is not in the public interest to issue a new discharge authorization that may result in nuisance odors when regionalized wastewater services are available, particularly when nearby schools are located within the three-mile radius of the proposed CCWWTP.

²⁹ Instructions at 43.

³⁰ Application Administrative Report at 14.

³¹ Instructions at 43.

³² Application Administrative Report at 14

³³ Instructions at 43.

For the above-cited reasons, the City recommends that the TCEQ deny the Application and Draft Permit.

III. REQUEST FOR CONTESTED CASE HEARING

The City requests a contested case hearing regarding the Application, Draft Permit, and each and every issue raised in the City's public comments, and any and all supplements and/or amendments thereto. For the reasons set forth herein, the City is an affected person, as defined by 30 TAC § 55.203. The City has a personal justiciable interest to a legal right, duty, privilege, power, or economic interest that is not common to the general public that would be adversely affected should the Draft Permit be granted. In determining whether a person is an affected person, the TCEQ may consider, among other factors, (1) "whether the interest claimed is one protected by the law under which the application will be considered; (2) distance restrictions or other limitations imposed by law on the affected interest; (3) whether a reasonable relationship exists between the interest claimed and the activity regulated; . . . (5) likely impact of the regulated activity on use of the impacted natural resource by the person; . . . and (7) *for governmental entities, their statutory authority over or interest in the issues relevant to the application.*"³⁴ The TCEQ may also consider "the merits of the underlying application and supporting documentation . . . , including whether the application meets the requirements for permit issuance."³⁵

IV. CONCLUSION

The City reserves its right to supplement these public comments and this request for a contested case hearing as it learns more about the Application—additional information may become apparent through the public meeting (and thereby-extended comment period) regarding this Application. The City appreciates your consideration of these public comments and request for a contested case hearing.

Thank you for your consideration of this important matter. If you or your staff have any questions regarding this matter, please contact me at your convenience.

Sincerely,



Maris M. Chambers

MMC/dsr
Enclosures

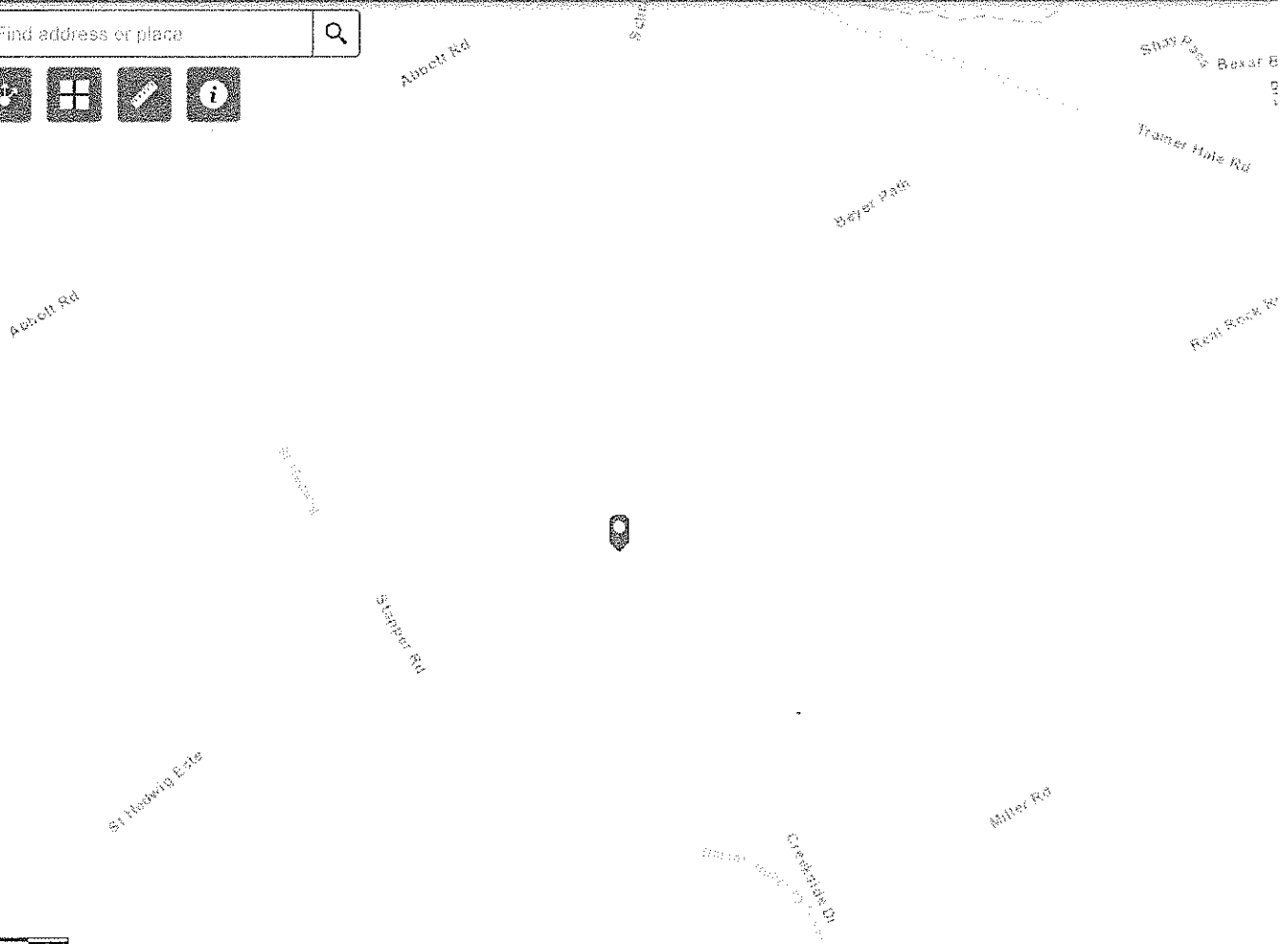
cc: Dee Grimm, Mayor, City of Saint Hedwig
Cynthia Trevino, Attorney, City of Saint Hedwig

³⁴ 30 TAC § 55.203(c) (emphasis added).

³⁵ *Id.* § 55.203(d).

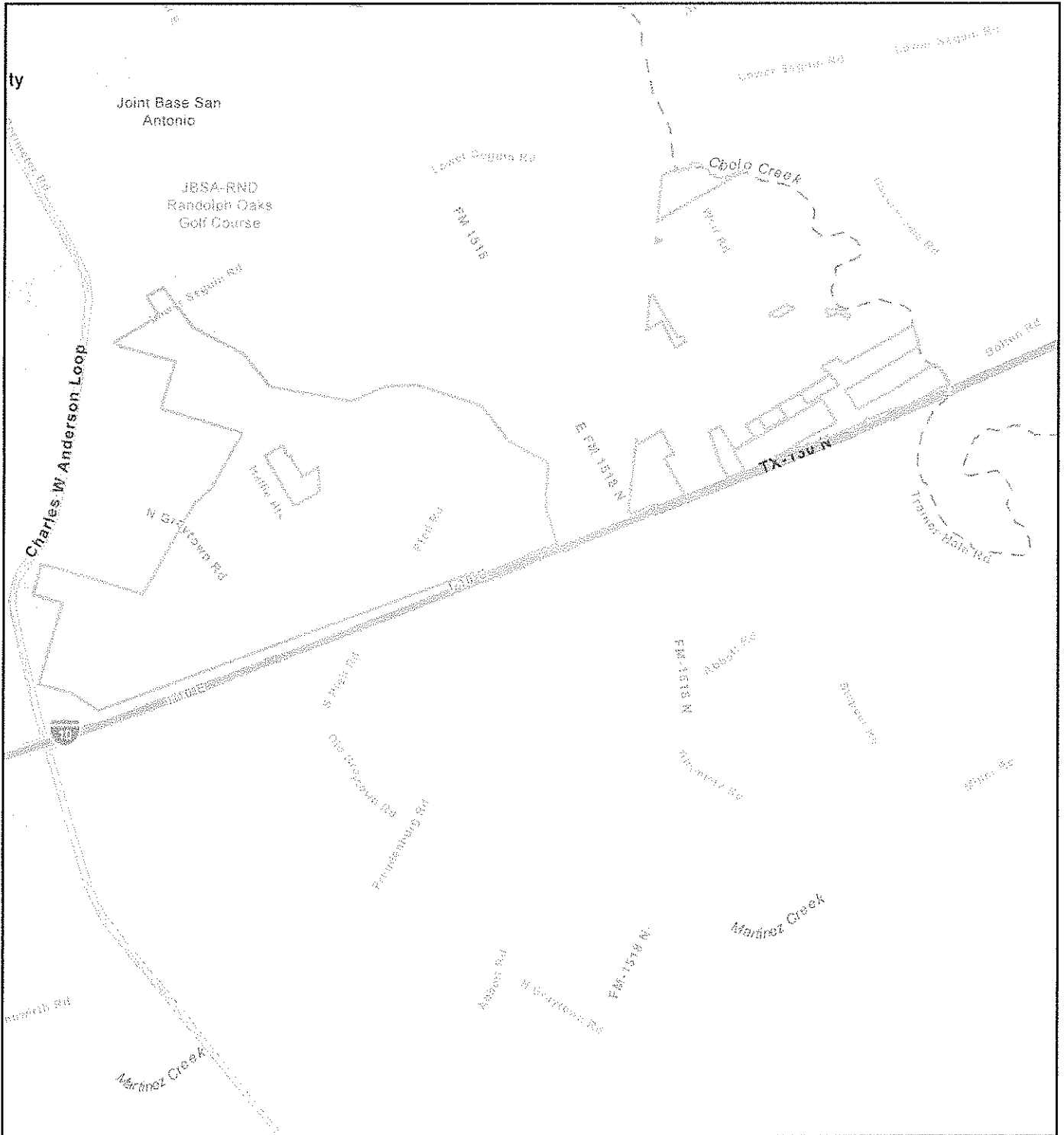
Attachment A

Find address or place

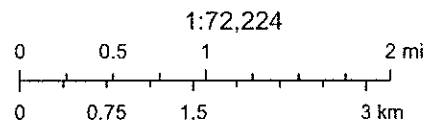


Attachment B

City of Schertz Sewer CCN No. 20271

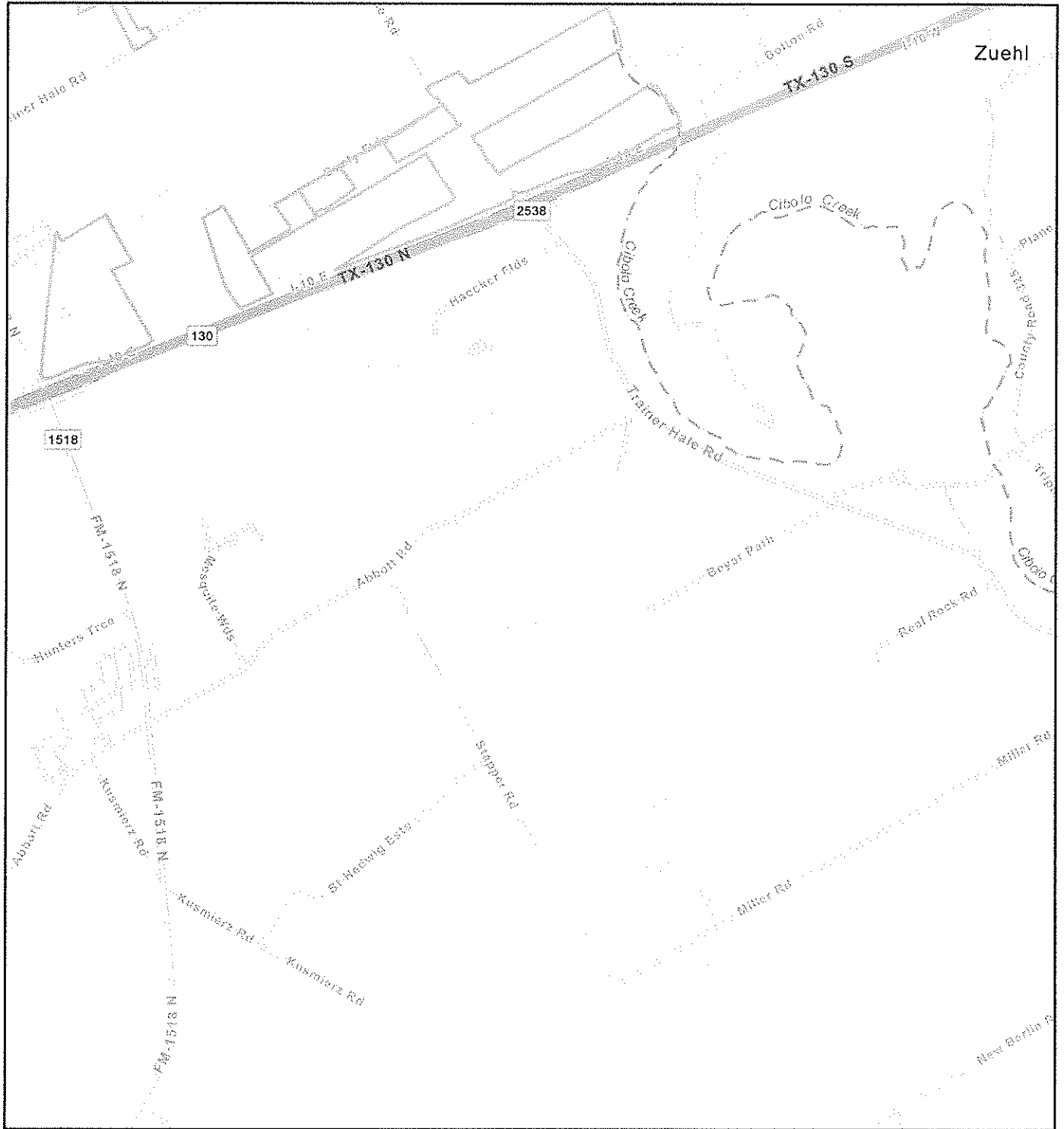


July 29, 2021

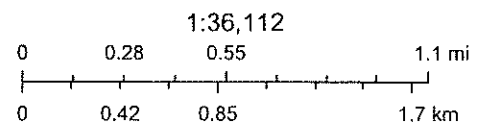


Texas Parks & Wildlife, Esri, HERE, Garmin, SafeGraph, MET/NASA, USGS, EPA, NPS, USDA

City of Schertz Sewer CCN No. 20271(Large Scale)



July 29, 2021



Attachment C



City of Saint Hedwig

**FISCAL YEAR 2021-2022
PROPOSED CITY BUDGET**

This budget will raise more total property taxes than last year's budget by \$27,818, which is a 3.61% increase from last year's budget, and of that amount \$20,284 is tax revenue to be raised from new property added to the tax roll this year.

City of Saint Hedwig
FY 2021-2022 Proposed Budget

	Oct 1, 2020 - Sep 30, 2021 <u>Adopted Budget FY21</u>	Oct 1, 2021 - Sep 30, 2022 <u>Proposed Budget FY22</u>
Ordinary Income/Expense		
Income		
Ad Valorem Taxes	650,000.00	797,971.00
Building Permits		
Board of Adj Fee	0.00	0.00
Building Permits Issued	7,000.00	7,000.00
Occupancy Certificate	0.00	0.00
Subdivision Platting Fees	0.00	0.00
Variance Fees	0.00	0.00
Building Permits - Other	0.00	0.00
Total Building Permits	<u>7,000.00</u>	<u>7,000.00</u>
Donations		
Park Benches	0.00	0.00
Total Donations	<u>0.00</u>	<u>0.00</u>
Franchise Fees		
Electric	90,000.00	90,000.00
Telephone	2,500.00	2,500.00
Total Franchise Fees	<u>92,500.00</u>	<u>92,500.00</u>
Interest		
Regular Savings	15,000.00	7,500.00
Total Interest	<u>15,000.00</u>	<u>7,500.00</u>
Miscellaneous Income		
Rebates	0.00	0.00
Printing Fee	0.00	0.00
Miscellaneous Income - Other	0.00	0.00
Total Miscellaneous Income	<u>0.00</u>	<u>0.00</u>
Sales Tax Collected	90,000.00	200,000.00
Alcoholic Beverage Tax Coll	0.00	0.00
School Crossing Guards	0.00	0.00
VIT Overages	0.00	0.00
Total Income	<u>854,500.00</u>	<u>1,104,971.00</u>
Expense		
Reconciliation Discrepancies	0.00	0.00
Capital Improvements		
6011 - Security System	0.00	0.00
6013 - Park		
6013 - Park - Other	0.00	0.00
6013a - Trees	0.00	0.00
6013c - Electric Poles	0.00	0.00
6013h - Benches	0.00	0.00
6013 - Park - Other	60,000.00	60,000.00
Total 6013 - Park	<u>60,000.00</u>	<u>60,000.00</u>
6014 - Irrigation System	0.00	0.00
6015 - Computer Equipment	750.00	750.00
6019 - Building Improvements		
6019 - Bldg Improvement	0.00	0.00
6019a - Air Conditioning	0.00	0.00
6019 - Building Improvements - Other	30,000.00	77,971.00
Total 6019 - Building Improvements	<u>30,000.00</u>	<u>77,971.00</u>
Total Capital Improvements	<u>90,750.00</u>	<u>138,721.00</u>
6023 - Lawn Mowing Equipment	0.00	95,000.00
Operational Costs		
5010 - Security	1,200.00	1,200.00
5011 - Budget Accountant	6,500.00	6,500.00
5335 - Computer Maintenance	1,000.00	1,000.00
5211 - Gas and Electric		
5211 - City Hall & Park	5,400.00	5,400.00
5211a - Street Lights	3,000.00	3,000.00
5211 - Gas and Electric -Other	0.00	0.00
Total 5211 - Gas and Electric	<u>8,400.00</u>	<u>8,400.00</u>
5212 - Water	3,500.00	3,500.00
5215 - Telephone	5,900.00	5,900.00
5216 - Internet Access	1,000.00	1,000.00
5219 - Domain - Website & Email	4,000.00	4,000.00
5220 - Alarm System Services	500.00	500.00
5221 - Port-A-Potty	2,000.00	2,000.00
5225 - Exterminator	350.00	350.00
5230 - Postage and Delivery	500.00	500.00
5235 - Printing/Copying	750.00	750.00
5240 - Public Notice	2,000.00	2,000.00
5270 - Insurance		
5271 - Building & Equipment	1,000.00	1,164.00
5272 - General Liability	1,150.00	999.00
5273 - Errors & Omissions	1,150.00	1,754.00
5274 - Automobile Liability	100.00	75.00
5275 - Workers' Compensation	2,000.00	1,177.00
5276 - Law Enforcement	700.00	943.00
5277 - Mobile Equipment	350.00	304.00
5278 - Insurance - Other	700.00	0.00
Total 5270 - Insurance	<u>7,150.00</u>	<u>6,416.00</u>

**City of Saint Hedwig
FY 2021-2022 Proposed Budget**

	<u>Oct 1, 2020 - Sep 30, 2021</u>	<u>Oct 1, 2021 - Sep 30, 2022</u>
	<u>Adopted Budget FY21</u>	<u>Proposed Budget FY22</u>
5280 - Bank Service Charges	1,000.00	1,000.00
5290 - Bond Principal Expense		
5291 - Municipal Bldg & Land	0.00	0.00
5292 - Road Improvements	0.00	0.00
Total 5290 - Bond Principal Expense	0.00	0.00
5295 - Bond Interest Expense		
5296 - Municipal Bldg & Land	0.00	0.00
5297 - Road Improvements	0.00	0.00
Total 5295 - Bond Interest Expense	0.00	0.00
5330 - Election Costs		
5330 - Election Costs-Other	5,000.00	4,500.00
5331 - Judges, Clerks	2,500.00	0.00
5332 - Ballots	500.00	0.00
5330 - Election Costs - Other	0.00	0.00
Total 5330 - Election Costs	8,000.00	4,500.00
5340 - Cleaning Service	1,500.00	1,500.00
5360 - City Attorney Services	25,000.00	25,000.00
5365 - Acctg & Audit Service	7,500.00	6,450.00
5368 - Master Planner	0.00	0.00
5370 - Appraisal District Serv	3,500.00	3,500.00
5375 - City Planning Commission	750.00	750.00
5380 - Membership Dues	1,000.00	1,000.00
5385 - Building Inspector	15,000.00	15,000.00
5400 - Engineering Services		
5410 - Road Engineer	93,330.00	80,000.00
Total 5400 - Engineering Services	93,330.00	80,000.00
Total Operational Costs	201,330.00	182,716.00
Personnel Services		
5005 - Salaries, Reg. Employee	24,918.00	39,936.00
5006 - Mayor's Stipend	0.00	0.00
5007 - Salaries, Other (Mayor)	14,400.00	19,200.00
5008 - Code Compliance Officer	10,686.00	33,280.00
5009 - Maintenance Man	30,000.00	30,000.00
5009 - Maintenance Man Add'l	0.00	17,160.00
5020 - Social Security Employer	5,974.00	8,653.71
5025 - Medicare Employer	1,472.00	2,023.85
50?? - Employee Health Insurance		9,600.00
Personnel Services - Other	0.00	0.00
Total Personnel Services	87,450.00	159,853.56
Town Marshall Expenses		
50?? - Vehicle		22,500.00
50?? - Vehicle Equipment		3,920.00
50?? - Office Equipment		11,120.00
50?? - Software		4,710.00
50?? - Operating Costs		6,048.00
50?? - Town Marshall Salary		26,000.00
50?? - Consulting Fees		8,000.00
Total Town Marshall Expenses		82,298.00
Municipal Court Expense		5,000.00
Total Municipal Court Expense		5,000.00
Supplies and Materials		
5601 - Office Supplies	3,500.00	3,500.00
5609 - ROW Trash Pickup	1,800.00	1,800.00
5610 - ROW Shredding	15,000.00	15,000.00
5611 - ROW Spraying	8,000.00	8,000.00
5612 - ROW Tree Trimming	20,000.00	20,000.00
5620 - Road Maint -Supplies	12,000.00	12,000.00
5621 - Road Maint-Contract	1,674,670.00	1,200,000.00
5630 - Drainage	180,000.00	30,000.00
5640 - Sign Maintenance		
5641 - Sign Purchase	5,500.00	5,500.00
Total 5640 - Sign Maintenance	5,500.00	5,500.00
5650 - Building Maintenance		
5650 - Building Maint. - Other	3,000.00	3,000.00
5651 - Maintenance Supplies	6,500.00	6,500.00
5650 - Building Maintenance - Other	0.00	0.00
Total 5650 - Building Maintenance	9,500.00	9,500.00
5660 - Repairs		
5661 - Tractor Repair & Mainten	10,000.00	3,500.00
5662 - Machinery Fuel	3,500.00	3,500.00
5660 - Repairs - Other		0.00
Total 5660 - Repairs	13,500.00	7,000.00
Total Supplies and Materials	1,943,470.00	1,312,300.00
Travel, Training, & Prof Dues		
5112 - Mileage	3,500.00	3,500.00
5120 - Training	1,000.00	1,000.00
5125 - Meetings	1,000.00	1,000.00
5140 - Professional Dues	1,000.00	1,000.00
Total Travel, Training, & Prof Dues	6,500.00	6,500.00

City of Saint Hedwig
 FY 2021-2022 Proposed Budget

	<u>Oct 1, 2020 - Sep 30, 2021</u>	<u>Oct 1, 2021 - Sep 30, 2022</u>
	<u>Adopted Budget FY21</u>	<u>Proposed Budget FY22</u>
Total Expense	2,329,500.00	1,982,388.56
Net Ordinary Income	(1,475,000.00)	(877,417.56)
Other Income/Expense		
Other Income		
Transfers from Reserve	1,475,000.00	877,417.56
Total Other Income	1,475,000.00	877,417.56
Net Other Income	1,475,000.00	877,417.56
Net Income	<u>0.00</u>	<u>(0.00)</u>

Attachment D

Property Search Results > 1 - 6 of 6 for Year 2021

Export Results

New Search

Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a single map.

Property Address Legal Description

	Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value		
<input type="checkbox"/>	1166658	80400-000-1880	Mobile Home	4060 STAPPER RD TX	DUNCAN CRAIG & JOANN		\$44,290	View Details	View Map
<input type="checkbox"/>	1172641	04019-000-1882	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	DUNCAN HAZEL JOANN		\$5,390	View Details	View Map
<input type="checkbox"/>	169912	04019-000-1880	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL W & SUTTON CAROLYN & DUNCAN HAZEL J		\$37,730	View Details	View Map
<input type="checkbox"/>	1172711	04019-000-1883	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL WILLIAM		\$12,150	View Details	View Map
<input type="checkbox"/>	169348	04019-000-0191	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL WILLIAM		\$114,590	View Details	View Map
<input type="checkbox"/>	169913	04019-000-1881	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SUTTON DONALD J & CAROLYN R		\$176,210	View Details	View Map

Page: 1

**Protest status and date information current as of Jul 28 2021 1:22AM.
2021 and prior year appraisal data current as of Jul 2 2021 6:19AM
For property information, contact (210) 242-2432 or (210) 224-8511 or
email.
For website information, contact (210) 242-2500.**

Attachment E

- print N&E packet for review

good report
print verification of M&D email

CHECK LIST FOR ADMIN REVIEW OF MUNICIPAL APPLICATION FOR PERMIT

Permit No. WQ00 <u>15917001</u>	TX <u>0140540</u>	MGD <u>0.4</u>
CN <u>600684294</u>	RN <u>111093126</u>	County: <u>Bexar</u> Region No. <u>13</u>
Facility: () Major (<input checked="" type="checkbox"/>) Minor	App Rcvd Date: <u>8/31/2020</u>	Permit Expiration Date: <u>NEW</u>
(<input checked="" type="checkbox"/>) Inactive () Active	Segment No. <u>1902</u>	

Note: A minor facility is generally one in which the final flow is less than 1.0 MGD.

Application Review Date: 10/16/2020

A copy of the **pre-tech** review was provided by the Municipal Permits Team (for new, major amendments and major facilities).

A copy of the **groundwater** review was provided (for TLAP new, major amendment, SADD minor amendment, and all applications with (or proposing) Class B sludge provisions).

For new and major amendment applications that propose surface water discharge, the standards review for RWA comments is included.

Coastal Zone sheet is included. Yes No

Fees or Penalties Owed: No [] Yes Amount Owed: _____

SECTION 1 APPLICATION FEES

Application Fees: The appropriate item checked and payment verified in receipt rpt or boexi rpt. Note: copies of checks should be removed and shredded.

Municipal Fees

Proposed/Final Phase Flow	New/Major Amend.	Renewals	Minor Amendment or Modification <i>without</i> Renewal
< .05 MGD	[] \$350.00	[] \$315.00	[] \$150.00 (for any flow)
≥ .05 but < .10 MGD	[] \$550.00	[] \$515.00	
≥ .10 but < .25 MGD	[] \$850.00	[] \$815.00	
≥ .25 but < .50 MGD	<input checked="" type="checkbox"/> \$1,250.00	[] 1,215.00	
≥ .50 but < 1.0 MGD	[] \$1,650.00	[] 1,615.00	
≥ 1.0 MGD	[] \$2,050.00	[] 2,015.00	

SECTION 2 TYPE OF APPLICATION

The Type of application is marked

Reason for amendment or modification (if applicable). Also, check Tech. Report 1.1 Section 4 on page 3 (Unbuilt Phases) and Section 1.A on page 20 (Justification of permit need).

SECTION 3 FACILITY OWNER (APPLICANT) AND CO-APPLICANT

Legal name of applicant is listed (*the owner of the facility must apply for the permit*)

Legal name of co-applicant is listed (*if required to apply with facility owner*)

Core Data Form (CDF) is provided. A separate CDF is required for each customer.

Section I – General Information

Reason for submittal is marked.

Customer (CN) and Regulated Entity (RN) Reference Nos. provided – verify with Central Registry

Section II – Customer Information

Customer legal name is provided and it matches name on admin report

Texas SOS/Filing number is provided – verify with SOS

Texas State Tax ID is provided – verify with Texas Comptroller

Type of customer is marked – refer to information below

Corporation: Check with Secretary of State (SOS) at: <https://direct.sos.state.tx.us/acct/acct-login.asp> verify the entity status and charter number – print page. Verify correct legal spelling of applicant's name. Check spelling with SOS against the name listed in the application. (Permit must be issued in name as filed with SOS.) The applicant must be "In existence and active" before the application can be processed further.

Those entities subject to state franchise taxes: If applicable, check with Comptroller (website at: <http://ecpa.cpa.state.tx.us/coa/coaStart.html>. Verify the tax identification number is correct. Note: Non-profit organizations and partnerships are not subject to the state franchise tax.

Individual: Complete Attachment 1 of Admin. Report 1.0 The complete legal name, including the middle name; and all other information is required. This info is required by Chapter 26.027C of the Texas Water Code. A separate form is required for each individual.

Utility District: Check IWUD to verify that district is not dissolved (inactive is O.K. to process)

Trust: A copy of an executed trust agreement is provided. Verify that applicant's name is the same as the name in the trust agreement. NOTE: Executed trust must show signatures of trustees or beneficiaries forming the trust and which county it is recorded in.

Partnership: Verify with Secretary of State (SOS) that partnership is registered, active, and has a filing number. Check spelling with SOS against the name submitted in Item 1; Check that SOS # is correct; Print page from SOS website. OR if the partnership is not listed with the SOS, a copy of the partnership agreement is provided by the applicant. The agreement must: give the name of the partnership as provided on the application for permit; list names of partners; bear signatures of the partners; state the terms of the partnership; and must be recorded in the county where the facility (plant) is located.

Municipality/Governmental Agencies/School Districts: City, County, ISD, Fed, etc. – applicable info is listed.

Other _____

Number of employees is marked

Customer role is marked

Mailing address for the applicant is provided - verify on USPS website. This address is used on the permit.

Email address is provided *using GM email in app*

Telephone number is provided

Section III – Regulated Entity Information

Regulated Entity Name is provided and it matches name on admin report

Street address or location description of facility is adequately described. If different from current permit, new permit may be required. Use USPS website/GIS mapping to confirm street address

The county where the facility is located is provided

The name of the nearest city is provided

The zip code is provided

The longitude and latitude of the facility is provided – check mapit

Primary SIC Code is provided

Permit No. listed under appropriate programs- if not listed, add it

Section IV – Preparer Information

Name, title, telephone number, and email address is provided

Section V – Authorized Signature

Company name, title, printed name, phone number, signature, and date provided

SECTION 4 APPLICATION CONTACT INFORMATION

Administrative and Technical contact name, address, electronic information provided

SECTION 5 PERMIT CONTACT INFORMATION

Permit (2) contact names, addresses, electronic information provided

SECTION 6 BILLING INFORMATION

Billing contact name, address, electronic information provided

SECTION 7 REPORTING INFORMATION

DMR/MER contact name, address, electronic information provided

SECTION 8 NOTICE INFORMATION

Minor Amendment *without* Renewal – NORI not required. Skip review of notice information.

Name, address and phone number of one person responsible for publishing NORI is provided

Method of sending NORI package is provided

Name and phone number of contact to be in NORI is provided

Location where application will be available is provided and is in the county where the facility is located - the location must be a building supported by taxpayer funds. Note: If discharge is directly into water body that borders two counties, application must be placed in a public facility in both counties and the notice must be published in both counties

Bilingual Items 1 - 5 are completed. If "Yes" to question 1 and "Yes" to either question 2, 3 or 4, then e.5 must be completed

SECTION 9 REGULATED ENTITY and PERMITTED SITE INFORMATION

Permit No. and Expiration date is listed, if not, verify with permit or PARIS

Name of project or site is provided. Should correspond to Item 22 on CDF.

Owner of the facility identified in the application is the same as the name given in Section 3.A

NOTE: THE OWNER OF THE FACILITY IS REQUIRED TO APPLY FOR THE PERMIT

(Refer to legal policy memo for complete definition and discussion of facility.)

Marked whether ownership of the facility is public, private or both

Owner of the land where permitted facility is or will be located is the **SAME** as the applicant.

The owner of the land on which the facility is located is **DIFFERENT FROM** the owner of the facility: A copy of a lease agreement or easement, with a term for the duration of the permit, between applicant and landowner, has been provided. See Lease Agreement/Easement Memo dated 2/14/06, that states that a lease is sufficient for pond systems, and that details the provisions that a lease agreement or easement must contain. OR, landowner can apply as a co-permittee. Lease must identify property by legal description or map.

Effluent Disposal Site Owner:

N/A - (no effluent disposal proposed)

If land disposal is authorized in permit or proposed, the applicant **OWNS** land on which site is located

If applicant **DOES NOT OWN** land where site is located, a long-term lease agreement is provided which includes: a term of at least 5 years; is current or it includes an option to renew the term; is between the current applicant and the landowner; and includes description of property by legal description or map.

(For new TLAP permits only: A copy of an executed option to purchase agreement may be provided to show that applicant will have ownership of the land upon permit approval.)

Sewage Sludge Disposal Site Owner:

N/A - (no sludge disposal proposed)

If sludge is authorized in permit or proposed, the applicant **OWNS** land on which disposal site is located, otherwise lease is needed unless Class B sludge is land applied. Check the permit under Sludge Provisions to determine if sludge is authorized. Note: For BLU sludge application – lease is not needed; Landowner just needs to sign sludge affidavit (if different from applicant)

If sludge disposal is proposed or authorized in the permit, the applicant must also submit the applicable sludge forms.

SECTION 10 DISCHARGE INFORMATION

- Checked if treatment facility location in permit is correct.
- Checked if discharge info in permit is correct. If applicable, the discharge route description is adequately described and describes the discharge route to the nearest major watercourse. Changing the point of discharge and route from the current permit description requires a major amendment
- The name of the city (or nearest city) where the outfall(s) is/will be located has been provided
- The county where the outfall is located is provided
- The longitude and latitude of the outfall is provided
- Marked item regarding authorization for discharge into a city, county, or state ditch. If applicable, correspondence is provided. Email TXDOT if discharge is to a state highway right-of-way or roadside ditch.
- For a daily average flow of 5 MGD or more: the names of all counties located within 100 miles downstream from the point of discharge. These counties will be listed on contact sheet.

SECTION 11 DISPOSAL (TLAP) INFORMATION

- The written location description of the disposal site is adequately described. (NOTE: A CHANGE IN LOCATION OR INCREASE IN ACREAGE REQUIRES A MAJOR AMENDMENT. A decrease in acreage may also be a major amendment (due to flow rate) - check with permit writer)
- The name of the city (or nearest city) has been provided
- The county where the disposal site is located is provided
- The longitude and latitude of the disposal site is provided
- The written flow of effluent from the facility to the effluent disposal site is adequately described
- The nearest watercourse to the disposal site is listed

SECTION 12 MISCELLANEOUS INFORMATION

- Identified whether or not facility or discharge are on Indian land (If yes, we do not have permit authority.)
- For permits that allow sewage disposal the location description is adequately described. For an already-existing permit, check to see that the location has not changed
- Must indicate whether any former TCEQ employees who were paid for services regarding this application
- Fees or Penalties Owed: No [] Yes - See page 1 of checklist

SECTION 13 ATTACHMENTS

- Lease agreement or deed recorded easement, if the land where the treatment facility is located or the effluent disposal site are not owned by the applicant or co-applicant
- An ORIGINAL or equivalent FULL-SIZED USGS 7.5 minute topographic map (8 1/2 x 11 acceptable for amendment and renewal applications) is provided and labeled showing: applicant's property boundary [] treatment facility boundaries [] point of discharge [] highlighted discharge route for three miles downstream or until it reaches a classified segment [] scale, [] effluent disposal site(s) [] pond(s) [] sludge disposal/land application site [] an area of not less than one mile in all directions of the site

Need full size

All original or equivalent full sized maps must show:

- Color map [] Clear contour lines [] Upper left corner must identify map as USGS Department of the Interior Geological Survey [] Lower left corner, datum & project information [] Bottom, magnetic declination [] Bottom, must show scale [] Bottom, identify contour intervals [] Bottom, national map accuracy std. statement [] Bottom, show State of TX and quad location [] Around map, lat and long coordinates [] Bottom, quadrangle name [] Bottom, must identify map date

SECTION 14 SIGNATURE PAGE

Note: The signature information below lists the proper signatories for the various entities and the current version of the application contains a paragraph referencing 30 TAC 305.44. The person signing the application verifies that he or she is authorized, under this rule, to sign the application. We must verify that the title meets the requirements or signatory authority has been delegated.

- Original Signature Page is required.
- Signature must be properly notarized – check that signature date and notarized date are the same.

Owner Co-Permittee

- City - Elected official or principle executive officer of the city may be public works director.
- Individual: only the individual signs for himself/herself.
- Partnership: General Partner or exec officer
- Corporation: at least level of VP (CEO, Chairman of Board, Secretary can be equiv. to V.P., Member or General Manager for LLC, Manager of one or more manufacturing, production, or operating facilities employing more than 250 persons - refer to 30 TAC 305.44)
- Utility District: at least the level of vice president, on Board of Directors or District Manager
- Water Authority: Regional managers.
- Independent School Districts: at least level of the Assistant Superintendent or board members.
- Governmental Agencies: Division Directors or Regional Directors.
- Trust: The trustee that has been identified in the trust agreement.
- Other: _____

ADMIN REPORT 1.1 For All New or Major Amendment Applications

SECTION 1 Affected Landowner Information -

Landowner Map:

- The applicant's complete property boundaries are delineated which includes boundaries of contiguous property owned by the applicant
- For domestic facilities, show the buffer zone and identify all of the landowners whose property is located within the buffer zone - *tech address*
- The property boundaries of the landowners surrounding the applicant's property have been clearly delineated on the map
- The location of the facility within applicant's property is shown.

For TPDES applications:

- The point(s) of discharge is clearly identified on the map and the discharge route(s) is highlighted.
- The scale of map is provided to measure one mile downstream or if discharge is into a lake, bay estuary, or affected by tides, 1/2 mile up & down stream is measured.
- The property boundaries of landowners adjacent to the discharge route(s) for one mile downstream from the point of discharge have been clearly delineated and the route is clearly delineated. **OR** If discharge is into a lake, bay estuary, or affected by tides, the property boundaries of landowners 1/2 mile up & downstream and those property owners across the lake along the shore line that fall within a 1/2 mile radius of the point of discharge are clearly delineated on the map.

For TLAP applications (i.e., irrigation, evaporation, etc.):

- The boundaries of the disposal site is clearly identified on the map.
- The boundaries of all landowners surrounding the disposal site.
- Cross-referenced list of landowners is provided.
- Disk or four sets of labels were provided
- Source of landowners' info was provided.
- Provided response regarding permanent school fund land. If information filled out on General Land Office, then indicate so on the contact sheet.

SECTION 2 Original Photographs

- The original (color) ground level photos of treatment unit area, disposal or discharge areas (2 photos – one upstream, one downstream) have been provided
- Plot plan or map showing location and direction of each photo

SECTION 3 Buffer Zone Map *tech address*

Buffer zone map (8 1/2 by 11): The permit writer will review this during the pre-tech review. Any deficiencies will be addressed by them.

SUPPLEMENTAL PERMIT INFORMATION FORM (SPIF)

SPIF is provided - TPDES only

TECHNICAL REPORT – MUNICIPAL/DOMESTIC APPLICATIONS

Minor Amendment *without* Renewal. Review not required. Just make sure report is provided.

THE FOLLOWING ITEMS APPLY TO ALL APPLICATIONS:

The existing permitted design flow (including all permit phases) is indicated

If flow indicated is greater than permitted, a major amendment is required.

If flow amount is less than permitted amount, confirm with applicant that they are requesting to reduce the flow.

For facilities that have not been constructed the anticipated construction and operation dates are provided for all phases.

Site Drawing must be submitted (*see email from Lana 1/10/2019*).

The permit authorizes irrigation/evaporation/subsurface disposal method and the information has been addressed in the technical report. Verify the acreage. If the acreage has changed from what is currently permitted, a major amendment is required.

The applicable worksheets must be completed:

Worksheet 3.0 - required for land disposal of effluent

Worksheet 3.1 - required for land disposal (new and major amendment only)

Worksheet 3.2 - required for subsurface land disposal (new and major amendment only)

Worksheet 3.3 - required for subsurface area drip dispersal systems (SADDS) (new and major amendment); may be required for renewal on a case-by-case basis.

SADDS Applications: Compliance history items must be completed for SADDS disposal. When the application is administratively complete, a copy of the application and a transmittal letter must be sent to the State Department of Health Services. See the folder titled "SADDS" (under the Individual Permit Review folder) for a template of the letter.

Worksheet 7.0 – required for SADD applications (new and major amendment only) - We do not review the form; we just make sure that it is submitted. If it is not submitted, request it in a NOD.

Sludge disposal and/or land application is authorized in the permit on property owned or under applicant's control.

If facility is beneficially applying class B sludge on the same site as the facility, the applicant must submit the Beneficial Land Use of Sewage Sludge (Class B) Permit Application - Form No. 10451 (See Class B Sludge Permit checklist). The applicant must also submit the appropriate sludge application fee.

If authorization is for sludge processing, storage, disposal, composting, marketing and distribution of sludge, sludge surface disposal, or sludge monofill or for temporary storage in sludge lagoons, the applicant must submit the Domestic Wastewater Permit Application: Sewage Sludge Technical Report – Form No. 10056.

Check for:

required signatures (if applicable)

site acreage acreage application area site boundaries shown on USGS map

Notes: If the applicant is disposing or land applying sludge on land owned or under their control, but it is not authorized in their permit or by any other TCEQ authorization, a major amendment is required.

If the application is for a new permit or major amendment, then you need to check for the appropriate affected landowner requirements.

[] Worksheet 6.0 must be addressed if a domestic facility is labeled as public or both, (not required for federal agencies or water treatment plants)

THE FOLLOWING ITEMS ONLY APPLY TO MINOR RENEWAL APPLICATIONS:

- [] The type of treatment plant has been indicated.
- [] The list of units and their dimensions have been provided
- [] The flow diagram has been provided.
- [] The required grab sample test results have been provided for all constituents - *not required if plant not operational.*
- [] Sludge disposal is authorized off site, and the ultimate sludge disposal method has been identified.
- [] Worksheet 2.0 - For TPDES permits - the stream data has been addressed.
- [] Worksheet 4.0 - For discharge permits: If the applicant has a permitted phase equal to or greater than 1 MGD or more than one phase, and interim or final phase(s) that have not been constructed has a flow equal to or greater than 1 MGD, the applicant must perform the all of the required effluent testing to renew that phase.

WHEN APPLICATION IS NOT ADMINISTRATIVELY COMPLETE:

Complete NOD. See NOD SOP

WHEN APPLICATION IS ADMINISTRATIVELY COMPLETE:

Complete NORI package. See NORI SOP
NORI not required for minor amendment. Complete the Routing and Contact (list "n/a" for item regarding person responsible for publication of the notice) Blue sheets only.

Prepare SPIF forms (only for TPDES permits)

- checked application type
- entered county name
- entered administrative completeness date
- ensured permit number is on form
- *check agency receiving SPIF

Minor amendments - ALL agencies BUT Texas Historical Commission and Army Corps of Engineers

Renewals – All agencies BUT Texas Historical Commission

New and Major Amendments – All agencies

check that the segment number (if known) is entered in receiving water body information.

On the accompanying map, delineate the discharge route in such a way that copies will reflect the highlighted discharge route.

***NOTE:** Copy of SPIFs not required for Houston – US Fish and Wildlife and Galveston-US Army Corps of Engineers

Admin Complete PARIS Entry and Other Reminders

WQ Folder - Application Search

Application Summary Tab—verify application info

Admin Review Tab

- Admin Review Begin Date
- Admin Complete Date
- SPIF
- NORI

Public Participation Tab – No longer required to enter public notice details. See Katherine's email dated 3/30/2017.

CR Folder – RE Search

AI Detail Screen—verify facility info

Enter Contact Info – Contact List

- Owner
- Applicant
- Technical
- Billing (To edit existing info – select Billing Maintenance)
- MER (TLAP only)
- Remove CN affiliation for MER contact (TLAP and TPDES)

OTHER

- Copy of notice, contact sheet, and labels to I/Drive
- SADDs – Application to Dept. of Health Services
- Email TXDOT if discharge is to a state highway right-of-way or roadside ditch.
- Email NORI
- Update facility name (if needed in PARIS)
- Update coordinates (if needed in PARIS), make sure correct link in Notice
- EPA ID CN, location address, facility name (if needed in PARIS)

MWD
121716



816 Congress Avenue, Suite 1900
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512.322.5800 p
512.472.0532 f
lglawfirm.com

REVIEWED

Ms. Chambers' Direct Line: (512) 322-5804
Email: mchambers@lglawfirm.com

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BY GCW H
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CHIEF CLERKS OFFICE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

July 30, 2021

Ms. Laurie Gharis, MC-105
Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

VIA ELECTRONIC FILING AND
FIRST CLASS MAIL

Re: Public Comments, Request for Public Meeting, and Hearing Request
Application for Proposed TPDES Permit No. WQ0015917001
(EPA I.D. No. TX0140546)
Applicant: Green Valley Special Utility District (CN600684294)
Site Name: Clearwater Creek Wastewater Treatment Plant (RN111093126)

Dear Ms. Gharis:

Cibolo Creek Municipal Authority ("**CCMA**"), my client, hereby submits this letter to the Texas Commission on Environmental Quality ("**TCEQ**"), providing formal public comments and requesting a public meeting and contested case hearing regarding the above-referenced application ("**Application**") of Green Valley Special Utility District ("**GVSUD**") for a new Texas Pollutant Discharge Elimination System ("**TPDES**") permit, and the proposed draft permit for such Application ("**Draft Permit**"). These comments are timely filed.

I represent CCMA regarding the Application and Draft Permit. Please include me on the TCEQ's mailing list for all filings in the above-referenced Application. My mailing/contact information is as follows:

Ms. Maris M. Chambers
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
mchambers@lglawfirm.com
Phone: (512) 322-5804
Fax: (512) 472-0532

I. BACKGROUND

In its Application, GVSUD requests authorization from the TCEQ to discharge treated domestic wastewater at a daily average flow not to exceed 400,000 gallons per day (“*GPD*”) at the proposed Clearwater Creek Wastewater Treatment Plant (the “*CCWWTP*”). The *CCWWTP* is to be located in Bexar County, Texas, and the proposed discharge route for the treated wastewater is from the plant site to Womans Hollow Creek,¹ thence to Martinez Creek, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 Texas Administrative Code (“*TAC*”) § 307.10) for Classified Segment No. 1902 are primary contact recreation, high aquatic life use, and 5.0 mg/L dissolved oxygen. Classified Segment No. 1902 is currently listed on the 2020 Texas Integrated Report – Texas 303(d) List of impaired and threatened waters (the “*303(d) List*”). The listings are for bacteria in the water from the confluence with the San Antonio River in Karnes County to a point 100 meters (110 yards) downstream of IH 10 in Bexar/Guadalupe County.

The Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (“*NORI*”) was issued on October 30, 2020 and published on November 13, 2020. An amended *NORI* was issued on April 30, 2021 and published on May 12, 2021. The Notice of Application and Preliminary Decision (“*NAPD*”) was issued on June 17, 2021 and published on June 30, 2021. Pursuant to 30 TAC § 55.152(a), the current deadline to file public comments regarding the Application and Draft Permit is July 30, 2021. To this end, presented below are CCMA’s timely filed public comments raising significant disputed issues of fact that are relevant and material to the TCEQ’s decision on the Application and are the basis for CCMA’s request for a public meeting, and contested case hearing, should the Application not be remanded back to technical review and/or denied.

CCMA requests that the TCEQ deny the Application because GVSUD has not provided all of the information required in TCEQ application forms TCEQ-10053 (06/25/2018) Municipal Wastewater Application Administrative Report (“*Administrative Report*”) and TCEQ-10054 (06/01/2017) Domestic Wastewater Permit Application, Technical Reports (“*Technical Reports*”). In addition, the Application and Draft Permit fail to: (1) meet regionalization requirements; (2) demonstrate a need for the Final phase of the Draft Permit; (3) satisfy water quality, antidegradation, and stream standard requirements; and (4) include other information and documentation required by TCEQ form TCEQ-10053ins (06/25/2018) Instructions for Completing the Domestic Wastewater Permit Application (“*Instructions*”).

II. PUBLIC COMMENTS

CCMA asserts that the Application and Draft Permit should be denied because the Application does not meet applicable statutory and regulatory requirements for a TPDES permit application, the Draft Permit fails to meet Texas Water Code (“*TWC*”), Chapter 26, and the

¹ As demonstrated by the screenshot from TCEQ’s Location Mapper tool, attached hereto and incorporated herein for all purposes as Attachment A, which shows, according to the *NAPD*, “the exact location” of the *CCWWTP*, the correct name of the proposed receiving water is Woman Hollering Creek, not Womans Hollow Creek, as referred to in the *NORI*, Amended *NORI*, *NAPD*, and Application.

TCEQ's regionalization requirements for wastewater treatment plants ("*WWTPs*"), and GVSUD has not demonstrated a need for the CCWWTP. CCMA further maintains that the Application and Draft Permit should not be granted because (i) they do not adequately protect against the CCWWTP's negative impacts on water quality, antidegradation, and stream standards; (ii) GVSUD has not secured ownership/possession of the real property interests necessary to properly construct and operate the CCWWTP; and (iii) the Application fails to include other required elements, such as a sufficient Sewage Sludge Solids Management Plan, map of the proposed service area, and the requisite original photograph of the proposed location for the CCWWTP. In addition, the Application and Draft Permit should be denied due to nuisance odors that will result from the permitting of the CCWWTP, especially given GVSUD's failure to satisfy all buffer zone requirements. Finally, the Application is incomplete given that GVSUD asserts that it has an approved pretreatment program.

A. A designated regional wastewater treatment provider is available to GVSUD under 30 TAC, Chapter 351, Subchapter F.

The Application and Draft Permit violate applicable regulatory requirements prohibiting GVSUD from providing wastewater treatment services within CCMA's TCEQ-designated regional wastewater service area. Under 30 TAC § 351.62, CCMA is "designated the governmental entity to develop a regional sewerage system in that area of Cibolo Creek Watershed, in the vicinity of the cities of Cibolo, Schertz, Universal City, Selma, Bracken, and Randolph Air Force Base." (Emphasis added). Further, 30 TAC § 351.65 reads as follows: "All future permits and amendments to existing permits pertaining to discharges of domestic wastewater effluent within the Cibolo Creek regional area **shall be issued only to [CCMA].**" (Emphasis added).

Although the Application does not contain any maps depicting the boundaries of the proposed service area of the CCWWTP, it does indicate that a portion of said service area is located within the corporate limits of the City of Schertz (the "*City*").² Because a significant portion of the City's corporate limits and extraterritorial jurisdiction are included within CCMA's service area—in addition to the fact that the City purchases wholesale wastewater service from CCMA and is named under 30 TAC § 351.62—CCMA is concerned that the Draft Permit authorizes GVSUD to provide service within the service area designated exclusively to CCMA. However, because GVSUD failed to provide a map of its proposed service area, CCMA cannot determine whether said service area overlaps with its own. Nevertheless, given the significant overlap of the City's corporate boundaries and CCMA's service area, CCMA believes it is more likely than not that GVSUD's proposed service area would infringe upon its own. Therefore, given the high likelihood that the Draft Permit authorizes the provision of service within CCMA's TCEQ-designated wastewater service area, the Application and Draft Permit very likely violate the TCEQ's regionalization regulations. Further, as discussed in more detail below, the contents of the Application and Draft Permit indicate that neither the Application nor its processing by TCEQ evaluated or assessed whether issuance of the Draft Permit would violate 30 TAC § 351.62 and/or 30 TAC § 351.65.

² Application Technical Reports at 21.

B. *The Application fails to comply with the State's regionalization policy.*

The TCEQ is required to implement the State's policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.³ In order to implement this regionalization policy, Section 1.B of the TCEQ's TPDES permit application form Domestic Technical Report 1.1 contains three questions related to the potential for regionalization of WWTPs, each tailored to address the question of whether existing nearby wastewater treatment facilities and/or collection systems could provide service to the service area proposed in the TPDES permit application.⁴ All three regionalization questions in Section 1.B are relevant to GVSUD's Application, and GVSUD has failed to complete the regionalization analysis and process in each instance. The TCEQ's issuance of the Draft Permit also demonstrates that this issue was not taken into consideration when it processed the Application.

For Section 1.B.1, the Instructions require non-city applicants to "indicate if any portion of the proposed service area is located in an incorporated city," and, if so, to "provide correspondence" demonstrating "consent to provide service or denial to provide service from the city."⁵ If the nearby city consents to provide service, the applicant must provide a cost analysis justifying the need for the proposed facility.⁶ The Application, received August 31, 2020, indicates that "City responses are pending,"⁷ but it is CCMA's understanding and belief that the City did respond to GVSUD. Therefore, because GVSUD never supplemented the Application to include the City's response(s), the TCEQ was rendered unable to take into consideration whether or not the City had the willingness and ability to provide service to the proposed service area of the CCWWTP under its wholesale agreement with CCMA. CCMA further understands and believes that, in its communications with GVSUD, the City requested that GVSUD clarify the location of the proposed service area, but GVSUD never provided such information. CCMA therefore contends that, based upon the Application, the processing of the Application, and the Draft Permit, the applicable regionalization analysis was never completed by GVSUD or taken into consideration by the TCEQ. Consequently, the Application and Draft Permit should be denied.

Similarly, Section 1.B.2 requires applicants to "[i]ndicate if any portion of the proposed service area is inside another utility's sewer Certificate of Convenience and Necessity [("CCN")] area."⁸ Here too, if the answer is yes, then the applicant must "provide justification and a cost analysis of expenditures that shows the cost of connecting to the CCN facilities versus the cost of the proposed facility or expansion."⁹ While GVSUD correctly indicated that a portion of the proposed service area is located within the City's corporate limits, it denies that said portion falls inside the City's sewer CCN service area.¹⁰ CCMA believes that this denial is incorrect. Again,

³ TWC § 26.081(a); *see also* TWC §§ 26.003, 26.0282; Instructions at 64.

⁴ Application Technical Reports at 21 – 22.

⁵ Instructions at 64.

⁶ *Id.*

⁷ Application Technical Reports at 21.

⁸ *Id.* at 22.

⁹ *Id.*

¹⁰ *Id.*

GVSUD failed to include the boundaries of the service area proposed to be served by the CCWWTP, as required by Domestic Technical Report 1.0. Rather, in its Application, GVSUD has only provided the “Clearwater Creek WWTP Area Map,” included in Attachment I, which depicts the “Clearwater Creek Sewershed” (the “*Sewershed Map*”). To the extent it is relevant to the proposed service area of the CCWWTP, attached hereto and incorporated herein for all purposes is **Attachment B**, which contains small and large scale maps of the City’s sewer CCN No. 20271. When compared to GVSUD’s Sewershed Map, it is clear that the sewershed depicted for the CCWWTP extends into the boundaries of the City’s sewer CCN. Significantly for CCMA, the overlapping areas of the City’s sewer CCN and the proposed sewershed are part of CCMA’s regional service area. In any case, given that it includes portions of the City’s sewer CCN service area, if GVSUD intends the CCWWTP to serve its entire sewershed, then GVSUD was required to justify the need for the CCWWTP based on a cost analysis included with the Application. It did not do so. Therefore, based upon the Application, the processing of the Application, and the Draft Permit, the potential overlap and applicable regionalization analysis was never taken into consideration by GVSUD or the TCEQ. Consequently, the Application and Draft Permit should be denied.

Finally, Section 1.B.3, concerns the existence of permitted domestic WWTPs or sanitary sewer collection systems located within a three-mile radius of the proposed wastewater treatment facility.¹¹ If such facilities exist, the applicant is, again, required to indicate, and provide supporting documentation, regarding any such neighboring utilities’ responses to mandatory correspondence from the applicant regarding wastewater service for the proposed service area.¹² Just as with Sections 1.B.1 and 1.B.2, if any of the nearby utilities consent to provide service, the applicant must provide a justification for the proposed facility and a comparison of the costs to construct it against those to connect to the applicable existing facility.¹³ While GVSUD properly disclosed the existence of nearby facilities, it indicated that no such facilities “have the capacity to accept or are willing to expand to accept the volume of wastewater proposed in [the Application].”¹⁴ As explained above, that is not accurate given the nature of the City’s communications with GVSUD, but that is also the case with regard to the communications between CCMA and GVSUD. Like the City, CCMA asked GVSUD to provide the location of the proposed service area, and it never received a direct, specific answer, obstructing the regionalization analysis. Thus, based upon the Application, the processing of the Application, and the Draft Permit, this applicable regionalization analysis was never taken into consideration. Consequently, the Application and Draft Permit should be denied.

C. The Application fails to sufficiently demonstrate need for the authorized discharge amount of 0.4 million gallons per day.

CCMA contends that the Application and Draft Permit should be denied because the Final Phase of the proposed CCWWTP is not needed. In conjunction with the TCEQ’s regionalization policy, Section 1 of Domestic Technical Report 1.1 requires a TPDES permit applicant to

¹¹ Instructions at 65; Application Technical Reports at 22.

¹² *Id.*

¹³ *Id.*

¹⁴ Application Technical Reports at 22.

“[p]rovide a detailed discussion regarding the need for any phase(s) not currently permitted.”¹⁵
The Instructions further clarify this requirement, stating:

Provide justification for the proposed flows . . . Provide an anticipated construction start date and operation schedule for each phase being proposed. If construction is dependent upon housing/commercial development, provide information from the developer. Provide information such as the size of the development (number of lots), the date construction on the development is scheduled to begin, and the anticipated growth rate of the development (number of houses per month or year). . . . If additional space is needed, submit the justification information as an attachment.

Attach population estimates and/or projections used to derive the flow estimates and anticipated growth rates for developments. Provide the source and basis upon which population figures were derived (census and/or other methodology). Also, provide population projections at the end of the design life of the treatment facility (usually 50+ years) and the source and basis upon which population figures were derived.¹⁶

Per the Instructions, “[f]ailure to provide sufficient justification for the continued need for the permit and/or each proposed phase may result in a recommendation for denial of the application or proposed phases.”¹⁷

Here, instead of providing the requisite “detailed discussion” outlined above, the Application merely states:

This requested permit is proposed to support planned residential and commercial growth in GVSUD’s sewer CCN area. GVSUD holds sewer CCN for proposed service area. The current contract for service equates to 950 EDUs of service or 232,750 gpm.¹⁸

First, CCMA contends that 232,750 gallons per minute is not an accurate indication of the treated effluent likely to be generated by 950 EDUs, or equivalent dwelling units. That amount of wastewater is equivalent to a wastewater discharge of 335.16 million gallons per day (“MGD”). Rather, CCMA asserts that GVSUD only intends to have a flow of 232,750 GPD (0.232750 MGD).

Second, with a total proposed discharge of 0.233 MGD, the Application seeks an excessive amount of treatment capacity. Thus, the Application does not demonstrate the need for the Draft Permit’s Final Phase authorization to discharge up to 0.4 MGD of treated effluent, and the Application and Draft Permit, as proposed, should be denied.

¹⁵ *Id.* at 21.

¹⁶ Instructions at 64.

¹⁷ *Id.*

¹⁸ Application Technical Reports at 21.

D. The Application raises concerns that the proposed discharge will not be in compliance with the TCEQ's antidegradation policy.

As indicated above, the Application and Draft Permit authorize the discharge of treated domestic wastewater from the proposed CCWWTP to Womans Hollow Creek, thence to Martinez Creek, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 TAC § 307.10) for Classified Segment No. 1902 are primary contact recreation 1, high aquatic life use, and 5.0 mg/L dissolved oxygen. Segment No. 1902 is also currently listed on the 303(d) List for bacteria in the water. Thus, CCMA has concerns that the discharge into Segment No. 1902, as proposed by the Draft Permit, would impact water quality in that watercourse.

Specifically, the Application and Draft Permit raise concerns with CCMA that the proposed discharge will neither be in compliance with the TCEQ's antidegradation policy nor maintain its current stream standard. Pursuant to 30 TAC § 307.5, the proposed discharge is subject to that antidegradation policy and implementation procedures under Tier 1 and Tier 2. Therefore, before approving the Application, the Commission must ensure that antidegradation will not occur as a result of the proposed discharge. Additionally, because Segment No. 1902 is an impaired water body on the TCEQ's 303(d) List, the proposed discharge may unnecessarily further downgrade the segment's water quality if statutory and regulatory requirements for antidegradation and stream standards are not met. Thus, due to these additional concerns, the Application and Draft Permit, as presented, should be denied.

Furthermore, the Application describes the unclassified Womans Hollow Creek as a "Wet Weather Creek,"¹⁹ despite containing information suggesting it may be intermittent or intermittent with perennial pools, stating that it is a "[s]low shallow running creek with perennial pools."²⁰ The Application also indicates that no perennial streams join the receiving water within three miles downstream of the discharge point.²¹ Martinez Creek, however, which is joined by Womans Hollow Creek less than three miles downstream of the discharge point, is included on the 303(d) List as Segment No. 1902A and described as a "[p]erennial stream."²² As such, the effluent set proposed in the Draft Permit may be based on an incorrect stream characterization and inconsistent with state and federal regulations.

E. GVSUD lacks sufficient legal title and/or rights to land to own and operate the proposed CCWWTP.

In addition to the foregoing bases for denying the Application, CCMA believes that the Application is deficient because it does not establish—and GVSUD cannot establish—that it holds sufficient legal rights to real property necessary to own and operate the CCWWTP. As evidenced by the Bexar Appraisal District reports attached hereto and incorporated herein for all purposes as

¹⁹ *Id.* at 30.

²⁰ *Id.* at 31.

²¹ *Id.* at 30.

²² Tex. Comm'n on Env'tl. Quality, *2020 Texas Integrated Report - Texas 303(d) List 88* (2020), www.tceq.texas.gov/waterquality/assessment/20twqi/20txir.

Attachment C, GVSUD does not own the land at the address provided for the proposed CCWWTP. However, pursuant to the Instructions:

If the owner of the land is not the same as the applicant, a long-term lease agreement for the life of the facility must be provided. A lease agreement can only be submitted if the facility is not a fixture of the land (e.g., above-ground package plant). . . . If the facility is considered a fixture of the land (e.g., ponds, units half-way in the ground), there are two options. The owner of the land can apply for the permit as a co-applicant or a copy of an executed deed recorded easement must be provided. A long-term lease agreement is not sufficient if the facility is considered a fixture of the land.

Both the long-term lease agreement and the deed recorded easement must give the facility owner sufficient rights to the land for the operation of the facility.”²³

In its Application, GVSUD incorrectly indicated that it owns the land where the CCWWTP will be located,²⁴ and the third page of TCEQ’s “Checklist for Admin Review of Municipal Application for Permit,” attached hereto and incorporated herein for all purposes as **Attachment D**, demonstrates that TCEQ relied upon that assertion in reviewing the Application. However, GVSUD is not the owner of the land where the proposed CCWWTP will be located, and it has not provided the TCEQ with any document demonstrating ownership or a long-term lease agreement. As such, GVSUD has failed to demonstrate that it possesses sufficient rights to the land for the operation of the proposed CCWWTP.

F. The Application contains a number of additional deficiencies.

After a careful review of the Application, CCMA believes that the Application has the following additional deficiencies, and that due to these deficiencies, the Application and Draft Permit should be denied:

1. **Service Area Map.** The Application does not contain a map clearly identifying the proposed service area for the CCWWTP. As noted briefly above, TCEQ requires GVSUD to provide a map showing the “boundaries of the area served by the treatment facility.”²⁵ However, it is uncertain whether GVSUD has provided such map. If the map provided by GVSUD in the Application to address this requirement is the Sewershed Map, showing the CCWWTP’s proposed sewershed, then GVSUD’s proposed service area boundaries are unclear; otherwise, the Application is lacking this important, required piece of information. In either case, the Sewershed Map does not indicate whether the CCWWTP is intended to serve the entire sewershed shown thereon, a portion of which extends into the City’s sewer CCN service area and the regional service area of CCMA.
2. **Sewage Sludge Solids Management Plan.** In Domestic Technical Report 1.0, Section 9, the TCEQ requires the applicant to select the anticipated sludge disposal method and

²³ Instructions at 33.

²⁴ Application Administrative Report at 8.

²⁵ *Id.* at 11.

provide sludge disposal site information, including the disposal site name, permit or registration number, and disposal site's county.²⁶ Section 9 also requires the applicant to indicate the method of transportation, hauler name, and hauler registration number.²⁷ In response, GVSUD did not provide most of this information, instead stating that the information is to be determined and admitting that neither a sludge disposal site nor hauler has been selected.²⁸ GVSUD also has not complied with the TCEQ's requirement to provide a copy of the contractual agreements demonstrating that the receiving facility will accept the sludge.²⁹ GVSUD's failure to identify a method for sludge disposal creates another deficiency in the Application and indicates that GVSUD's operation of the CCWWTP will not comply with federal and state requirements.

3. **Original Photographs.** The Application does not contain an original photograph of the proposed location for the CCWWTP, and thereby violates the Instructions, which indicate that applicants "must" submit "[a]t least one photograph of the new . . . treatment unit(s) location."³⁰
4. **Pretreatment Program.** The Application is inconsistent as to whether GVSUD has an approved pretreatment program under 40 CFR Part 403. In Domestic Technical Report 1.0, GVSUD indicates it does not have such a program, but GVSUD's answer to the first question in Section D of Domestic Worksheet 6.0 indicates otherwise. Without clarity as to whether GVSUD does have an approved pretreatment program, it is impossible to determine whether it should have completed Domestic Worksheets 4.0, 5.0, or some portion thereof, in addition to completing Domestic Worksheet 6.0.
5. **Buffer Zone.** Next, CCMA asserts that GVSUD's Application fails to provide proof of a sufficient buffer zone compliance method. Section 3 of Domestic Administrative Report 1.1 requires a TPDES permit applicant to indicate how the buffer zone requirements of 30 TAC § 309.13(e) will be met.³¹ The Instructions further specify that "[t]he buffer zone, either 150 or 500 feet from the treatment units . . . can be met by ownership, legal restrictions preventing residential structures within the buffer zone, an approved nuisance odor prevention plan, or a variance to the buffer zone."³² GVSUD indicated it would satisfy the buffer zone requirements through ownership,³³ but as explained in more detail above, GVSUD possesses no ownership interest, nor legal right sufficient to comply with the requirements of 30 TAC § 309.13(e). Specifically, the Instructions indicate that "[o]wnership means that the applicant owns all the land surrounding the treatment units that fall within the buffer zone,"³⁴ which GVSUD does not. Furthermore, 30 TAC § 309.13(e) provides that "wastewater treatment plant units may not be located closer than 150 feet to the nearest property line." As shown on the maps included in the Application,

²⁶ Application Technical Reports at 12 – 13.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* at 13.

³⁰ Instructions at 43.

³¹ Application Administrative Report at 14.

³² Instructions at 43.

³³ Application Administrative Report at 14

³⁴ Instructions at 43.

GVSUD's proposed 150-foot buffer zone is rectangular. That does not properly buffer a 150-foot radius around the proposed facility. In any case, the maps depict the buffer zone extending beyond the boundary of the CCWWTP property.

6. **Nuisance Odors.** In addition to the buffer zone issues described above, an additional, unneeded treatment and disposal facility, if not operated properly, may result in nuisance odors that will adversely affect the quality of life of nearby residents and the public. In accordance with 30 TAC § 309.13(e), the Applicant must demonstrate that sufficient measures to prevent nuisance odors will be undertaken. It is not in the public interest to issue a new discharge authorization that may result in nuisance odors when regionalized wastewater services are available, particularly when nearby schools are located within the three-mile radius of the proposed CCWWTP.

For the above-cited reasons, CCMA recommends that the TCEQ deny the Application and Draft Permit.

III. REQUEST FOR PUBLIC MEETING

CCMA requests a public meeting regarding the Application in light of the issues raised in this letter. The TCEQ's regulations in 30 TAC § 55.154(c) provide that "[a]t any time, the executive director or the Office of the Chief Clerk may hold public meetings," and that "[t]he executive director or the Office of the Chief Clerk shall hold a public meeting if: (1) the executive director determines that there is a substantial or significant degree of public interest in an application." Pursuant to 30 TAC § 55.150, this opportunity to request a public meeting under 30 TAC § 55.154(c) applies to applications for a new TPDES permit, such as the Application. Accordingly, CCMA, for the benefit of its citizens, has a substantial and significant degree of public interest in the Application. CCMA is willing to work with the TCEQ and GVSUD to determine a location for such a public meeting.

IV. REQUEST FOR CONTESTED CASE HEARING

CCMA also requests a contested case hearing regarding the Application, Draft Permit, and each and every issue raised in CCMA's public comments, and any and all supplements and/or amendments thereto. For the reasons set forth herein, CCMA is an affected person, as defined by 30 TAC § 55.203. CCMA has a personal justiciable interest to a legal right, duty, privilege, power, or economic interest that is not common to the general public that would be adversely affected should the Draft Permit be granted. In determining whether a person is an affected person, the TCEQ may consider, among other factors, (1) "whether the interest claimed is one protected by the law under which the application will be considered; (2) distance restrictions or other limitations imposed by law on the affected interest; (3) whether a reasonable relationship exists between the interest claimed and the activity regulated; . . . and (7) *for governmental entities, their statutory authority over or interest in the issues relevant to the application.*"³⁵ The TCEQ may also consider "the merits of the underlying application and supporting documentation . . . , including

³⁵ 30 TAC § 55.203(c) (emphasis added).

July 30, 2021

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whether the application meets the requirements for permit issuance.”³⁶ All such considerations are applicable to CCMA, and, as noted in its public comments in Section II, above, CCMA has a particular interest in the issues relevant to the Application because the Application indicates that the proposed service area for the CCWWTP is very likely located within its TCEQ-designated regional wastewater service area.

V. CONCLUSION

CCMA reserves its right to supplement these public comments and this request for a contested case hearing as it learns more about the Application—additional information may become apparent through a public meeting (and thereby-extended comment period) regarding this Application. CCMA appreciates your consideration of these public comments and requests for a public meeting and contested case hearing.

Thank you for your consideration of this important matter. If you or your staff have any questions regarding this matter, please contact me at your convenience.

Sincerely,



Maris M. Chambers

MMC/dsr
Enclosures

cc: Kenneth Greenwald, President, CCMA
Clint Ellis, General Manager, CCMA

³⁶ *Id.* § 55.203(d).

Attachment A



Location Mapper

Version 4.1

User Guide



Find address or place



Abbot Rd

Abbot Rd

Schr

Slay Pass Bexar B

Trainer Hale Rd

Beyer Path

Rest Rock Rv

St. Hedwig

St. Hedwig Rd

St Hedwig Estate

Miller Rd

Crossside Dr
St. Hedwig Estate

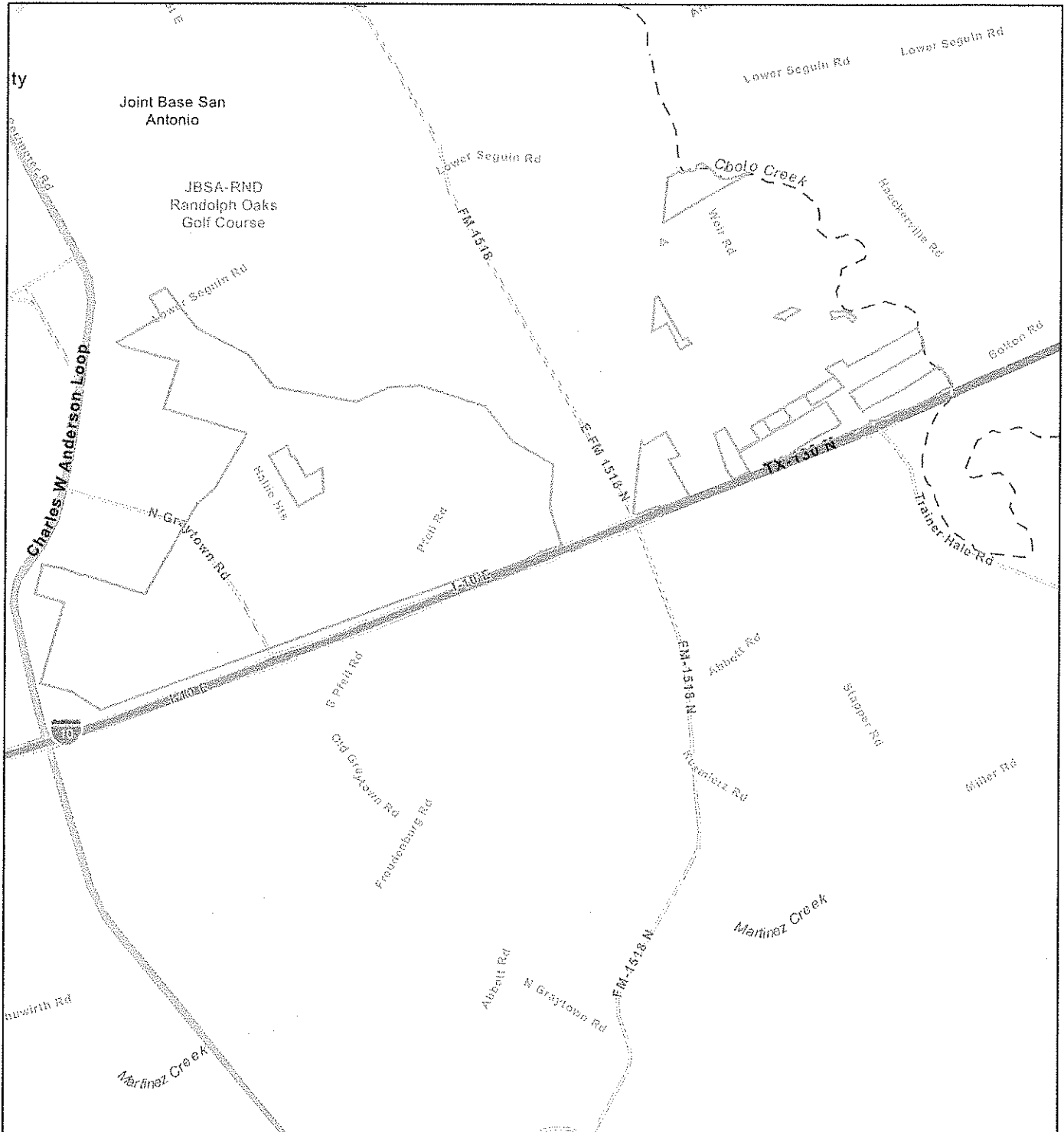
0 0.15 0.3mi

0 30 60 120 180 240 300

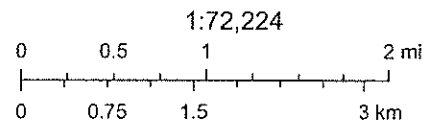


Attachment B

City of Schertz Sewer CCN No. 20271

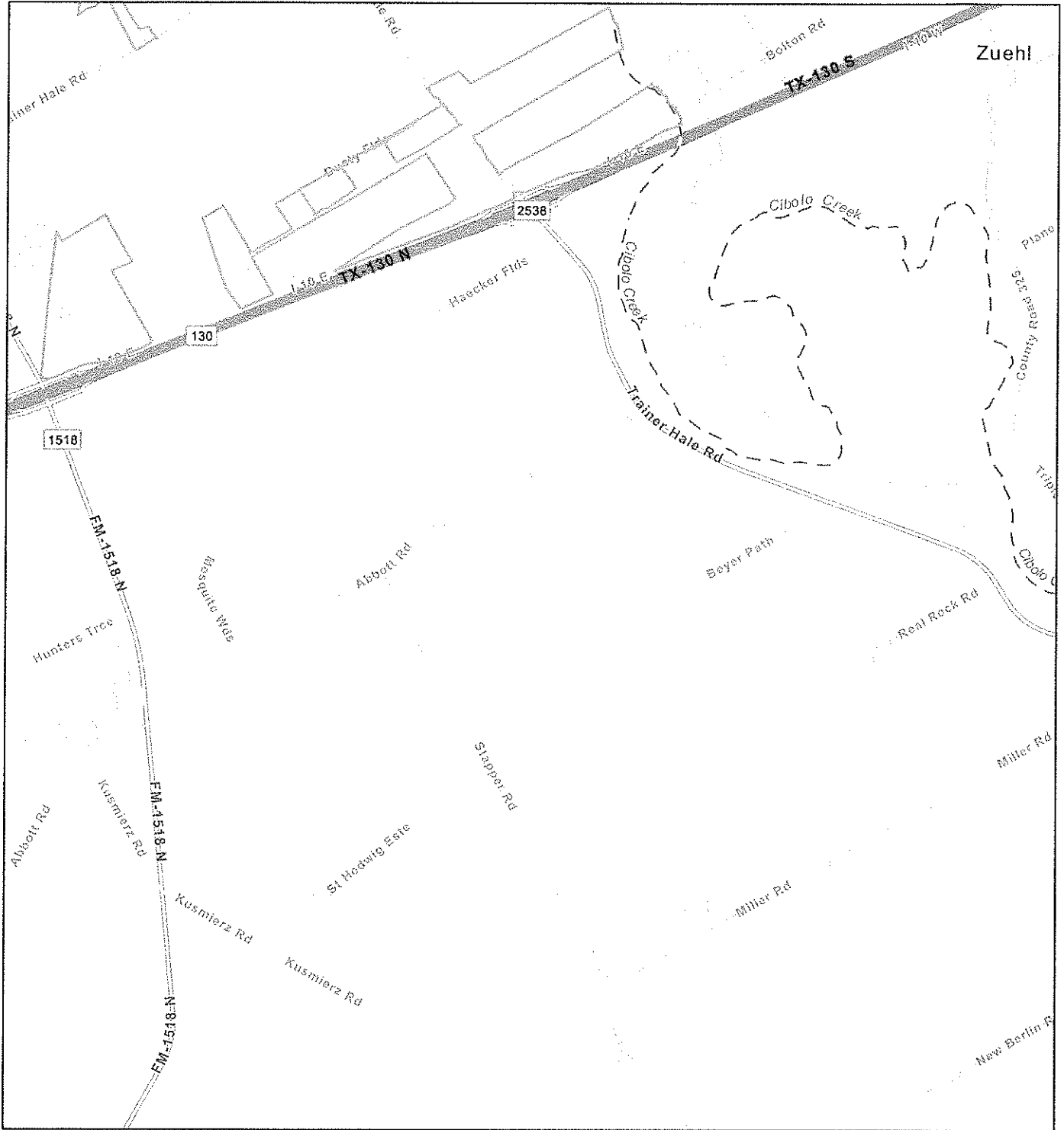


July 29, 2021

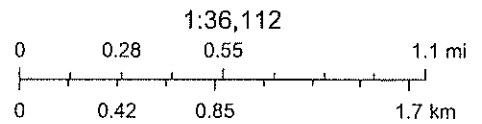


Texas Parks & Wildlife, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA

City of Schertz Sewer CCN No. 20271(Large Scale)



July 29, 2021



Texas Parks & Wildlife, Esri, HERE, Garmin, SafeGraph, INCREMENT P, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA

Attachment C

Property Search Results > 1 - 6 of 6 for Year 2021

Export Results

New Search

Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a single map.

Property Address Legal Description

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value	
<input type="checkbox"/> 1166658	80400-000-1880	Mobile Home	4060 STAPPER RD TX	DUNCAN CRAIG & JOANN		\$44,290	View Details View Map
<input type="checkbox"/> 1172641	04019-000-1882	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	DUNCAN HAZEL JOANN		\$5,390	View Details View Map
<input type="checkbox"/> 169912	04019-000-1880	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL W & SUTTON CAROLYN & DUNCAN HAZEL J		\$37,730	View Details View Map
<input type="checkbox"/> 1172711	04019-000-1883	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL WILLIAM		\$12,150	View Details View Map
<input type="checkbox"/> 169348	04019-000-0191	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL WILLIAM		\$114,590	View Details View Map
<input type="checkbox"/> 169913	04019-000-1881	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SUTTON DONALD J & CAROLYN R		\$176,210	View Details View Map

Page: 1

**Protest status and date information current as of Jul 28 2021 1:22AM.
2021 and prior year appraisal data current as of Jul 2 2021 6:19AM
For property information, contact (210) 242-2432 or (210) 224-8511 or
email.
For website information, contact (210) 242-2500.**

Attachment D

~~print N&T packet for review~~

~~groundwater permit verification & not email~~

CHECK LIST FOR ADMIN REVIEW OF MUNICIPAL APPLICATION FOR PERMIT

Permit No. WQ00 <u>15917001</u>	TX <u>0140540</u>	MGD <u>0.4</u>
CN <u>600684294</u>	RN <u>111093126</u>	County: <u>Bexar</u> Region No. <u>13</u>
Facility: () Major (✓) Minor	App Rcvd Date: <u>8/31/2020</u>	Permit Expiration Date: <u>NEW</u>
(✓) Inactive () Active	Segment No. <u>1902</u>	

Note: A minor facility is generally one in which the final flow is less than 1.0 MGD.

Application Review Date: 10/16/2020

A copy of the pre-tech review was provided by the Municipal Permits Team (for new, major amendments and major facilities).

A copy of the groundwater review was provided (for TLAP new, major amendment, SADD minor amendment, and all applications with (or proposing) Class B sludge provisions).

For new and major amendment applications that propose surface water discharge, the standards review for RWA comments is included.

Coastal Zone sheet is included. Yes No

Fees or Penalties Owed: No [] Yes Amount Owed: _____

SECTION 1 APPLICATION FEES

Application Fees: The appropriate item checked and payment verified in receipt rpt or boexi rpt. Note: copies of checks should be removed and shredded.

Municipal Fees

Proposed/Final Phase Flow	New/Major Amend.	Renewals	Minor Amendment or Modification <i>without</i> Renewal
< .05 MGD	[] \$350.00	[] \$315.00	[] \$150.00 (for any flow)
≥ .05 but < .10 MGD	[] \$550.00	[] \$515.00	
≥ .10 but < .25 MGD	[] \$850.00	[] \$815.00	
≥ .25 but < .50 MGD	<input checked="" type="checkbox"/> \$1,250.00	[] 1,215.00	
≥ .50 but < 1.0 MGD	[] \$1,650.00	[] 1,615.00	
≥ 1.0 MGD	[] \$2,050.00	[] 2,015.00	

SECTION 2 TYPE OF APPLICATION

The Type of application is marked
 Reason for amendment or modification (if applicable). Also, check Tech. Report 1.1 Section 4 on page 3 (Unbuilt Phases) and Section 1.A on page 20 (Justification of permit need).

SECTION 3 FACILITY OWNER (APPLICANT) AND CO-APPLICANT

Legal name of applicant is listed (*the owner of the facility must apply for the permit*)
 Legal name of co-applicant is listed (*if required to apply with facility owner*)

Core Data Form (CDF) is provided. A separate CDF is required for each customer.

Section I – General Information

Reason for submittal is marked.

Customer (CN) and Regulated Entity (RN) Reference Nos. provided – verify with Central Registry

Section II – Customer Information

Customer legal name is provided and it matches name on admin report

Texas SOS/Filing number is provided – verify with SOS

Texas State Tax ID is provided – verify with Texas Comptroller

Type of customer is marked – refer to information below

Corporation: Check with Secretary of State (SOS) at: <https://direct.sos.state.tx.us/acct/acct-login.asp> verify the entity status and charter number – print page. Verify correct legal spelling of applicant's name. Check spelling with SOS against the name listed in the application. (Permit must be issued in name as filed with SOS.) The applicant must be "**In existence and active**" before the application can be processed further.

Those entities subject to state franchise taxes: If applicable, check with Comptroller (website at: <http://ecpa.cpa.state.tx.us/coa/coaStart.html>). Verify the tax identification number is correct. Note: Non-profit organizations and partnerships are not subject to the state franchise tax.

Individual: Complete Attachment 1 of Admin. Report 1.0 The complete legal name, including the middle name; and all other information is required. This info is required by Chapter 26.027C of the Texas Water Code. A separate form is required for each individual.

Utility District: Check IWUD to verify that district is not dissolved (inactive is O.K. to process)

Trust: A copy of an executed trust agreement is provided. Verify that applicant's name is the same as the name in the trust agreement. NOTE: Executed trust must show signatures of trustees or beneficiaries forming the trust and which county it is recorded in.

Partnership: Verify with Secretary of State (SOS) that partnership is registered, active, and has a filing number. Check spelling with SOS against the name submitted in Item 1; Check that SOS # is correct; Print page from SOS website. OR if the partnership is not listed with the SOS, a copy of the partnership agreement is provided by the applicant. The agreement must: give the name of the partnership as provided on the application for permit; list names of partners; bear signatures of the partners; state the terms of the partnership; and must be recorded in the county where the facility (plant) is located.

Municipality/Governmental Agencies/School Districts: City, County, ISD, Fed, etc. – applicable info is listed.

Other _____

Number of employees is marked

Customer role is marked

Mailing address for the applicant is provided - verify on USPS website. This address is used on the permit.

Email address is provided - using GM email in app

Telephone number is provided

Section III – Regulated Entity Information

Regulated Entity Name is provided and it matches name on admin report

Street address or location description of facility is adequately described. If different from current permit, new permit may be required. Use USPS website/GIS mapping to confirm street address

The county where the facility is located is provided

The name of the nearest city is provided

The zip code is provided

The longitude and latitude of the facility is provided – check mapit

Primary SIC Code is provided

Permit No. listed under appropriate programs- if not listed, add it

Section IV – Preparer Information

Name, title, telephone number, and email address is provided

Section V – Authorized Signature

Company name, title, printed name, phone number, signature, and date provided

SECTION 4 APPLICATION CONTACT INFORMATION

Administrative and Technical contact name, address, electronic information provided

SECTION 5 PERMIT CONTACT INFORMATION

Permit (2) contact names, addresses, electronic information provided

SECTION 6 BILLING INFORMATION

Billing contact name, address, electronic information provided

SECTION 7 REPORTING INFORMATION

DMR/MER contact name, address, electronic information provided

SECTION 8 NOTICE INFORMATION

Minor Amendment *without* Renewal – NORI not required. Skip review of notice information.

Name, address and phone number of one person responsible for publishing NORI is provided

Method of sending NORI package is provided

Name and phone number of contact to be in NORI is provided

Location where application will be available is provided and is in the county where the facility is located - the location must be a building supported by taxpayer funds. Note: If discharge is directly into water body that borders two counties, application must be placed in a public facility in both counties and the notice must be published in both counties

Bilingual Items 1 - 5 are completed. If "Yes" to question 1 and "Yes" to either question 2, 3 or 4, then e.5 must be completed

SECTION 9 REGULATED ENTITY and PERMITTED SITE INFORMATION

Permit No. and Expiration date is listed, if not, verify with permit or PARIS

Name of project or site is provided. Should correspond to Item 22 on CDF.

Owner of the facility identified in the application is the same as the name given in Section 3.A

NOTE: THE OWNER OF THE FACILITY IS REQUIRED TO APPLY FOR THE PERMIT

(Refer to legal policy memo for complete definition and discussion of facility.)

Marked whether ownership of the facility is public, private or both

Owner of the land where permitted facility is or will be located is the **SAME** as the applicant.

The owner of the land on which the facility is located is **DIFFERENT FROM** the owner of the facility: A copy of a lease agreement or easement, with a term for the duration of the permit, between applicant and landowner, has been provided. See Lease Agreement/Easement Memo dated 2/14/06, that states that a lease is sufficient for pond systems, and that details the provisions that a lease agreement or easement must contain. OR, landowner can apply as a co-permittee. Lease must identify property by legal description or map.

Effluent Disposal Site Owner:

N/A - (no effluent disposal proposed)

If land disposal is authorized in permit or proposed, the applicant **OWNS** land on which site is located

If applicant **DOES NOT OWN** land where site is located, a long-term lease agreement is provided which includes: a term of at least 5 years; is current or it includes an option to renew the term; is between the current applicant and the landowner; and includes description of property by legal description or map.

(For new TLAP permits only: A copy of an executed option to purchase agreement may be provided to show that applicant will have ownership of the land upon permit approval.)

Sewage Sludge Disposal Site Owner:

N/A - (no sludge disposal proposed)

If sludge is authorized in permit or proposed, the applicant **OWNS** land on which disposal site is located, otherwise lease is needed unless Class B sludge is land applied. Check the permit under Sludge Provisions to determine if sludge is authorized. Note: For BLU sludge application – lease is not needed; Landowner just needs to sign sludge affidavit (if different from applicant)

If sludge disposal is proposed or authorized in the permit, the applicant must also submit the applicable sludge forms.

SECTION 10 DISCHARGE INFORMATION

- Checked if treatment facility location in permit is correct.
- Checked if discharge info in permit is correct. If applicable, the discharge route description is adequately described and describes the discharge route to the nearest major watercourse. Changing the point of discharge and route from the current permit description requires a major amendment
- The name of the city (or nearest city) where the outfall(s) is/will be located has been provided
- The county where the outfall is located is provided
- The longitude and latitude of the outfall is provided
- Marked item regarding authorization for discharge into a city, county, or state ditch. If applicable, correspondence is provided. Email TXDOT if discharge is to a state highway right-of-way or roadside ditch.
- For a daily average flow of 5 MGD or more: the names of all counties located within 100 miles downstream from the point of discharge. These counties will be listed on contact sheet.

SECTION 11 DISPOSAL (TLAP) INFORMATION

- The written location description of the disposal site is adequately described. (NOTE: A CHANGE IN LOCATION OR INCREASE IN ACREAGE REQUIRES A MAJOR AMENDMENT. A decrease in acreage may also be a major amendment (due to flow rate) - check with permit writer)
- The name of the city (or nearest city) has been provided
- The county where the disposal site is located is provided
- The longitude and latitude of the disposal site is provided
- The written flow of effluent from the facility to the effluent disposal site is adequately described
- The nearest watercourse to the disposal site is listed

SECTION 12 MISCELLANEOUS INFORMATION

- Identified whether or not facility or discharge are on Indian land (If yes, we do not have permit authority.)
- For permits that allow sewage disposal the location description is adequately described. For an already-existing permit, check to see that the location has not changed
- Must indicate whether any former TCEQ employees who were paid for services regarding this application
- Fees or Penalties Owed: No Yes - See page 1 of checklist

SECTION 13 ATTACHMENTS

- Lease agreement or deed recorded easement, if the land where the treatment facility is located or the effluent disposal site are not owned by the applicant or co-applicant
- An ORIGINAL or equivalent FULL-SIZED USGS 7.5 minute topographic map (8½ x 11 acceptable for amendment and renewal applications) is provided and labeled showing: applicant's property boundary treatment facility boundaries point of discharge highlighted discharge route for three miles downstream or until it reaches a classified segment scale, effluent disposal site(s) pond(s) sludge disposal/land application site an area of not less than one mile in all directions of the site

All original or equivalent full sized maps must show:

- Color map Clear contour lines Upper left corner must identify map as USGS Department of the Interior Geological Survey Lower left corner, datum & project information Bottom, magnetic declination Bottom, must show scale Bottom, identify contour intervals Bottom, national map accuracy std. statement Bottom, show State of TX and quad location Around map, lat and long coordinates Bottom, quadrangle name Bottom, must identify map date

SECTION 14 SIGNATURE PAGE

Note: The signature information below lists the proper signatories for the various entities and the current version of the application contains a paragraph referencing 30 TAC 305.44. The person signing the application verifies that he or she is authorized, under this rule, to sign the application. We must verify that the title meets the requirements or signatory authority has been delegated.

Original Signature Page is required.

Signature must be properly notarized – check that signature date and notarized date are the same.

Owner Co-Permittee

- City - Elected official or principle executive officer of the city may be public works director.
- Individual: only the individual signs for himself/herself.
- Partnership: General Partner or exec officer
- Corporation: at least level of VP (CEO, Chairman of Board, Secretary can be equiv. to V.P., Member or General Manager for LLC, Manager of one or more manufacturing, production, or operating facilities employing more than 250 persons - refer to 30 TAC 305.44)
- Utility District: at least the level of vice president, on Board of Directors or District Manager
- Water Authority: Regional managers.
- Independent School Districts: at least level of the Assistant Superintendent or board members.
- Governmental Agencies: Division Directors or Regional Directors.
- Trust: The trustee that has been identified in the trust agreement.
- Other: _____

ADMIN REPORT 1.1 For All New or Major Amendment Applications

SECTION 1 Affected Landowner Information -

Landowner Map:

- The applicant's complete property boundaries are delineated which includes boundaries of contiguous property owned by the applicant
- For domestic facilities, show the buffer zone and identify all of the landowners whose property is located within the buffer zone - *tech address*
- The property boundaries of the landowners surrounding the applicant's property have been clearly delineated on the map
- The location of the facility within applicant's property is shown.

For TPDES applications:

- The point(s) of discharge is clearly identified on the map and the discharge route(s) is highlighted.
- The scale of map is provided to measure one mile downstream or if discharge is into a lake, bay estuary, or affected by tides, 1/2 mile up & down stream is measured.
- The property boundaries of landowners adjacent to the discharge route(s) for one mile downstream from the point of discharge have been clearly delineated and the route is clearly delineated. OR If discharge is into a lake, bay estuary, or affected by tides, the property boundaries of landowners 1/2 mile up & downstream and those property owners across the lake along the shore line that fall within a 1/2 mile radius of the point of discharge are clearly delineated on the map.

For TLAP applications (i.e., irrigation, evaporation, etc.):

- The boundaries of the disposal site is clearly identified on the map.
- The boundaries of all landowners surrounding the disposal site.
- Cross-referenced list of landowners is provided.
- Disk or four sets of labels were provided
- Source of landowners' info was provided.
- Provided response regarding permanent school fund land. If information filled out on General Land Office, then indicate so on the contact sheet.

SECTION 2 Original Photographs

- The original (color) ground level photos of treatment unit area, disposal or discharge areas (2 photos – one upstream, one downstream) have been provided
- Plot plan or map showing location and direction of each photo

SECTION 3 Buffer Zone Map *tech address*

Buffer zone map (8 1/2 by 11): The permit writer will review this during the pre-tech review. Any deficiencies will be addressed by them.

SUPPLEMENTAL PERMIT INFORMATION FORM (SPIF)

SPIF is provided - TPDES only

TECHNICAL REPORT -- MUNICIPAL/DOMESTIC APPLICATIONS

Minor Amendment *without* Renewal. Review not required. Just make sure report is provided.

THE FOLLOWING ITEMS APPLY TO ALL APPLICATIONS:

The existing permitted design flow (including all permit phases) is indicated

If flow indicated is greater than permitted, a major amendment is required.

If flow amount is less than permitted amount, confirm with applicant that they are requesting to reduce the flow.

For facilities that have not been constructed the anticipated construction and operation dates are provided for all phases.

Site Drawing must be submitted (*see email from Lana 1/10/2019*).

The permit authorizes irrigation/evaporation/subsurface disposal method and the information has been addressed in the technical report. Verify the acreage. If the acreage has changed from what is currently permitted, a major amendment is required.

The applicable worksheets must be completed:

Worksheet 3.0 - required for land disposal of effluent

Worksheet 3.1 - required for land disposal (new and major amendment only)

Worksheet 3.2 - required for subsurface land disposal (new and major amendment only)

Worksheet 3.3 - required for subsurface area drip dispersal systems (SADDS) (new and major amendment); may be required for renewal on a case-by-case basis.

SADDS Applications: Compliance history items must be completed for SADDS disposal. When the application is administratively complete, a copy of the application and a transmittal letter must be sent to the State Department of Health Services. See the folder titled "SADDS" (under the Individual Permit Review folder) for a template of the letter.

Worksheet 7.0 - required for SADD applications (new and major amendment only) - We do not review the form; we just make sure that it is submitted. If it is not submitted, request it in a NOD.

Sludge disposal and/or land application is authorized in the permit on property owned or under applicant's control.

If facility is beneficially applying class B sludge on the same site as the facility, the applicant must submit the Beneficial Land Use of Sewage Sludge (Class B) Permit Application - Form No. 10451 (See Class B Sludge Permit checklist). The applicant must also submit the appropriate sludge application fee.

If authorization is for sludge processing, storage, disposal, composting, marketing and distribution of sludge, sludge surface disposal, or sludge monofill or for temporary storage in sludge lagoons, the applicant must submit the Domestic Wastewater Permit Application: Sewage Sludge Technical Report - Form No. 10056.

Check for:

required signatures (if applicable)

site acreage acreage application area site boundaries shown on USGS map

Notes: If the applicant is disposing or land applying sludge on land owned or under their control, but it is not authorized in their permit or by any other TCEQ authorization, a major amendment is required.

If the application is for a new permit or major amendment, then you need to check for the appropriate affected landowner requirements.

Worksheet 6.0 must be addressed if a domestic facility is labeled as public or both, (not required for federal agencies or water treatment plants)

THE FOLLOWING ITEMS ONLY APPLY TO MINOR RENEWAL APPLICATIONS:

- The type of treatment plant has been indicated.
- The list of units and their dimensions have been provided
- The flow diagram has been provided.
- The required grab sample test results have been provided for all constituents - *not required if plant not operational.*
- Sludge disposal is authorized off site, and the ultimate sludge disposal method has been identified.
- Worksheet 2.0 - For TPDES permits - the stream data has been addressed.
- Worksheet 4.0 - For discharge permits: If the applicant has a permitted phase equal to or greater than 1 MGD or more than one phase, and interim or final phase(s) that have not been constructed has a flow equal to or greater than 1 MGD, the applicant must perform the all of the required effluent testing to renew that phase.

WHEN APPLICATION IS NOT ADMINISTRATIVELY COMPLETE:

Complete NOD. See NOD SOP

WHEN APPLICATION IS ADMINISTRATIVELY COMPLETE:

Complete NORI package. See NORI SOP
NORI not required for minor amendment. Complete the Routing and Contact (list "n/a" for item regarding person responsible for publication of the notice) Blue sheets only.

Prepare SPIF forms (only for TPDES permits)

- checked application type
- entered county name
- entered administrative completeness date
- ensured permit number is on form
- *check agency receiving SPIF

Minor amendments - ALL agencies BUT Texas Historical Commission and Army Corps of Engineers

Renewals - All agencies BUT Texas Historical Commission

New and Major Amendments - All agencies

- check that the segment number (if known) is entered in receiving water body information.
- On the accompanying map, delineate the discharge route in such a way that copies will reflect the highlighted discharge route.

***NOTE: Copy of SPIFs not required for Houston - US Fish and Wildlife and Galveston-US Army Corps of Engineers**

Admin Complete PARIS Entry and Other Reminders

WO Folder - Application Search

Application Summary Tab—verify application info

Admin Review Tab

- Admin Review Begin Date
- Admin Complete Date
- SPIF
- NORI

Public Participation Tab – No longer required to enter public notice details. See Katherine's email dated 3/30/2017.

CR Folder – RE Search

AI Detail Screen—verify facility info

Enter Contact Info – Contact List

- Owner
- Applicant
- Technical
- Billing (To edit existing info -- select Billing Maintenance)
- MER (TLAP only)
- Remove CN affiliation for MER contact (TLAP and TPDES)

OTHER

- Copy of notice, contact sheet, and labels to I/Drive
- SADDs – Application to Dept. of Health Services
- Email TXDOT if discharge is to a state highway right-of-way or roadside ditch.
- Email NORI
- Update facility name (if needed in PARIS)
- Update coordinates (if needed in PARIS), make sure correct link in Notice
- EPA ID CN, location address, facility name (if needed in PARIS)

NEOPOST
FIRST-CLASS MAIL
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DJK/dst 2/26/08

Lloyd Gosselink

ATTORNEYS AT LAW

Lloyd Gosselink Rochelle & Townsend, P.C.

816 Congress Avenue Suite 1900 Austin, Texas 78701

To:

Ms. Laurie Gharis, MC-105
Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

CHIEF CLERKS OFFICE

2021 AUG -2 AM 11:45

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Melissa Schmidt

From: PUBCOMMENT-OCC
Sent: Monday, August 2, 2021 8:56 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0015917001
Attachments: 2021.07.30 CCWWTP Public Comments and Request for CCH and Public Meeting (CCMA) (with Attachments)1.pdf

PM
H

From: mchambers@lglawfirm.com <mchambers@lglawfirm.com>
Sent: Friday, July 30, 2021 4:35 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0015917001

REGULATED ENTY NAME CLEARWATER CREEK WWTP

RN NUMBER: RN111093126

PERMIT NUMBER: WQ0015917001

DOCKET NUMBER:

COUNTY: BEXAR

PRINCIPAL NAME: GREEN VALLEY SPECIAL UTILITY DISTRICT

CN NUMBER: CN600684294

FROM

NAME: MS Maris Chambers

E-MAIL: mchambers@lglawfirm.com

COMPANY: Lloyd Gosselink Rochelle & Townsend, P.C.

ADDRESS: 816 CONGRESS AVE Suite 1900
AUSTIN TX 78701-2442

PHONE: 5123225804

FAX:

COMMENTS: Please find attached the Cibolo Creek Municipal Authority's Public Comments, Request for Public Meeting, and Hearing Request related to the proposed Clearwater Creek Wastewater Treatment Plant.

Ms. Chambers' Direct Line: (512) 322-5804
Email: mchambers@lglawfirm.com

July 30, 2021

Ms. Laurie Gharis, MC-105
Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

**VIA ELECTRONIC FILING AND
FIRST CLASS MAIL**

Re: Public Comments, Request for Public Meeting, and Hearing Request
Application for Proposed TPDES Permit No. WQ0015917001
(EPA I.D. No. TX0140546)
Applicant: Green Valley Special Utility District (CN600684294)
Site Name: Clearwater Creek Wastewater Treatment Plant (RN111093126)

Dear Ms. Gharis:

Cibolo Creek Municipal Authority ("**CCMA**"), my client, hereby submits this letter to the Texas Commission on Environmental Quality ("**TCEQ**"), providing formal public comments and requesting a public meeting and contested case hearing regarding the above-referenced application ("**Application**") of Green Valley Special Utility District ("**GVSUD**") for a new Texas Pollutant Discharge Elimination System ("**TPDES**") permit, and the proposed draft permit for such Application ("**Draft Permit**"). These comments are timely filed.

I represent CCMA regarding the Application and Draft Permit. Please include me on the TCEQ's mailing list for all filings in the above-referenced Application. My mailing/contact information is as follows:

Ms. Maris M. Chambers
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
mchambers@lglawfirm.com
Phone: (512) 322-5804
Fax: (512) 472-0532

I. BACKGROUND

In its Application, GVSUD requests authorization from the TCEQ to discharge treated domestic wastewater at a daily average flow not to exceed 400,000 gallons per day (“*GPD*”) at the proposed Clearwater Creek Wastewater Treatment Plant (the “*CCWWTP*”). The *CCWWTP* is to be located in Bexar County, Texas, and the proposed discharge route for the treated wastewater is from the plant site to Womans Hollow Creek,¹ thence to Martinez Creek, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 Texas Administrative Code (“*TAC*”) § 307.10) for Classified Segment No. 1902 are primary contact recreation, high aquatic life use, and 5.0 mg/L dissolved oxygen. Classified Segment No. 1902 is currently listed on the 2020 Texas Integrated Report – Texas 303(d) List of impaired and threatened waters (the “*303(d) List*”). The listings are for bacteria in the water from the confluence with the San Antonio River in Karnes County to a point 100 meters (110 yards) downstream of IH 10 in Bexar/Guadalupe County.

The Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (“*NORI*”) was issued on October 30, 2020 and published on November 13, 2020. An amended *NORI* was issued on April 30, 2021 and published on May 12, 2021. The Notice of Application and Preliminary Decision (“*NAPD*”) was issued on June 17, 2021 and published on June 30, 2021. Pursuant to 30 TAC § 55.152(a), the current deadline to file public comments regarding the Application and Draft Permit is July 30, 2021. To this end, presented below are CCMA’s timely filed public comments raising significant disputed issues of fact that are relevant and material to the TCEQ’s decision on the Application and are the basis for CCMA’s request for a public meeting, and contested case hearing, should the Application not be remanded back to technical review and/or denied.

CCMA requests that the TCEQ deny the Application because GVSUD has not provided all of the information required in TCEQ application forms TCEQ-10053 (06/25/2018) Municipal Wastewater Application Administrative Report (“*Administrative Report*”) and TCEQ-10054 (06/01/2017) Domestic Wastewater Permit Application, Technical Reports (“*Technical Reports*”). In addition, the Application and Draft Permit fail to: (1) meet regionalization requirements; (2) demonstrate a need for the Final phase of the Draft Permit; (3) satisfy water quality, antidegradation, and stream standard requirements; and (4) include other information and documentation required by TCEQ form TCEQ-10053ins (06/25/2018) Instructions for Completing the Domestic Wastewater Permit Application (“*Instructions*”).

II. PUBLIC COMMENTS

CCMA asserts that the Application and Draft Permit should be denied because the Application does not meet applicable statutory and regulatory requirements for a TPDES permit application, the Draft Permit fails to meet Texas Water Code (“*TWC*”), Chapter 26, and the

¹ As demonstrated by the screenshot from TCEQ’s Location Mapper tool, attached hereto and incorporated herein for all purposes as Attachment A, which shows, according to the *NAPD*, “the exact location” of the *CCWWTP*, the correct name of the proposed receiving water is Woman Hollering Creek, not Womans Hollow Creek, as referred to in the *NORI*, Amended *NORI*, *NAPD*, and Application.

TCEQ's regionalization requirements for wastewater treatment plants ("*WWTPs*"), and GVSUD has not demonstrated a need for the CCWWTP. CCMA further maintains that the Application and Draft Permit should not be granted because (i) they do not adequately protect against the CCWWTP's negative impacts on water quality, antidegradation, and stream standards; (ii) GVSUD has not secured ownership/possession of the real property interests necessary to properly construct and operate the CCWWTP; and (iii) the Application fails to include other required elements, such as a sufficient Sewage Sludge Solids Management Plan, map of the proposed service area, and the requisite original photograph of the proposed location for the CCWWTP. In addition, the Application and Draft Permit should be denied due to nuisance odors that will result from the permitting of the CCWWTP, especially given GVSUD's failure to satisfy all buffer zone requirements. Finally, the Application is incomplete given that GVSUD asserts that it has an approved pretreatment program.

A. A designated regional wastewater treatment provider is available to GVSUD under 30 TAC, Chapter 351, Subchapter F.

The Application and Draft Permit violate applicable regulatory requirements prohibiting GVSUD from providing wastewater treatment services within CCMA's TCEQ-designated regional wastewater service area. Under 30 TAC § 351.62, CCMA is "designated **the** governmental entity to develop a regional sewerage system in that area of Cibolo Creek Watershed, in the vicinity of the cities of Cibolo, **Schertz**, Universal City, Selma, Bracken, and Randolph Air Force Base." (Emphasis added). Further, 30 TAC § 351.65 reads as follows: "All future permits and amendments to existing permits pertaining to discharges of domestic wastewater effluent within the Cibolo Creek regional area **shall be issued only to [CCMA].**" (Emphasis added).

Although the Application does not contain any maps depicting the boundaries of the proposed service area of the CCWWTP, it does indicate that a portion of said service area is located within the corporate limits of the City of Schertz (the "*City*").² Because a significant portion of the City's corporate limits and extraterritorial jurisdiction are included within CCMA's service area—in addition to the fact that the City purchases wholesale wastewater service from CCMA and is named under 30 TAC § 351.62—CCMA is concerned that the Draft Permit authorizes GVSUD to provide service within the service area designated exclusively to CCMA. However, because GVSUD failed to provide a map of its proposed service area, CCMA cannot determine whether said service area overlaps with its own. Nevertheless, given the significant overlap of the City's corporate boundaries and CCMA's service area, CCMA believes it is more likely than not that GVSUD's proposed service area would infringe upon its own. Therefore, given the high likelihood that the Draft Permit authorizes the provision of service within CCMA's TCEQ-designated wastewater service area, the Application and Draft Permit very likely violate the TCEQ's regionalization regulations. Further, as discussed in more detail below, the contents of the Application and Draft Permit indicate that neither the Application nor its processing by TCEQ evaluated or assessed whether issuance of the Draft Permit would violate 30 TAC § 351.62 and/or 30 TAC § 351.65.

² Application Technical Reports at 21.

B. *The Application fails to comply with the State's regionalization policy.*

The TCEQ is required to implement the State's policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.³ In order to implement this regionalization policy, Section 1.B of the TCEQ's TPDES permit application form Domestic Technical Report 1.1 contains three questions related to the potential for regionalization of WWTPs, each tailored to address the question of whether existing nearby wastewater treatment facilities and/or collection systems could provide service to the service area proposed in the TPDES permit application.⁴ All three regionalization questions in Section 1.B are relevant to GVSUD's Application, and GVSUD has failed to complete the regionalization analysis and process in each instance. The TCEQ's issuance of the Draft Permit also demonstrates that this issue was not taken into consideration when it processed the Application.

For Section 1.B.1, the Instructions require non-city applicants to "indicate if any portion of the proposed service area is located in an incorporated city," and, if so, to "provide correspondence" demonstrating "consent to provide service or denial to provide service from the city."⁵ If the nearby city consents to provide service, the applicant must provide a cost analysis justifying the need for the proposed facility.⁶ The Application, received August 31, 2020, indicates that "City responses are pending,"⁷ but it is CCMA's understanding and belief that the City did respond to GVSUD. Therefore, because GVSUD never supplemented the Application to include the City's response(s), the TCEQ was rendered unable to take into consideration whether or not the City had the willingness and ability to provide service to the proposed service area of the CCWWTP under its wholesale agreement with CCMA. CCMA further understands and believes that, in its communications with GVSUD, the City requested that GVSUD clarify the location of the proposed service area, but GVSUD never provided such information. CCMA therefore contends that, based upon the Application, the processing of the Application, and the Draft Permit, the applicable regionalization analysis was never completed by GVSUD or taken into consideration by the TCEQ. Consequently, the Application and Draft Permit should be denied.

Similarly, Section 1.B.2 requires applicants to "[i]ndicate if any portion of the proposed service area is inside another utility's sewer Certificate of Convenience and Necessity [("CCN")] area."⁸ Here too, if the answer is yes, then the applicant must "provide justification and a cost analysis of expenditures that shows the cost of connecting to the CCN facilities versus the cost of the proposed facility or expansion."⁹ While GVSUD correctly indicated that a portion of the proposed service area is located within the City's corporate limits, it denies that said portion falls inside the City's sewer CCN service area.¹⁰ CCMA believes that this denial is incorrect. Again,

³ TWC § 26.081(a); *see also* TWC §§ 26.003, 26.0282; Instructions at 64.

⁴ Application Technical Reports at 21 – 22.

⁵ Instructions at 64.

⁶ *Id.*

⁷ Application Technical Reports at 21.

⁸ *Id.* at 22.

⁹ *Id.*

¹⁰ *Id.*

GVSUD failed to include the boundaries of the service area proposed to be served by the CCWWTP, as required by Domestic Technical Report 1.0. Rather, in its Application, GVSUD has only provided the “Clearwater Creek WWTP Area Map,” included in Attachment I, which depicts the “Clearwater Creek Sewershed” (the “*Sewershed Map*”). To the extent it is relevant to the proposed service area of the CCWWTP, attached hereto and incorporated herein for all purposes is **Attachment B**, which contains small and large scale maps of the City’s sewer CCN No. 20271. When compared to GVSUD’s Sewershed Map, it is clear that the sewershed depicted for the CCWWTP extends into the boundaries of the City’s sewer CCN. Significantly for CCMA, the overlapping areas of the City’s sewer CCN and the proposed sewershed are part of CCMA’s regional service area. In any case, given that it includes portions of the City’s sewer CCN service area, if GVSUD intends the CCWWTP to serve its entire sewershed, then GVSUD was required to justify the need for the CCWWTP based on a cost analysis included with the Application. It did not do so. Therefore, based upon the Application, the processing of the Application, and the Draft Permit, the potential overlap and applicable regionalization analysis was never taken into consideration by GVSUD or the TCEQ. Consequently, the Application and Draft Permit should be denied.

Finally, Section 1.B.3, concerns the existence of permitted domestic WWTPs or sanitary sewer collection systems located within a three-mile radius of the proposed wastewater treatment facility.¹¹ If such facilities exist, the applicant is, again, required to indicate, and provide supporting documentation, regarding any such neighboring utilities’ responses to mandatory correspondence from the applicant regarding wastewater service for the proposed service area.¹² Just as with Sections 1.B.1 and 1.B.2, if any of the nearby utilities consent to provide service, the applicant must provide a justification for the proposed facility and a comparison of the costs to construct it against those to connect to the applicable existing facility.¹³ While GVSUD properly disclosed the existence of nearby facilities, it indicated that no such facilities “have the capacity to accept or are willing to expand to accept the volume of wastewater proposed in [the Application].”¹⁴ As explained above, that is not accurate given the nature of the City’s communications with GVSUD, but that is also the case with regard to the communications between CCMA and GVSUD. Like the City, CCMA asked GVSUD to provide the location of the proposed service area, and it never received a direct, specific answer, obstructing the regionalization analysis. Thus, based upon the Application, the processing of the Application, and the Draft Permit, this applicable regionalization analysis was never taken into consideration. Consequently, the Application and Draft Permit should be denied.

C. The Application fails to sufficiently demonstrate need for the authorized discharge amount of 0.4 million gallons per day.

CCMA contends that the Application and Draft Permit should be denied because the Final Phase of the proposed CCWWTP is not needed. In conjunction with the TCEQ’s regionalization policy, Section 1 of Domestic Technical Report 1.1 requires a TPDES permit applicant to

¹¹ Instructions at 65; Application Technical Reports at 22.

¹² *Id.*

¹³ *Id.*

¹⁴ Application Technical Reports at 22.

“[p]rovide a detailed discussion regarding the need for any phase(s) not currently permitted.”¹⁵
The Instructions further clarify this requirement, stating:

Provide justification for the proposed flows . . . Provide an anticipated construction start date and operation schedule for each phase being proposed. If construction is dependent upon housing/commercial development, provide information from the developer. Provide information such as the size of the development (number of lots), the date construction on the development is scheduled to begin, and the anticipated growth rate of the development (number of houses per month or year). . . . If additional space is needed, submit the justification information as an attachment.

Attach population estimates and/or projections used to derive the flow estimates and anticipated growth rates for developments. Provide the source and basis upon which population figures were derived (census and/or other methodology). Also, provide population projections at the end of the design life of the treatment facility (usually 50+ years) and the source and basis upon which population figures were derived.¹⁶

Per the Instructions, “[f]ailure to provide sufficient justification for the continued need for the permit and/or each proposed phase may result in a recommendation for denial of the application or proposed phases.”¹⁷

Here, instead of providing the requisite “detailed discussion” outlined above, the Application merely states:

This requested permit is proposed to support planned residential and commercial growth in GVSUD’s sewer CCN area. GVSUD holds sewer CCN for proposed service area. The current contract for service equates to 950 EDUs of service or 232,750 gpm.¹⁸

First, CCMA contends that 232,750 gallons per minute is not an accurate indication of the treated effluent likely to be generated by 950 EDUs, or equivalent dwelling units. That amount of wastewater is equivalent to a wastewater discharge of 335.16 million gallons per day (“*MGD*”). Rather, CCMA asserts that GVSUD only intends to have a flow of 232,750 GPD (0.232750 MGD).

Second, with a total proposed discharge of 0.233 MGD, the Application seeks an excessive amount of treatment capacity. Thus, the Application does not demonstrate the need for the Draft Permit’s Final Phase authorization to discharge up to 0.4 MGD of treated effluent, and the Application and Draft Permit, as proposed, should be denied.

¹⁵ *Id.* at 21.

¹⁶ Instructions at 64.

¹⁷ *Id.*

¹⁸ Application Technical Reports at 21.

D. The Application raises concerns that the proposed discharge will not be in compliance with the TCEQ's antidegradation policy.

As indicated above, the Application and Draft Permit authorize the discharge of treated domestic wastewater from the proposed CCWWTP to Womans Hollow Creek, thence to Martinez Creek, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 TAC § 307.10) for Classified Segment No. 1902 are primary contact recreation 1, high aquatic life use, and 5.0 mg/L dissolved oxygen. Segment No. 1902 is also currently listed on the 303(d) List for bacteria in the water. Thus, CCMA has concerns that the discharge into Segment No. 1902, as proposed by the Draft Permit, would impact water quality in that watercourse.

Specifically, the Application and Draft Permit raise concerns with CCMA that the proposed discharge will neither be in compliance with the TCEQ's antidegradation policy nor maintain its current stream standard. Pursuant to 30 TAC § 307.5, the proposed discharge is subject to that antidegradation policy and implementation procedures under Tier 1 and Tier 2. Therefore, before approving the Application, the Commission must ensure that antidegradation will not occur as a result of the proposed discharge. Additionally, because Segment No. 1902 is an impaired water body on the TCEQ's 303(d) List, the proposed discharge may unnecessarily further downgrade the segment's water quality if statutory and regulatory requirements for antidegradation and stream standards are not met. Thus, due to these additional concerns, the Application and Draft Permit, as presented, should be denied.

Furthermore, the Application describes the unclassified Womans Hollow Creek as a "Wet Weather Creek,"¹⁹ despite containing information suggesting it may be intermittent or intermittent with perennial pools, stating that it is a "[s]low shallow running creek with perennial pools."²⁰ The Application also indicates that no perennial streams join the receiving water within three miles downstream of the discharge point.²¹ Martinez Creek, however, which is joined by Womans Hollow Creek less than three miles downstream of the discharge point, is included on the 303(d) List as Segment No. 1902A and described as a "[p]erennial stream."²² As such, the effluent set proposed in the Draft Permit may be based on an incorrect stream characterization and inconsistent with state and federal regulations.

E. GVSUD lacks sufficient legal title and/or rights to land to own and operate the proposed CCWWTP.

In addition to the foregoing bases for denying the Application, CCMA believes that the Application is deficient because it does not establish—and GVSUD cannot establish—that it holds sufficient legal rights to real property necessary to own and operate the CCWWTP. As evidenced by the Bexar Appraisal District reports attached hereto and incorporated herein for all purposes as

¹⁹ *Id.* at 30.

²⁰ *Id.* at 31.

²¹ *Id.* at 30.

²² Tex. Comm'n on Env'tl. Quality, *2020 Texas Integrated Report - Texas 303(d) List 88* (2020), www.tceq.texas.gov/waterquality/assessment/20twqi/20txir.

Attachment C, GVSUD does not own the land at the address provided for the proposed CCWWTP. However, pursuant to the Instructions:

If the owner of the land is not the same as the applicant, a long-term lease agreement for the life of the facility must be provided. A lease agreement can only be submitted if the facility is not a fixture of the land (e.g., above-ground package plant). . . . If the facility is considered a fixture of the land (e.g., ponds, units half-way in the ground), there are two options. The owner of the land can apply for the permit as a co-applicant or a copy of an executed deed recorded easement must be provided. A long-term lease agreement is not sufficient if the facility is considered a fixture of the land.

Both the long-term lease agreement and the deed recorded easement must give the facility owner sufficient rights to the land for the operation of the facility.”²³

In its Application, GVSUD incorrectly indicated that it owns the land where the CCWWTP will be located,²⁴ and the third page of TCEQ’s “Checklist for Admin Review of Municipal Application for Permit,” attached hereto and incorporated herein for all purposes as **Attachment D**, demonstrates that TCEQ relied upon that assertion in reviewing the Application. However, GVSUD is not the owner of the land where the proposed CCWWTP will be located, and it has not provided the TCEQ with any document demonstrating ownership or a long-term lease agreement. As such, GVSUD has failed to demonstrate that it possesses sufficient rights to the land for the operation of the proposed CCWWTP.

F. The Application contains a number of additional deficiencies.

After a careful review of the Application, CCMA believes that the Application has the following additional deficiencies, and that due to these deficiencies, the Application and Draft Permit should be denied:

1. **Service Area Map.** The Application does not contain a map clearly identifying the proposed service area for the CCWWTP. As noted briefly above, TCEQ requires GVSUD to provide a map showing the “boundaries of the area served by the treatment facility.”²⁵ However, it is uncertain whether GVSUD has provided such map. If the map provided by GVSUD in the Application to address this requirement is the Sewershed Map, showing the CCWWTP’s proposed sewershed, then GVSUD’s proposed service area boundaries are unclear; otherwise, the Application is lacking this important, required piece of information. In either case, the Sewershed Map does not indicate whether the CCWWTP is intended to serve the entire sewershed shown thereon, a portion of which extends into the City’s sewer CCN service area and the regional service area of CCMA.
2. **Sewage Sludge Solids Management Plan.** In Domestic Technical Report 1.0, Section 9, the TCEQ requires the applicant to select the anticipated sludge disposal method and

²³ Instructions at 33.

²⁴ Application Administrative Report at 8.

²⁵ *Id.* at 11.

provide sludge disposal site information, including the disposal site name, permit or registration number, and disposal site's county.²⁶ Section 9 also requires the applicant to indicate the method of transportation, hauler name, and hauler registration number.²⁷ In response, GVSUD did not provide most of this information, instead stating that the information is to be determined and admitting that neither a sludge disposal site nor hauler has been selected.²⁸ GVSUD also has not complied with the TCEQ's requirement to provide a copy of the contractual agreements demonstrating that the receiving facility will accept the sludge.²⁹ GVSUD's failure to identify a method for sludge disposal creates another deficiency in the Application and indicates that GVSUD's operation of the CCWWTP will not comply with federal and state requirements.

3. **Original Photographs.** The Application does not contain an original photograph of the proposed location for the CCWWTP, and thereby violates the Instructions, which indicate that applicants "must" submit "[a]t least one photograph of the new . . . treatment unit(s) location."³⁰
4. **Pretreatment Program.** The Application is inconsistent as to whether GVSUD has an approved pretreatment program under 40 CFR Part 403. In Domestic Technical Report 1.0, GVSUD indicates it does not have such a program, but GVSUD's answer to the first question in Section D of Domestic Worksheet 6.0 indicates otherwise. Without clarity as to whether GVSUD does have an approved pretreatment program, it is impossible to determine whether it should have completed Domestic Worksheets 4.0, 5.0, or some portion thereof, in addition to completing Domestic Worksheet 6.0.
5. **Buffer Zone.** Next, CCMA asserts that GVSUD's Application fails to provide proof of a sufficient buffer zone compliance method. Section 3 of Domestic Administrative Report 1.1 requires a TPDES permit applicant to indicate how the buffer zone requirements of 30 TAC § 309.13(e) will be met.³¹ The Instructions further specify that "[t]he buffer zone, either 150 or 500 feet from the treatment units . . . can be met by ownership, legal restrictions preventing residential structures within the buffer zone, an approved nuisance odor prevention plan, or a variance to the buffer zone."³² GVSUD indicated it would satisfy the buffer zone requirements through ownership,³³ but as explained in more detail above, GVSUD possesses no ownership interest, nor legal right sufficient to comply with the requirements of 30 TAC § 309.13(e). Specifically, the Instructions indicate that "[o]wnership means that the applicant owns all the land surrounding the treatment units that fall within the buffer zone,"³⁴ which GVSUD does not. Furthermore, 30 TAC § 309.13(e) provides that "wastewater treatment plant units may not be located closer than 150 feet to the nearest property line." As shown on the maps included in the Application,

²⁶ Application Technical Reports at 12 – 13.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* at 13.

³⁰ Instructions at 43.

³¹ Application Administrative Report at 14.

³² Instructions at 43.

³³ Application Administrative Report at 14

³⁴ Instructions at 43.

GVSUD's proposed 150-foot buffer zone is rectangular. That does not properly buffer a 150-foot radius around the proposed facility. In any case, the maps depict the buffer zone extending beyond the boundary of the CCWWTP property.

6. **Nuisance Odors.** In addition to the buffer zone issues described above, an additional, unneeded treatment and disposal facility, if not operated properly, may result in nuisance odors that will adversely affect the quality of life of nearby residents and the public. In accordance with 30 TAC § 309.13(e), the Applicant must demonstrate that sufficient measures to prevent nuisance odors will be undertaken. It is not in the public interest to issue a new discharge authorization that may result in nuisance odors when regionalized wastewater services are available, particularly when nearby schools are located within the three-mile radius of the proposed CCWWTP.

For the above-cited reasons, CCMA recommends that the TCEQ deny the Application and Draft Permit.

III. REQUEST FOR PUBLIC MEETING

CCMA requests a public meeting regarding the Application in light of the issues raised in this letter. The TCEQ's regulations in 30 TAC § 55.154(c) provide that "[a]t any time, the executive director or the Office of the Chief Clerk may hold public meetings," and that "[t]he executive director or the Office of the Chief Clerk shall hold a public meeting if: (1) the executive director determines that there is a substantial or significant degree of public interest in an application." Pursuant to 30 TAC § 55.150, this opportunity to request a public meeting under 30 TAC § 55.154(c) applies to applications for a new TPDES permit, such as the Application. Accordingly, CCMA, for the benefit of its citizens, has a substantial and significant degree of public interest in the Application. CCMA is willing to work with the TCEQ and GVSUD to determine a location for such a public meeting.

IV. REQUEST FOR CONTESTED CASE HEARING

CCMA also requests a contested case hearing regarding the Application, Draft Permit, and each and every issue raised in CCMA's public comments, and any and all supplements and/or amendments thereto. For the reasons set forth herein, CCMA is an affected person, as defined by 30 TAC § 55.203. CCMA has a personal justiciable interest to a legal right, duty, privilege, power, or economic interest that is not common to the general public that would be adversely affected should the Draft Permit be granted. In determining whether a person is an affected person, the TCEQ may consider, among other factors, (1) "whether the interest claimed is one protected by the law under which the application will be considered; (2) distance restrictions or other limitations imposed by law on the affected interest; (3) whether a reasonable relationship exists between the interest claimed and the activity regulated; . . . and (7) *for governmental entities, their statutory authority over or interest in the issues relevant to the application.*"³⁵ The TCEQ may also consider "the merits of the underlying application and supporting documentation . . . , including

³⁵ 30 TAC § 55.203(c) (emphasis added).

July 30, 2021

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whether the application meets the requirements for permit issuance.”³⁶ All such considerations are applicable to CCMA, and, as noted in its public comments in Section II, above, CCMA has a particular interest in the issues relevant to the Application because the Application indicates that the proposed service area for the CCWWTP is very likely located within its TCEQ-designated regional wastewater service area.

V. CONCLUSION

CCMA reserves its right to supplement these public comments and this request for a contested case hearing as it learns more about the Application—additional information may become apparent through a public meeting (and thereby-extended comment period) regarding this Application. CCMA appreciates your consideration of these public comments and requests for a public meeting and contested case hearing.

Thank you for your consideration of this important matter. If you or your staff have any questions regarding this matter, please contact me at your convenience.

Sincerely,



Maris M. Chambers

MMC/dsr
Enclosures

cc: Kenneth Greenwald, President, CCMA
Clint Ellis, General Manager, CCMA

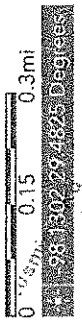
³⁶ *Id.* § 55.203(d).

Attachment A



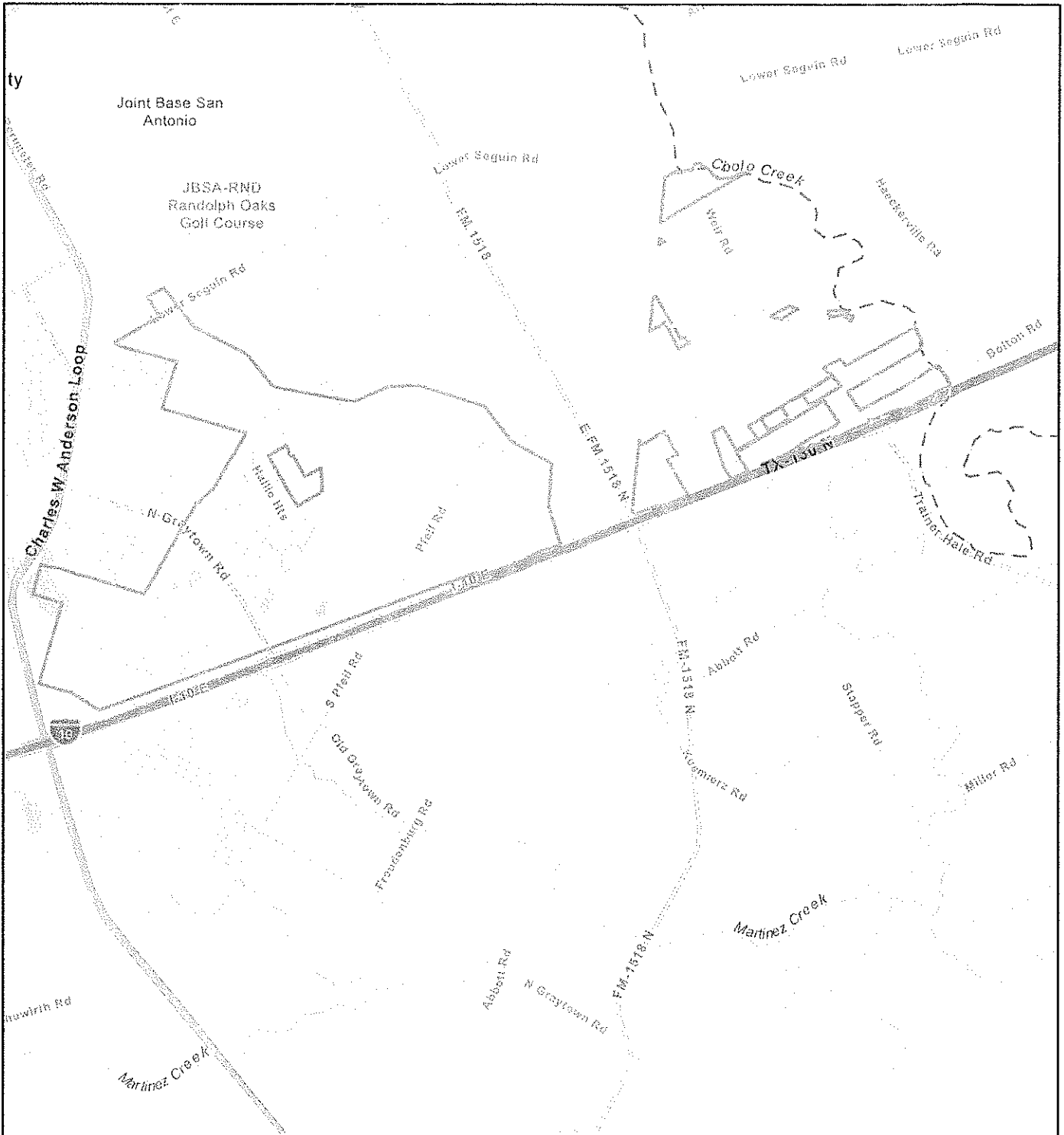
Find address or place

Map icons: Street View, Full Screen, Info, Measure



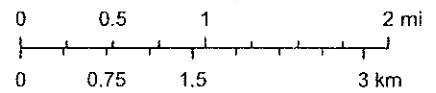
Attachment B

City of Schertz Sewer CCN No. 20271



July 29, 2021

1:72,224

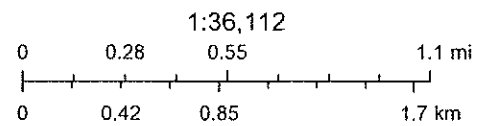


Texas Parks & Wildlife, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA

City of Schertz Sewer CCN No. 20271(Large Scale)



July 29, 2021



Attachment C

Bexar CAD

[Property Search](#) [Map Search](#)

Property Search Results > 1 - 6 of 6 for Year 2021

[Export Results](#) [New Search](#)

Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a single map.

Property Address Legal Description

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value	
<input type="checkbox"/> 1166658	80400-000-1880	Mobile Home	4060 STAPPER RD TX	DUNCAN CRAIG & JOANN		\$44,290	View Details View Map
<input type="checkbox"/> 1172641	04019-000-1882	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	DUNCAN HAZEL JOANN		\$5,390	View Details View Map
<input type="checkbox"/> 169912	04019-000-1880	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL W & SUTTON CAROLYN & DUNCAN HAZEL J		\$37,730	View Details View Map
<input type="checkbox"/> 1172711	04019-000-1883	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL WILLIAM		\$12,150	View Details View Map
<input type="checkbox"/> 169348	04019-000-0191	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL WILLIAM		\$114,590	View Details View Map
<input type="checkbox"/> 169913	04019-000-1881	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SUTTON DONALD J & CAROLYN R		\$176,210	View Details View Map

Page: 1

**Protest status and date information current as of Jul 28 2021 1:22AM.
 2021 and prior year appraisal data current as of Jul 2 2021 6:19AM
 For property information, contact (210) 242-2432 or (210) 224-8511 or
email.
 For website information, contact (210) 242-2500.**

Attachment D

print N&I packet for review

*good report
print verifications + no email*

CHECK LIST FOR ADMIN REVIEW OF MUNICIPAL APPLICATION FOR PERMIT		
Permit No. WQ00 <u>15917001</u>	TX <u>0140540</u>	MGD <u>0.4</u>
CN <u>600684294</u>	RN <u>111093126</u>	County: <u>Bexar</u> Region No. <u>13</u>
Facility: () Major (✓) Minor	App Rcvd Date: <u>8/31/2020</u>	Permit Expiration Date: <u>NEW</u>
(✓) Inactive () Active	Segment No. <u>1902</u>	

Note: A minor facility is generally one in which the final flow is less than 1.0 MGD.

Application Review Date: 10/16/2020

A copy of the pre-tech review was provided by the Municipal Permits Team (for new, major amendments and major facilities).

A copy of the groundwater review was provided (for TLAP new, major amendment, SADD minor amendment, and all applications with (or proposing) Class B sludge provisions).

For new and major amendment applications that propose surface water discharge, the standards review for RWA comments is included.

Coastal Zone sheet is included. Yes No

Fees or Penalties Owed: No Yes Amount Owed: _____

SECTION 1 APPLICATION FEES

Application Fees: The appropriate item checked and payment verified in receipt rpt or boexi rpt. Note: copies of checks should be removed and shredded.

Municipal Fees

Proposed/Final Phase Flow	New/Major Amend.	Renewals	Minor Amendment or Modification <i>without</i> Renewal
< .05 MGD	<input type="checkbox"/> \$350.00	<input type="checkbox"/> \$315.00	[] \$150.00 (for any flow)
≥ .05 but < .10 MGD	<input type="checkbox"/> \$550.00	<input type="checkbox"/> \$515.00	
≥ .10 but < .25 MGD	<input type="checkbox"/> \$850.00	<input type="checkbox"/> \$815.00	
≥ .25 but < .50 MGD	<input checked="" type="checkbox"/> \$1,250.00	<input type="checkbox"/> 1,215.00	
≥ .50 but < 1.0 MGD	<input type="checkbox"/> \$1,650.00	<input type="checkbox"/> 1,615.00	
≥ 1.0 MGD	<input type="checkbox"/> \$2,050.00	<input type="checkbox"/> 2,015.00	

SECTION 2 TYPE OF APPLICATION

The Type of application is marked

Reason for amendment or modification (if applicable). Also, check Tech. Report 1.1 Section 4 on page 3 (Unbuilt Phases) and Section 1.A on page 20 (Justification of permit need).

SECTION 3 FACILITY OWNER (APPLICANT) AND CO-APPLICANT

Legal name of applicant is listed (*the owner of the facility must apply for the permit*)

Legal name of co-applicant is listed (*if required to apply with facility owner*)

Core Data Form (CDF) is provided. A separate CDF is required for each customer.

Section I – General Information

Reason for submittal is marked.

Customer (CN) and Regulated Entity (RN) Reference Nos. provided – verify with Central Registry

Section II – Customer Information

Customer legal name is provided and it matches name on admin report

Texas SOS/Filing number is provided – verify with SOS

Texas State Tax ID is provided – verify with Texas Comptroller

Type of customer is marked – refer to information below

Corporation: Check with Secretary of State (SOS) at: <https://direct.sos.state.tx.us/acct/acct-login.asp> verify the entity status and charter number – print page. Verify correct legal spelling of applicant's name. Check spelling with SOS against the name listed in the application. (Permit must be issued in name as filed with SOS.) The applicant must be "**In existence and active**" before the application can be processed further.

Those entities subject to state franchise taxes: If applicable, check with Comptroller (website at: <http://ecpa.cpa.state.tx.us/coa/coaStart.html>). Verify the tax identification number is correct. Note: Non-profit organizations and partnerships are not subject to the state franchise tax.

Individual: Complete Attachment 1 of Admin. Report 1.0 The complete legal name, including the middle name; and all other information is required. This info is required by Chapter 26.027C of the Texas Water Code. A separate form is required for each individual.

Utility District: Check IWUD to verify that district is not dissolved (inactive is O.K. to process)

Trust: A copy of an executed trust agreement is provided. Verify that applicant's name is the same as the name in the trust agreement. NOTE: Executed trust must show signatures of trustees or beneficiaries forming the trust and which county it is recorded in.

Partnership: Verify with Secretary of State (SOS) that partnership is registered, active, and has a filing number. Check spelling with SOS against the name submitted in Item 1; Check that SOS # is correct; Print page from SOS website. OR if the partnership is not listed with the SOS, a copy of the partnership agreement is provided by the applicant. The agreement must: give the name of the partnership as provided on the application for permit; list names of partners; bear signatures of the partners; state the terms of the partnership; and must be recorded in the county where the facility (plant) is located.

Municipality/Governmental Agencies/School Districts: City, County, ISD, Fed, etc. – applicable info is listed.

Other _____

Number of employees is marked

Customer role is marked

Mailing address for the applicant is provided - verify on USPS website. This address is used on the permit.

Email address is provided *using GM email in app*

Telephone number is provided

Section III – Regulated Entity Information

Regulated Entity Name is provided and it matches name on admin report

Street address or location description of facility is adequately described. If different from current permit, new permit may be required. Use USPS website/GIS mapping to confirm street address

The county where the facility is located is provided

The name of the nearest city is provided

The zip code is provided

The longitude and latitude of the facility is provided – check mapit

Primary SIC Code is provided

Permit No. listed under appropriate programs- if not listed, add it

Section IV – Preparer Information

Name, title, telephone number, and email address is provided

Section V – Authorized Signature

Company name, title, printed name, phone number, signature, and date provided

SECTION 4 APPLICATION CONTACT INFORMATION

Administrative and Technical contact name, address, electronic information provided

SECTION 5 PERMIT CONTACT INFORMATION

Permit (2) contact names, addresses, electronic information provided

SECTION 6 BILLING INFORMATION

Billing contact name, address, electronic information provided

SECTION 7 REPORTING INFORMATION

DMR/MER contact name, address, electronic information provided

SECTION 8 NOTICE INFORMATION

Minor Amendment *without* Renewal – NORI not required. Skip review of notice information.

Name, address and phone number of one person responsible for publishing NORI is provided

Method of sending NORI package is provided

Name and phone number of contact to be in NORI is provided

Location where application will be available is provided and is in the county where the facility is located - the location must be a building supported by taxpayer funds. Note: If discharge is directly into water body that borders two counties, application must be placed in a public facility in both counties and the notice must be published in both counties

Bilingual Items 1 – 5 are completed. If “Yes” to question 1 and “Yes” to either question 2, 3 or 4, then e.5 must be completed **N**

SECTION 9 REGULATED ENTITY and PERMITTED SITE INFORMATION

Permit No. and Expiration date is listed, if not, verify with permit or PARIS

Name of project or site is provided. Should correspond to Item 22 on CDF.

Owner of the facility identified in the application is the same as the name given in Section 3.A

NOTE: THE OWNER OF THE FACILITY IS REQUIRED TO APPLY FOR THE PERMIT

(Refer to legal policy memo for complete definition and discussion of facility.)

Marked whether ownership of the facility is public, private or both

Owner of the land where permitted facility is or will be located is the **SAME** as the applicant.

The owner of the land on which the facility is located is **DIFFERENT FROM** the owner of the facility: A copy of a lease agreement or easement, with a term for the duration of the permit, between applicant and landowner, has been provided. See Lease Agreement/Easement Memo dated 2/14/06, that states that a lease is sufficient for pond systems, and that details the provisions that a lease agreement or easement must contain. OR, landowner can apply as a co-permittee. Lease must identify property by legal description or map.

Effluent Disposal Site Owner:

N/A - (no effluent disposal proposed)

If land disposal is authorized in permit or proposed, the applicant **OWNS** land on which site is located

If applicant **DOES NOT OWN** land where site is located, a long-term lease agreement is provided which includes: a term of at least 5 years; is current or it includes an option to renew the term; is between the current applicant and the landowner; and includes description of property by legal description or map.

(For new TLAP permits only: A copy of an executed option to purchase agreement may be provided to show that applicant will have ownership of the land upon permit approval.)

Sewage Sludge Disposal Site Owner:

N/A - (no sludge disposal proposed)

If sludge is authorized in permit or proposed, the applicant **OWNS** land on which disposal site is located, otherwise lease is needed unless Class B sludge is land applied. Check the permit under Sludge Provisions to determine if sludge is authorized. Note: For BLU sludge application – lease is not needed; Landowner just needs to sign sludge affidavit (if different from applicant)

If sludge disposal is proposed or authorized in the permit, the applicant must also submit the applicable sludge forms.

SECTION 10 DISCHARGE INFORMATION

- Checked if treatment facility location in permit is correct.
- Checked if discharge info in permit is correct. If applicable, the discharge route description is adequately described and describes the discharge route to the nearest major watercourse. Changing the point of discharge and route from the current permit description requires a major amendment
- The name of the city (or nearest city) where the outfall(s) is/will be located has been provided
- The county where the outfall is located is provided
- The longitude and latitude of the outfall is provided
- Marked item regarding authorization for discharge into a city, county, or state ditch. If applicable, correspondence is provided. Email TXDOT if discharge is to a state highway right-of-way or roadside ditch.
- For a daily average flow of 5 MGD or more: the names of all counties located within 100 miles downstream from the point of discharge. These counties will be listed on contact sheet.

SECTION 11 DISPOSAL (TLAP) INFORMATION

- The written location description of the disposal site is adequately described. (NOTE: A CHANGE IN LOCATION OR INCREASE IN ACREAGE REQUIRES A MAJOR AMENDMENT. A decrease in acreage may also be a major amendment (due to flow rate) - check with permit writer)
- The name of the city (or nearest city) has been provided
- The county where the disposal site is located is provided
- The longitude and latitude of the disposal site is provided
- The written flow of effluent from the facility to the effluent disposal site is adequately described
- The nearest watercourse to the disposal site is listed

SECTION 12 MISCELLANEOUS INFORMATION

- Identified whether or not facility or discharge are on Indian land (If yes, we do not have permit authority.)
- For permits that allow sewage disposal the location description is adequately described. For an already-existing permit, check to see that the location has not changed
- Must indicate whether any former TCEQ employees who were paid for services regarding this application
- Fees or Penalties Owed: No Yes - See page 1 of checklist

SECTION 13 ATTACHMENTS

- Lease agreement or deed recorded easement, if the land where the treatment facility is located or the effluent disposal site are not owned by the applicant or co-applicant
- An ORIGINAL or equivalent FULL-SIZED USGS 7.5 minute topographic map (8 1/2 x 11 acceptable for amendment and renewal applications) is provided and labeled showing: applicant's property boundary treatment facility boundaries point of discharge highlighted discharge route for three miles downstream or until it reaches a classified segment scale, effluent disposal site(s) pond(s) sludge disposal/land application site an area of not less than one mile in all directions of the site

need full size

All original or equivalent full sized maps must show:

- Color map Clear contour lines Upper left corner must identify map as USGS Department of the Interior Geological Survey Lower left corner, datum & project information Bottom, magnetic declination Bottom, must show scale Bottom, identify contour intervals Bottom, national map accuracy std. statement Bottom, show State of TX and quad location Around map, lat and long coordinates Bottom, quadrangle name Bottom, must identify map date

SECTION 14 SIGNATURE PAGE

Note: The signature information below lists the proper signatories for the various entities and the current version of the application contains a paragraph referencing 30 TAC 305.44. The person signing the application verifies that he or she is authorized, under this rule, to sign the application. We must verify that the title meets the requirements or signatory authority has been delegated.

- Original Signature Page is required.
- Signature must be properly notarized – check that signature date and notarized date are the same.

Owner Co-Permittee

- City - Elected official or principle executive officer of the city may be public works director.
- Individual: only the individual signs for himself/herself.
- Partnership: General Partner or exec officer
- Corporation: at least level of VP (CEO, Chairman of Board, Secretary can be equiv. to V.P., Member or General Manager for LLC, Manager of one or more manufacturing, production, or operating facilities employing more than 250 persons - refer to 30 TAC 305.44)
- Utility District: at least the level of vice president, on Board of Directors or District Manager
- Water Authority: Regional managers.
- Independent School Districts: at least level of the Assistant Superintendent or board members.
- Governmental Agencies: Division Directors or Regional Directors.
- Trust: The trustee that has been identified in the trust agreement.
- Other: _____

ADMIN REPORT 1.1 For All New or Major Amendment Applications

SECTION 1 Affected Landowner Information -

Landowner Map:

- The applicant's complete property boundaries are delineated which includes boundaries of contiguous property owned by the applicant
- For domestic facilities, show the buffer zone and identify all of the landowners whose property is located within the buffer zone - *tech address*
- The property boundaries of the landowners surrounding the applicant's property have been clearly delineated on the map
- The location of the facility within applicant's property is shown.

For TPDES applications:

- The point(s) of discharge is clearly identified on the map and the discharge route(s) is highlighted.
- The scale of map is provided to measure one mile downstream or if discharge is into a lake, bay estuary, or affected by tides, 1/2 mile up & down stream is measured.
- The property boundaries of landowners adjacent to the discharge route(s) for one mile downstream from the point of discharge have been clearly delineated and the route is clearly delineated. OR If discharge is into a lake, bay estuary, or affected by tides, the property boundaries of landowners 1/2 mile up & downstream and those property owners across the lake along the shore line that fall within a 1/2 mile radius of the point of discharge are clearly delineated on the map.

For TLAP applications (i.e., irrigation, evaporation, etc.):

- The boundaries of the disposal site is clearly identified on the map.
- The boundaries of all landowners surrounding the disposal site.
- Cross-referenced list of landowners is provided.
- Disk or four sets of labels were provided
- Source of landowners' info was provided.
- Provided response regarding permanent school fund land. If information filled out on General Land Office, then indicate so on the contact sheet.

SECTION 2 Original Photographs

- The original (color) ground level photos of treatment unit area, disposal or discharge areas (2 photos – one upstream, one downstream) have been provided
- Plot plan or map showing location and direction of each photo

SECTION 3 Buffer Zone Map *tech address*

Buffer zone map (8 1/2 by 11): The permit writer will review this during the pre-tech review. Any deficiencies will be addressed by them.

SUPPLEMENTAL PERMIT INFORMATION FORM (SPIF)

SPIF is provided - TPDES only

TECHNICAL REPORT – MUNICIPAL/DOMESTIC APPLICATIONS

Minor Amendment *without* Renewal. Review not required. Just make sure report is provided.

THE FOLLOWING ITEMS APPLY TO ALL APPLICATIONS:

The existing permitted design flow (including all permit phases) is indicated

If flow indicated is greater than permitted, a major amendment is required.

If flow amount is less than permitted amount, confirm with applicant that they are requesting to reduce the flow.

For facilities that have not been constructed the anticipated construction and operation dates are provided for all phases.

Site Drawing must be submitted (*see email from Lana 1/10/2019*).

The permit authorizes irrigation/evaporation/subsurface disposal method and the information has been addressed in the technical report. Verify the acreage. If the acreage has changed from what is currently permitted, a major amendment is required.

The applicable worksheets must be completed:

Worksheet 3.0 - required for land disposal of effluent

Worksheet 3.1 - required for land disposal (new and major amendment only)

Worksheet 3.2 - required for subsurface land disposal (new and major amendment only)

Worksheet 3.3 - required for subsurface area drip dispersal systems (SADDS) (new and major amendment); may be required for renewal on a case-by-case basis.

SADDS Applications: Compliance history items must be completed for SADDS disposal. When the application is administratively complete, a copy of the application and a transmittal letter must be sent to the State Department of Health Services. See the folder titled "SADDS" (under the Individual Permit Review folder) for a template of the letter.

Worksheet 7.0 – required for SADD applications (new and major amendment only) - We do not review the form; we just make sure that it is submitted. If it is not submitted, request it in a NOD.

Sludge disposal and/or land application is authorized in the permit on property owned or under applicant's control.

If facility is beneficially applying class B sludge on the same site as the facility, the applicant must submit the Beneficial Land Use of Sewage Sludge (Class B) Permit Application - Form No. 10451 (See Class B Sludge Permit checklist). The applicant must also submit the appropriate sludge application fee.

If authorization is for sludge processing, storage, disposal, composting, marketing and distribution of sludge, sludge surface disposal, or sludge monofill or for temporary storage in sludge lagoons, the applicant must submit the Domestic Wastewater Permit Application: Sewage Sludge Technical Report – Form No. 10056.

Check for:

required signatures (if applicable)

site acreage acreage application area site boundaries shown on USGS map

Notes: If the applicant is disposing or land applying sludge on land owned or under their control, but it is not authorized in their permit or by any other TCEQ authorization, a major amendment is required.

If the application is for a new permit or major amendment, then you need to check for the appropriate affected landowner requirements.

[] Worksheet 6.0 must be addressed if a domestic facility is labeled as public or both, (not required for federal agencies or water treatment plants)

THE FOLLOWING ITEMS ONLY APPLY TO MINOR RENEWAL APPLICATIONS:

- [] The type of treatment plant has been indicated.
- [] The list of units and their dimensions have been provided
- [] The flow diagram has been provided.
- [] The required grab sample test results have been provided for all constituents - not required if plant not operational.
- [] Sludge disposal is authorized off site, and the ultimate sludge disposal method has been identified.
- [] Worksheet 2.0 - For TPDES permits - the stream data has been addressed.
- [] Worksheet 4.0 - For discharge permits: If the applicant has a permitted phase equal to or greater than 1 MGD or more than one phase, and interim or final phase(s) that have not been constructed has a flow equal to or greater than 1 MGD, the applicant must perform the all of the required effluent testing to renew that phase.

WHEN APPLICATION IS NOT ADMINISTRATIVELY COMPLETE:

Complete NOD. See NOD SOP

WHEN APPLICATION IS ADMINISTRATIVELY COMPLETE:

Complete NORI package. See NORI SOP
NORI not required for minor amendment. Complete the Routing and Contact (list "n/a" for item regarding person responsible for publication of the notice) Blue sheets only.

Prepare SPIF forms (only for TPDES permits)

- checked application type
- entered county name
- entered administrative completeness date
- ensured permit number is on form
- *check agency receiving SPIF

Minor amendments - ALL agencies BUT Texas Historical Commission and Army Corps of Engineers

Renewals - All agencies BUT Texas Historical Commission

New and Major Amendments - All agencies

check that the segment number (if known) is entered in receiving water body information.

On the accompanying map, delineate the discharge route in such a way that copies will reflect the highlighted discharge route.

***NOTE:** Copy of SPIFs not required for Houston - US Fish and Wildlife and Galveston-US Army Corps of Engineers

Admin Complete PARIS Entry and Other Reminders

WO Folder - Application Search

Application Summary Tab—verify application info

Admin Review Tab

- Admin Review Begin Date
- Admin Complete Date
- SPIF
- NORI

Public Participation Tab – No longer required to enter public notice details. See Katherine’s email dated 3/30/2017.

CR Folder – RE Search

AI Detail Screen—verify facility info

Enter Contact Info – Contact List

- Owner
- Applicant
- Technical
- Billing (To edit existing info – select Billing Maintenance)
- MER (TLAP only)
- Remove CN affiliation for MER contact (TLAP and TPDES)

OTHER

- Copy of notice, contact sheet, and labels to I/Drive
- SADDs – Application to Dept. of Health Services
- Email TXDOT if discharge is to a state highway right-of-way or roadside ditch.
- Email NORI
- Update facility name (if needed in PARIS)
- Update coordinates (if needed in PARIS), make sure correct link in Notice
- EPA ID CN, location address, facility name (if needed in PARIS)

Melissa Schmidt

From: PUBCOMMENT-OCC
Sent: Thursday, June 10, 2021 2:52 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0015917001

RFR

From: angelhelpersministry@yahoo.com <angelhelpersministry@yahoo.com>
Sent: Thursday, June 10, 2021 2:39 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0015917001

REGULATED ENTY NAME CLEARWATER CREEK WWTP

RN NUMBER: RN111093126

PERMIT NUMBER: WQ0015917001

DOCKET NUMBER:

COUNTY: BEXAR

PRINCIPAL NAME: GREEN VALLEY SPECIAL UTILITY DISTRICT

CN NUMBER: CN600684294

FROM

NAME: MRS Michelle Daigle

E-MAIL: angelhelpersministry@yahoo.com

COMPANY:

ADDRESS: 15157 MILLER RD
SAINT HEDWIG TX 78152-9781

PHONE: 2108852765

FAX:

COMMENTS: To Whom it may concern, I really hope that you would consider a new location for the sewer plant. Not only will this negatively effect the neighborhood surrounding it, it will also decrease the values of our homes and not to mention the horrific smells that will inconvenience all of the neighbors, including myself. Each one of us have worked hard at building up our beautiful homes out here in the country. We are all on septic and it is not fair for us to be dealing

with the new neighboring subdivisions waste. This will be detrimental to our small farms all around us. Please reconsider the location of which you build this sewage plant. Thank you.

Mehgan Taack

From: PUBCOMMENT-OCC
Sent: Monday, December 20, 2021 10:58 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0015917001
Attachments: 2021.12.17 Wilks Hearing Request.pdf

H
RFR

From: gwyneth@txenvirolaw.com <gwyneth@txenvirolaw.com>
Sent: Friday, December 17, 2021 4:36 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0015917001

REGULATED ENTY NAME CLEARWATER CREEK WWTP

RN NUMBER: RN111093126

PERMIT NUMBER: WQ0015917001

DOCKET NUMBER:

COUNTY: BEXAR

PRINCIPAL NAME: GREEN VALLEY SPECIAL UTILITY DISTRICT

CN NUMBER: CN600684294

FROM

NAME: Lauren Ice

E-MAIL: gwyneth@txenvirolaw.com

COMPANY: Perales, Allmon & Ice, P.C.

ADDRESS: 1206 SAN ANTONIO ST
AUSTIN TX 78701-1834

PHONE: 5124696000

FAX: 5124829346

COMMENTS: Please see the attached request for a contested case hearing.

PERALES, ALLMON & ICE, P.C.

ATTORNEYS AT LAW

1206 San Antonio Street

Austin, Texas 78701

(512) 469-6000 · (512) 482-9346 (facsimile)

info@txenvirolaw.com

Of Counsel:

David Frederick

Richard Lowerre

Brad Rockwell

December 17, 2021

Ms. Laurie Gharis
Office of the Chief Clerk
Texas Commission on Environmental Quality
MC-105
P.O. Box 13087
Austin, Texas 78711-3087

via: TCEQ Comments Online

**Re: Request for a Contested Case Hearing and Request for Reconsideration
Regarding the Application of Green Valley Special Utility District for TPDES
Permit No. WQ0015917001.**

Dear Ms. Gharis:

On behalf of Patrick and Alicia Wilks, I am submitting this request for a contested case hearing regarding the application by Green Valley Special Utility District for Permit No. WQ0015917001 (the "Application") that would authorize the discharge of treated domestic wastewater at a daily average flow of up to 400,000 gallons per day to Womans Hollow Creek (also known as Woman Hollering Creek) in Bexar County, Texas.

The Wilks also request reconsideration of the ED's decision. The Application does not meet the requirements of the applicable laws, for all the reasons explained more fully below. In addition to those reasons, the Commission should reconsider the ED's decision because the Application is incomplete in several key areas regarding the TCEQ's regionalization policy. This is not the first time this particular Applicant has failed to provide this information with its application.¹ In this case, the Applicant failed to consider capacity at a plant within three miles, failed to include information on whether the Cibolo Creek Municipal Authority has capacity at its South Regional Water Reclamation Plant, despite this information being readily available, and despite the permitted capacity being as much as 3.0 MGD, failed to provide correspondence with CCMA, and failed to provide a cost analysis supporting it building its own facility. The ED's RTC, Response 46 wholly

¹ Order, TCEQ Docket No. 2016-1876-MWD (July 20, 2018).

fails to address the missing information. Because this Applicant has repeatedly violated the TCEQ's regionalization policy and has failed to show that the South Regional Water Reclamation does not have capacity, the Commission should reconsider the ED's decision.

I. Patrick and Alicia Wilks are "Affected Persons."

Patrick and Alicia Wilks own two contiguous tracts totaling nearly 32 acres at 4046 Stapper Road, Saint Hedwig, Texas, 78152, which is less than one-quarter stream mile downstream of the proposed discharge point. Womans Hollow Creek runs through the Wilks' backyard for approximately 500 feet, bisecting their property. Attachment F of the Application, the "Affected Landowners Information," identifies one of the Wilks' properties as Map ID number 4.

Mr. and Mrs. Wilks use this property as their primary residence, where they have lived for the last three years. They chose to move to Saint Hedwig and this particular area to enjoy a rural lifestyle. Their three young children routinely play in and along Womans Hollow Creek, particularly near the perennial pools located on their property. Their children enjoy exploring the area to observe plant and animal life in the creek and along the creek banks with them, their family, and friends. The Wilks have observed fish, frogs, turtles, and snakes in and around the creek, as well as deer, turkey, and coyotes among the wildlife that rely on the creek. The Wilks keep a small herd of cattle on their property, and the cattle also drink from the creek.

The Wilks have built a treehouse near the bank of the creek, where the family regularly has lunch together to enjoy observing the scenic beauty and wildlife of the creek. Their family and friends regularly gather for campfires, birthday parties, and other activities along the creek, because they enjoy watching the wildlife and observing the natural beauty of the creek as it crosses their property. The Wilks also enjoy observing the creek from the back porch of their home.

The Wilks have grave concerns about the facility and discharge being proposed—the facility itself would be approximately one thousand feet from their backyard. They are concerned about the impacts to the natural environment, the wildlife, and to the health of themselves, their friends, family, and livestock. Specifically, because parts of the creek are often dry, the Wilks believe the wastewater effluent will stagnate in areas of the creek bed and cause algae to grow, and otherwise make up a predominant proportion of any flow in the creek. Given their proximity, the Wilks will be adversely impacted by noise, light, and odor from the facility itself, as well as foul odors and adverse aesthetic impacts from algae growing and decaying in the creek that will prevent them and their children from enjoying the creek and will adversely impact their enjoyment of their property. In addition, the creek's floodplain is significant, and the Wilks are concerned that the discharge will increase the base flow and flooding risk, and adversely impact their ability to access the

back portion of their property. Thus, the Wilks will be adversely affected in a manner not similar to the general public.

II. The ED did not sufficiently address issues raised in the Wilks' comments.

Patrick Wilks expressed his concern for these and other issues in his timely public comments filed on behalf of himself and his family, none of which have been withdrawn. Mr. Wilks submitted written comments on May 11, 2021 and oral comments at the Public Meeting on September 14, 2021. The ED's responses to these comments are not satisfactory and all issues raised in Mr. Wilks's comments remain in dispute. Without waiving any issues raised with more particularity, the following are relevant and material issues raised during the public comment period by Mr. Wilks that are the basis of this request and remain in dispute, with reference to the specific response. Also specified below are those responses in which the ED failed to consider comments from Mr. Wilks.²

The following issues remain in dispute:

1. Whether the proposed facility and discharge will adversely impact his and his family's ability to use and enjoy his property (Comment 17)

The Wilks disagree with Response 17. The proposed facility will degrade water quality such that the negative effects will adversely impact his and his family's ability to use and enjoy their property.

2. Whether the proposed discharge will negatively impact downstream water quality (Comment 22)

In his written comments, Mr. Wilks expressed concern that the WWTF would "make the water untouchable" and raised issues related to "contaminated water" and "water pollutants." In the RTC, the ED listed persons in Attachment I who commented that the discharge from the WWTF will negatively impact water quality. Attachment I wrongly fails to include Mr. Wilks, and Response 22 fails to address the concerns Mr. Wilks raised in his comments. Nevertheless, the Wilks disagree with Response 22. The proposed discharge will degrade downstream water quality and not maintain and protect the existing uses.

² The ED's Response to Comments, Attachment A, listing all commenters, spells Mr. Wilks's name incorrectly.

3. Whether chemicals used at the proposed facility and the fumes will negatively impact human health (Comment 23)

In his written comments, Mr. Wilks expressed concern over chemicals used in the facility causing harm to his health and his family's health, particularly because he suffers from asthma. In Response 23, the ED failed to acknowledge that Mr. Wilks made these comments regarding chemicals. Nevertheless, the Wilks disagree with Response 23. The Applicant has not demonstrated that the WWTF will not generate harmful fumes nor that the use of chemicals, including chlorine, will not negatively impact the health of people who live near the proposed WWTF.

4. Whether the proposed discharge will negatively impact livestock and wildlife (Comment 25)

In his written comments, Mr. Wilks stated that his livestock "use the water in the creek for drinking" and that he is "concerned they will suffer from drinking the contaminated water." In the RTC, the ED listed people in Attachment J who expressed concern that the discharge will negatively impact animals, including cattle. Attachment J wrongly fails to include Mr. Wilks. Nevertheless, the Wilks disagree with Response 25. The proposed discharge will not be protective of animals, including wildlife and livestock that rely on the creek.

5. Whether the proposed facility will negatively impact human health (Comment 33)

In his written comments, Mr. Wilks expressed concern that the WWTF would negatively impact he and his wife's safety, their health, and the health of their children, specifically that it will "make the water untouchable" and will cause "great harm to our bodies." In the RTC, the ED listed people in Attachment L who expressed concern that the WWTF will negatively impact human health. Attachment L wrongly fails to include Mr. Wilks. Nevertheless, the Wilks disagree with Response 33. The proposed facility will not be protective of human health and the environment.

6. Whether the proposed facility and discharge will create odors (Comment 49)

In his written comments, Mr. Wilks expressed concern that the WWTF would fill the air with "rank odors" and "air pollutants." In the RTC, the ED listed people in Attachment K who expressed concern over odors from the WWTF. Attachment K wrongly fails to include Mr. Wilks. Nevertheless, the Wilks disagree with Response 49. The proposed facility will cause nuisance odors that will impair their health and their enjoyment of their property.

7. Whether the proposed facility will negatively impact air quality (Comment 50)

The Wilks disagree with Response 50. The proposed facility will cause foul odors, nuisance conditions, and air pollution.

8. Whether the Applicant provided sufficient notice of the application (Comment 63)

In his oral comments, Mr. Wilks stated that he did not receive notice of the Application, except from his neighbor. According to the Bexar County Appraisal District, the Wilks' mailing address associated with Applicant's "Affected Landowners" property number 4, is P.O. Box 394, Saint Hedwig, TX 78152. Yet, Applicant listed the Wilks' address as 3418 Ridge Ash, San Antonio, TX 78247. In the response to Comment 63, the ED acknowledges that it mailed both the NORI and the NAPD "to the landowners named on the application map." Because the Application map was incorrect, the Wilks did not receive notice of the NORI and the NAPD.

III. The ED failed to account for many of Mr. Wilks's other comments, which also remain in dispute, further supporting reconsideration and necessitating the reopening of the public comment period.

Finally, in addition to those already previously raised, the ED failed to include in the RTC the Wilks in reference to several other comments. Mr. Wilks raised concerns about the creek often being dry for long periods and the proposed discharge interrupting the natural flow of the creek, even taking into account flood events, but he was not referenced as having commented on the issue of flooding in the ED's response to Comment 9; Mr. Wilks raised concerns about the WWTF negatively impacting his quality of life and his family's, but we was not referenced in the ED's response to Comment 11; Mr. Wilks also raised the issues of noise and truck traffic, but was not referenced in the ED's response to Comment 12. Based on a review of the RTC, it seems likely that Mr. Wilks's written comments were overlooked entirely. This raises the concern that other public comments may have been overlooked. Thus, the Commission should reconsider the ED's decision and consider reopening the public comment period to ensure all public comments are considered.

For all these reasons, the Wilks ask that the Commission reconsider the ED's decision and deny the Application. Alternatively, they request a contested case hearing regarding the Application.

Patrick and Alicia Wilks may be contacted through us at the address and telephone number provided above.

Respectfully submitted,

/s/ Lauren Ice

Lauren Ice

John Bedecarre

PERALES, ALLMON & ICE, P.C.

1206 San Antonio St.

Austin, Texas 78701

Tel. (512) 469-6000

Fax (512) 482-9346

lauren@txenvirolaw.com

johnb@txenvirolaw.com

COUNSEL FOR PATRICK AND

ALICIA WILKS

Lori Rowe

From: PUBCOMMENT-OCC
Sent: Monday, December 20, 2021 10:58 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0015917001
Attachments: 2021.12.17 City of Schertz CCH Request re_ Proposed TPDES Permit No. WQ0015917001.pdf

MWD

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H
RFR

From: dklein@lglawfirm.com <dklein@lglawfirm.com>
Sent: Friday, December 17, 2021 4:03 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0015917001

REGULATED ENTY NAME CLEARWATER CREEK WWTP

RN NUMBER: RN111093126

PERMIT NUMBER: WQ0015917001

DOCKET NUMBER:

COUNTY: BEXAR

PRINCIPAL NAME: GREEN VALLEY SPECIAL UTILITY DISTRICT

CN NUMBER: CN600684294

FROM

NAME: David Klein

E-MAIL: dklein@lglawfirm.com

COMPANY: Lloyd Gosselink Rochelle & Townsend, P.C.

ADDRESS: 816 CONGRESS AVE Suite 1900
AUSTIN TX 78701-2442

PHONE: 5123225818

FAX: 5124720532

COMMENTS: Please find attached the City of Schertz' Request for Contested Case Hearing and/or Request for Reconsideration of the Executive Director's Decision on Application for Proposed TPDES Permit No. WQ0015917001.

Mr. Klein's Direct Line: (512) 322-5818
Email: dklein@lglawfirm.com

December 17, 2021

Ms. Laurie Gharis, MC-105
Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

VIA ELECTRONIC FILING

Re: Request for Contested Case Hearing and/or Request for Reconsideration of the Executive Director's Decision on Application for Proposed TPDES Permit No. WQ0015917001 (EPA I.D. No. TX0140546)
Applicant: Green Valley Special Utility District (CN600684294)
Site Name: Clearwater Creek Wastewater Treatment Plant (RN111093126)

Dear Ms. Gharis:

My client, the City of Schertz (the "*City*"), hereby requests a contested case hearing and/or reconsideration of the Executive Director's decision regarding the above-referenced application ("*Application*") filed by Green Valley Special Utility District ("*GVSUD*") for a new Texas Pollutant Discharge Elimination System ("*TPDES*") permit and the associated draft TPDES Permit No. WQ0015917001 ("*Draft Permit*").

I. BACKGROUND

A. Description of Facility

In its Application, GVSUD requests authorization from the Texas Commission on Environmental Quality ("*TCEQ*") to discharge treated domestic wastewater at a daily average flow not to exceed 400,000 gallons per day ("*GPD*") at the proposed Clearwater Creek Wastewater Treatment Plant (the "*CCWWTP*"). The Draft Permit includes an Interim I phase with a daily average flow not to exceed 0.10 million gallons per day ("*MGD*"), an Interim II phase with a daily average flow not to exceed 0.20 MGD, and a Final phase with a daily average flow not to exceed 0.40 MGD. The CCWWTP is to be located at 4060 Stapper Road, Saint Hedwig, Bexar County, Texas 78152, and is intended to serve areas located in the extraterritorial jurisdiction ("*ETF*") of the City of San Antonio and other outlying areas of Bexar County. If the Draft Permit is issued, the CCWWTP will be an activated sludge process plant operated in the extended aeration mode.

The proposed discharge route for the treated wastewater is from the site of the CCWWTP to Woman Hollering Creek (also known as Womans Hollow Creek),¹ thence to Martinez Creek in Segment No. 1902A of the San Antonio River Basin, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. Woman Hollering Creek is characterized by the TCEQ as an unclassified intermittent stream with perennial pools and presumed to have a limited aquatic life use and corresponding dissolved oxygen criteria. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 Texas Administrative Code (“*TAC*”) § 307.10) for Classified Segment No. 1902 are primary contact recreation, high aquatic life use, and 5.0 mg/L dissolved oxygen. Classified Segment Nos. 1902 and 1902A are currently listed on the 2020 Texas Integrated Report – Texas 303(d) List of impaired and threatened waters (the “*303(d) List*”) for bacteria in the water.

B. Procedural History

TCEQ received the Application on August 31, 2020, and the Executive Director (“*ED*”) declared it administratively complete on October 30, 2020. On November 13, 2020, GVSUD published the Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (“*NORI*”) in English in the *San Antonio Express-News* and the *Austin American-Statesman*. Then, on November 25, 2020, GVSUD published the *NORI* in Spanish in *Conexión*. An amended *NORI* was issued on April 30, 2021, revising the discharge route description and street address for the proposed CCWWTP and correcting the address for public viewing and copying of the Application. GVSUD published the amended *NORI* in English in the *San Antonio Express-News* and in Spanish in *Conexión* on May 12, 2021.

The Notice of Application and Preliminary Decision (“*NAPD*”), indicating that the ED had completed the technical review of the Application and prepared the Draft Permit, was issued on June 17, 2021. On June 30, 2021, GVSUD published the *NAPD* in English in the *San Antonio Express-News* and in Spanish in *Conexión*. Next, the ED issued a Notice of Public Meeting on August 3, 2021, which was published in the *San Antonio Express-News* on August 5, 2021. Pursuant to 30 TAC § 55.152(b), because such public meeting was held on September 14, 2021, the deadline to provide public comment on the Application and Draft Permit closed at the close of that meeting. The City timely filed public comments on July 30, 2021, and also participated in the informal discussion and formal comment phases of the September 14, 2021 public meeting. The ED filed his Response to Public Comment (“*RTC*”) on November 15, 2021, and notice of the ED’s final decision that the Application meets the requirements of applicable law was mailed on November 18, 2021. Therefore, this request is timely filed.

II. REQUEST FOR CONTESTED CASE HEARING

The City requests a contested case hearing based on the following relevant and material disputed issues of fact, all of which were raised by the City during the public comment period. In

¹ As demonstrated by the screenshot from TCEQ’s Location Mapper tool, included in the Public Comments, Request for Public Meeting, and Hearing Request timely filed by the City on July 30, 2021, which shows, according to the *NAPD*, “the exact location” of the CCWWTP, the correct name of the proposed receiving water is Woman Hollering Creek, not Womans Hollow Creek, as referred to in the *NORI*, Amended *NORI*, *NAPD*, and Application. As such, Woman Hollering Creek will be used throughout the remainder of this request.

support thereof, the Public Comments, Request for Public Meeting, and Hearing Request timely filed by the City on July 30, 2021 (the “*Public Comments*”), attached hereto as **Attachment A**, are reasserted and incorporated herein for all purposes.

A. Legal Standards and Requirements for Hearing Requests

In order to be granted, a contested case hearing request must (1) be filed by an affected person, and (2) comply with the applicable form and filing requirements set forth in the Texas Water Code (“*TWC*”) and TAC. Specifically, TCEQ “may not grant a request for a contested case hearing unless [it] determines that the request was filed by an affected person as defined by Section 5.115” of the TWC.² Procedurally, a contested case hearing request must also satisfy the conditions prescribed by TCEQ rules adopted in Title 30 TAC, Chapter 55.³

1. The City is an affected person.

For the purpose of an administrative hearing involving a contested matter, TWC § 5.115 defines an “affected person” as one “who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the administrative hearing.”⁴ Section 5.115 further clarifies that “[a]n interest common to members of the general public does not qualify as a personal justiciable interest.”⁵ As directed by the TWC, TCEQ has adopted rules specifying factors to be considered in determining whether a person is an affected person entitled to standing in a contested case hearing.⁶ Those rules specify that “all factors shall be considered,” including, but not limited to, the following:

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person;
- (6) whether the requestor timely submitted comments on the application that were not withdrawn; and

² Tex. Water Code § 5.556.

³ 30 Tex. Admin. Code §§ 55.101, .201.

⁴ Tex. Water Code § 5.115; *accord* 30 Tex. Admin. Code § 55.203.

⁵ *Id.*

⁶ Tex. Water Code § 5.115; 30 Tex. Admin. Code § 55.203.

- (7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.⁷

Considering the factors enumerated above, the City is an “affected person” as such term is defined by TWC § 5.115:

- Though it is located approximately five (5) miles from the proposed CCWWTP, CCMA and the City jointly own and operate the Woman Hollering Wastewater Treatment Facility under TPDES Permit No. WQ0015371001.⁸ This existing permit authorizes the discharge of waste to Woman Hollering Creek, thence to Martinez Creek in Segment No. 1902A of the San Antonio River Basin, thence to the Lower Cibola Creek in Segment No. 1902 of the San Antonio River Basin—the very same discharge route proposed by the Draft Permit. Because Classified Segment Nos. 1902 and 1902A are already listed on the 303(d) List for bacteria in the water, the authorization of an additional, unnecessary discharge into these Segments could degrade water quality therein. Thus, the proposed discharge is likely to impact CCMA and the City’s interest in the continued use of the proposed discharge route. That interest is not only protected by the law under which the Application should have been considered, but a reasonable relationship also exists between the interest and the proposed discharge.
- The LGC authorizes municipalities to “purchase, construct, or operate a [wastewater] utility system inside or outside the municipal boundaries;” “regulate the system in a manner that protects the interests of the municipality;” “extend the lines of [their] utility systems outside the municipal boundaries;” and “sell . . . sewer . . . service to any person outside its boundaries.”⁹ Further, “[a] municipality may . . . require property owners to connect to [its] sewer system.”¹⁰ Thus, the City has statutory authority over and interest in the issues relevant to the Application because the proposed service area for the CCWWTP is located within the City’s corporate boundaries.
- Under TWC § 13.242, “a retail public utility,” such as GVSUD, “may not furnish, make available, render, or extend retail water or sewer utility service to any area to which retail water or sewer utility service is being lawfully furnished by another retail public utility without first having obtained a certificate of public convenience and necessity that includes the area in which the consuming facility is located.”¹¹ Here, the “Clearwater Creek WWTP Area Map” included in the Application, which depicts the “Clearwater Creek Sewershed,” demonstrates that the sewershed of the proposed

⁷ 30 Tex. Admin. Code § 55.203(c); *accord* Tex. Water Code § 5.115.

⁸ *See* Tex. Loc. Gov’t Code § 572.011 (authorizing “[t]wo or more public entities that have the authority to engage in the collection, transportation, treatment, or disposal of sewage [to] join together as cotenants or co-owners to plan, finance, acquire, construct, own, operate, or maintain facilities to: (1) achieve economies of scale in providing essential . . . sewage systems to the public; (2) promote the orderly economic development of this state; and (3) provide environmentally sound protection of this state’s future . . . wastewater needs”).

⁹ *Id.* § 552.001; *accord id.* § 552.002, .906.

¹⁰ *Id.* § 214.013.

¹¹ Tex. Water Code § 13.242.

CCWWTP extends into the boundaries of the City's sewer Certificate of Convenience and Necessity No. 20271. Therefore, to the extent that said sewershed is included in the service area of the proposed CCWWTP, said service area would illegally extend into the service area already certificated to the City under its sewer CCN No. 20271.

- The City timely submitted comments on the Application that were not withdrawn.

2. The form and filing of this hearing request comply with all applicable procedural requirements.

TCEQ's procedural requirements for contested case hearing requests are set forth in 30 TAC § 55.201. Pursuant to that Section, a contested case hearing request must be (1) submitted in writing, (2) timely filed "no later than 30 days after the chief clerk mails (or otherwise transmits) the [ED]'s decision and response to comments," and (3) based on an issue or issues raised in the requestor's own timely filed, and not later withdrawn, public comments.¹² A hearing request must also:

- (1) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request;
- (2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
- (4) list all relevant and material disputed issues of fact that were raised by the requestor during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director's responses to the requestor's comments that the requestor disputes, the factual basis of the dispute, and list any disputed issues of law; and
- (5) provide any other information specified in the public notice of application.¹³

Here, this request complies with TCEQ's form and filing requirements for contested case hearing requests. As demonstrated in Section I.B, above, this request is timely filed. As noted in the above introduction to this Section II and described in more detail, herein, this request is based on the City's timely-filed written Public Comments and other oral public comments submitted at the September 14, 2021 public meeting. The required contact information for the City, for purposes of this request, is as follows:

¹² 30 Tex. Admin. Code § 55.201; *accord* Tex. Water Code § 5.115.

¹³ 30 Tex. Admin. Code § 55.201.

David J. Klein
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
Phone: (512) 322-5818
Fax: (512) 472-0532
Email: dklein@lglawfirm.com

Section II.A.1, above, identifies the City's personal justiciable interest affected by the Application, including a number of brief, but specific, written statements explaining the City's proximity to the proposed CCWWTP and how and why the City will be adversely affected by the proposed CCWWTP in a manner not common to members of the general public. An explicit request for a contested case hearing is contained, among other places, in the introductory paragraph of this Section II. Finally, Section II.B, below, lists the relevant and material disputed issues of fact raised by the City during the public comment period and specifies those of the ED's responses to public comment that the City disputes. Thus, the City has satisfied all of the procedural requirements for contested case hearing requests.

B. Contested Issues

This hearing request is based upon the following relevant and material disputed issues of fact raised in the City's Public Comments and the ED's disputed responses thereto.

1. The Application fails to comply with the state's regionalization policy.

The Application does not meet TCEQ's requirements for TPDES permit issuance because GVSUD failed to provide sufficient information regarding regionalization. Further, if issued, the Draft Permit would violate the state's policy "to encourage and promote the development and use of regional and areawide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state."¹⁴ As noted by the ED, in order to implement this regionalization policy, the "Domestic Wastewater Permit Application Technical Report requires information concerning need and regionalization for wastewater treatment plants."¹⁵ Specifically, because "TCEQ uses the threshold of three miles to determine if there is another entity in the vicinity that is willing and able to accept wastewater from a proposed facility," TPDES permit applicants "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 has sufficient existing capacity to accept the additional wastewater."¹⁶ If so, the application must contain documentation demonstrating consent or denial by the owner of such facilities to provide the service proposed by the application.¹⁷ Further, if such an entity consents to provide service, the

¹⁴ Tex. Water Code § 26.003; *see also id.* §§ 26.081, 26.0282; Instructions at 64.

¹⁵ RTC at 19.

¹⁶ *Id.*

¹⁷ Instructions at 64 – 65.

application must include a cost analysis justifying the need for the proposed facility.¹⁸ Given the intended location of the CCWWTP and its proposed service area, such documentation should have been included in the Application, but it was not. Rather, applying the standard enumerated in the RTC, the Application lacks any evidence to demonstrate whether two neighboring entities with “wastewater treatment plant[s] or sewer collection lines within the area [have] sufficient existing capacity to accept the additional wastewater.”¹⁹ Additionally, because a portion of the proposed service area appears, based on the “Clearwater Creek WWTP Area Map” included in the Application, to be inside the City’s sewer CCN area, the Instructions required GVSUD to “provide justification and a cost analysis of expenditures that shows the cost of connecting to the CCN facilities versus the cost of the proposed [CCWWTP],” which it did not.²⁰ Further, to the extent the “Clearwater Creek WWTP Area Map” does depict the service area of the proposed CCWWTP, the Application inaccurately states that no “portion of the proposed service area [is] located inside another utility’s CCN area.”²¹ Therefore, the Application does not meet the requirements for permit issuance, and the City disputes the ED’s determination that “GVSUD has complied with the regionalization policy.”²² Furthermore, because the proposed service area for the CCWWTP is located within the City’s corporate limits and sewer CCN, the Draft Permit, if issued, would violate the state’s regionalization policy.

2. The Application fails to sufficiently demonstrate a need for the authorized discharge amount of 0.4 million gallons per day.

The City contends that the Application does not demonstrate a need for the proposed CCWWTP and that the Draft Permit, if issued, should not include the Final phase authorizing a daily average flow not to exceed 0.40 MGD. As noted by the ED, TWC § 26.0282 provides that “in considering the issuance, amendment, or renewal of a permit to discharge waste, [TCEQ] may deny or alter the terms and conditions of the proposed permit, amendment, or renewal based on consideration of need.”²³ To facilitate this consideration by TCEQ, Section 1 of Domestic Technical Report 1.1 requires a TPDES permit applicant to “[p]rovide a detailed discussion regarding the need for any phase(s) not currently permitted.”²⁴ Instead of providing the requisite “detailed discussion,” the Application states only: “This requested permit is proposed to support planned residential and commercial growth in GVSUD’s sewer CCN area. The current contract for service equates to 950 EDUs of service or 232,750 gpm.”²⁵ First, the City contends that 232,750 gallons per minute is not an accurate indication of the treated effluent likely to be generated by 950 EDUs, or equivalent dwelling units because that amount of wastewater is equivalent to a wastewater discharge of 335.16 MGD. Second, with a total proposed discharge of 0.233 MGD, the Application seeks an excessive amount of treatment capacity. Though the ED contends that “GVSUD provided additional information to justify the ultimate flow and detailed information regarding the number of connections,” no such information was included in the

¹⁸ *Id.*; Technical Reports at 21 – 22.

¹⁹ RTC at 19.

²⁰ Instructions at 65; Technical Reports at 22.

²¹ Technical Reports at 22.

²² RTC at 19.

²³ *Id.*; Tex. Water Code § 26.0282.

²⁴ Technical Reports 38.

²⁵ *Id.* at 21.

administrative record available to the City.²⁶ Consequently, the City cannot confirm the veracity of that statement and contends that a factual dispute exists as to whether GVSUD has demonstrated a need for the Final phase of the Draft Permit. Third, to the extent that any of the 0.4 MGD of wastewater treatment capacity is to be utilized from raw wastewater generated within the sewer CCN area of the City, then such capacity is not needed because GVSUD cannot treat that wastewater; rather, retail wastewater service within the City's sewer CCN boundaries can only be provided by the City. Thus, the Application does not demonstrate a need for the proposed CCWWTP; and the Draft Permit, if issued, should not include the Final phase.

3. The Application raises concerns that the proposed discharge will not be in compliance with the TCEQ's antidegradation policy.

As indicated above, the Application and Draft Permit authorize the discharge of treated domestic wastewater from the proposed CCWWTP to Woman Hollering Creek, thence to Martinez Creek in Segment No. 1902A of the San Antonio River Basin, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 TAC § 307.10) for Classified Segment No. 1902 are primary contact recreation 1, high aquatic life use, and 5.0 mg/L dissolved oxygen. Segment Nos. 1902 and 1902A are also currently listed on the 303(d) List for bacteria in the water. Furthermore, these Segments are already subject to the discharge from the Woman Hollering Wastewater Treatment Facility jointly owned and operated by CCMA and the City. Thus, the City has concerns that the discharge into Segment Nos. 1902 and 1902A, as proposed by the Draft Permit, would impact water quality in that watercourse and disputes the ED's contention that "[t]he effluent limits in the [D]raft [P]ermit have been calculated to maintain and protect the existing instream uses."²⁷ Further, because Classified Segment Nos. 1902 and 1902A are already listed on the 303(d) List for bacteria in the water, the authorization of an additional, unnecessary discharge into these Segments could degrade water quality therein. That interest is not only protected by the law under which the Application should have been considered, but a reasonable relationship also exists between the interest and the proposed discharge.

4. GVSUD lacks sufficient legal title and/or rights to land to own and operate the proposed CCWWTP.

The Application fails to meet the requirements for permit issuance because GVSUD lacks sufficient legal title and/or rights to land to own and operate the proposed CCWWTP. As evidenced by the Bexar Appraisal District reports attached to and incorporated in the City's Public Comments, GVSUD does not own the land at the address provided for the proposed CCWWTP.²⁸ Having provided such documentation to TCEQ, the City contests the ED's reliance on the fact that, according to the Application, it does.²⁹ In support of the City's contention that GVSUD lacks sufficient rights to the land where the proposed CCWWTP is to be located, attached hereto and incorporated herein for all purposes as **Attachment B** are updated Bexar Appraisal District reports (the "*Appraisal District Reports*") showing that GVSUD has not obtained ownership of the

²⁶ RTC at 21.

²⁷ *Id.* at 13.

²⁸ Public Comments at 7.

²⁹ RTC at 26 – 27.

property at 4060 Stapper Road in the time since the City filed its Public Comments on July 30, 2021. Furthermore, the disputed issue of whether GVSUD has sufficient rights to the land where the CCWWTP is to be located is relevant and material to the determination of whether GVSUD can, as indicated in its Application, satisfy buffer zone compliance requirements through ownership, which is relevant to whether the Application meets the requirements for permit issuance.

5. The Application does not contain a map clearly identifying the proposed service area for the CCWWTP.

The City disputes the ED's contention that "GVSUD was not required to describe the area it will serve or include a map of the service area."³⁰ On the contrary, the Instructions direct TPDES applicants like GVSUD to "[p]rovide a site drawing . . . that shows the boundaries of the treatment facility and the area served by the treatment facility;"³¹ and the Technical Reports state that such applicants must "[p]rovide a site drawing for the facility that shows . . . [t]he boundaries of the area served by the treatment facility."³² However, it is uncertain whether GVSUD has provided the ED with such a map because the "Clearwater Creek WWTP Area Map" included in the Application as "Attachment B: Site Drawing" depicts only the "Clearwater Creek Sewershed" and does not indicate whether or how that sewershed relates to the proposed service area. Therefore, there is reason to doubt "the merits of the underlying application and supporting documentation in [TCEQ]'s administrative record" and "whether the [A]pplication meets the requirements for permit issuance."³³ Further, there is reason to question "the analysis and opinions of the [ED]," which may be based upon GVSUD's incomplete Application.³⁴

6. The Application lacks the requisite Sewage Sludge Solids Management Plan.

The City disputes the ED's contention that "[f]or all new permit applications, the applicant has the option to identify the name and permit number of the disposal site after the draft permit is issued" and that "GVSUD may wait until it needs to dispose of the sludge before determining the method of sludge disposal, contracting with a hauler and disposal site."³⁵ On the contrary, the Instructions state:

If sewage sludge is transported to another wastewater treatment facility or permitted sludge processing facility for further treatment, provide a written statement or a copy of contractual agreements confirming that the identified wastewater treatment facility will accept the sludge. . . . If a statement or contract is not provided, authorization for disposal of sewage sludge will not be included in a permit. . . . Provide detailed information for each disposal site. The information must include the name of the site, the site's permit or registration number, and the

³⁰ *Id.* at 21.

³¹ Instructions at 51.

³² Technical Reports at 3.

³³ 30 Tex. Admin. Code § 55.203.

³⁴ *Id.*

³⁵ RTC at 27.

county in which each disposal site is located. . . . Provide the method used to transport the sludge to the disposal site. The hauler's sludge transporter registration number must also be provided, if applicable. Check whether the sludge is hauled in liquid, semi-liquid, semi-solid, or solid form.³⁶

Further, none of the language in Domestic Technical Report 1.0, Section 9, which requires a TPDES permit applicant to select the anticipated sludge disposal method and provide sludge disposal site information, including the disposal site name, permit or registration number, and disposal site's county, suggests such requirements are optional.³⁷ The ED's RTC also fails to address the City's timely submitted public comment indicating that GVSUD has also failed to comply with TCEQ's requirement to provide a copy of the contractual agreements demonstrating that the receiving facility will accept the sludge.³⁸ Because it lacks the required sludge-related information and documentation, there is reason to doubt "the merits of the underlying application and supporting documentation in [TCEQ]'s administrative record" and "whether the [A]pplication meets the requirements for permit issuance."³⁹ Further, there is reason to question "the analysis and opinions of the [ED]," which may be based upon an incomplete application.⁴⁰

7. The Application lacks the requisite original photographs.

Under the Instructions, TPDES permit applicants "must" submit "[a]t least one photograph of the new . . . treatment unit(s) location."⁴¹ This requirement is implemented by Section 2 of the Administrative Report, which requires "[a]t least one original photograph of the new . . . treatment unit location."⁴² TCEQ regulations define a treatment unit as any "component of a wastewater treatment facility."⁴³ Therefore, the City disputes the ED's contention that "GVSUD complied with this requirement."⁴⁴ The Application and supporting documents made available to the City do not contain an original photograph of the proposed location for the CCWWTP. Consequently, there is reason to doubt "the merits of the underlying [A]pplication and supporting documentation in [TCEQ]'s administrative record," and "whether the [A]pplication meets the requirements for permit issuance,"⁴⁵ which indicates that there is reason to question the "the analysis and opinions of the [ED]" to the extent they are based on an incomplete application.⁴⁶

8. The Application is inconsistent as to whether GVSUD has an approved pretreatment program under 40 CFR Part 403.

In Domestic Technical Report 1.0, GVSUD indicates it does not have an approved

³⁶ Instructions at 59 (emphasis in original).

³⁷ Technical Reports at 12 – 13.

³⁸ *Id.* at 13; Public Comments at 8.

³⁹ 30 Tex. Admin. Code § 55.203.

⁴⁰ *Id.*

⁴¹ Instructions at 43.

⁴² Administrative Report at 14.

⁴³ 30 Tex. Admin. Code § 217.2.

⁴⁴ RTC at 17.

⁴⁵ 30 Tex. Admin. Code § 55.203.

⁴⁶ *Id.*

pretreatment program,⁴⁷ but GVSUD's answer to the first question in Section D of Domestic Worksheet 6.0 indicates otherwise.⁴⁸ Nevertheless, the RTC provides that, "[a]ccording to the [ED]'s review[,] GVSUD's [A]pplication does not contain any inconstant [sic] information regarding whether GVSUD has an approved pretreatment program."⁴⁹ The RTC further states that "[d]uring technical review the [ED] confirmed that GVSUD does not require a pretreatment program."⁵⁰ The Application and supporting documents made available to the City do not support that contention, and no such documentation was cited or produced by the ED. Without clarity as to whether GVSUD has an approved pretreatment program, it is impossible to determine whether it should have completed Domestic Worksheets 4.0, 5.0, or some portion thereof, in addition to completing Domestic Worksheet 6.0. As such, there is reason to doubt "the merits of the underlying application and supporting documentation in [TCEQ]'s administrative record" and "whether the [A]pplication meets the requirements for permit issuance."⁵¹ Consequently, there is reason to question "the analysis and opinions of the [ED]," which may be based upon an incomplete application.⁵²

9. The Application fails to provide proof of a sufficient buffer zone compliance method.

Section 3 of Domestic Administrative Report 1.1 requires a TPDES permit applicant to "indicate how the buffer zone requirements [of 30 TAC § 309.13(e)] will be met."⁵³ The Instructions further specify that "[t]he buffer zone, either 150 or 500 feet from the treatment units . . . can be met by ownership, legal restrictions preventing residential structures within the buffer zone, an approved nuisance odor prevention plan, or a variance to the buffer zone."⁵⁴ GVSUD indicated it would satisfy the buffer zone requirements through ownership,⁵⁵ but as explained in more detail in Section II.B.5, above, GVSUD possesses no ownership interest nor legal right sufficient to comply with the requirements of 30 TAC § 309.13(e). As evidenced by the Appraisal District Reports included in **Attachment B**, GVSUD does not own the land at the address provided for the proposed CCWWTP. Specifically, the Instructions indicate that "[o]wnership means that the applicant owns all the land surrounding the treatment units that fall within the buffer zone,"⁵⁶ which GVSUD does not. Furthermore, 30 TAC § 309.13(e) provides that "wastewater treatment plant units may not be located closer than 150 feet to the nearest property line." As shown on the maps included in the Application, GVSUD's proposed 150-foot buffer zone is rectangular. That does not properly buffer a 150-foot radius around the proposed facility. In any case, the maps depict the buffer zone extending beyond the boundary of the proposed location for the CCWWTP. Having provided documentation demonstrating GVSUD lacks the ownership rights to select ownership as the method of buffer zone compliance, the City contests the ED's reliance on the fact

⁴⁷ Technical Reports at 7.

⁴⁸ *Id.* at 69.

⁴⁹ RTC at 27.

⁵⁰ *Id.*

⁵¹ 30 Tex. Admin. Code § 55.203.

⁵² *Id.*

⁵³ Administrative Report at 14.

⁵⁴ Instructions at 43.

⁵⁵ Administrative Report at 14.

⁵⁶ Instructions at 43.

that, “[a]ccording to GVSUD[,] it will own the required buffer zone.”⁵⁷ As such, there is reason to doubt “the merits of the underlying application and supporting documentation in [TCEQ]’s administrative record” and “whether the [A]pplication meets the requirements for permit issuance.”⁵⁸ Further, there is reason to question “the analysis and opinions of the [ED],” which may be based upon an incomplete application.⁵⁹

10. Nuisance Odors.

In addition to the buffer zone issues described above, an additional, unneeded treatment and disposal facility, if not operated properly, may result in nuisance odors that will adversely affect the quality of life of nearby residents and the public. In accordance with 30 TAC § 309.13(e), the applicant must demonstrate that sufficient measures to prevent nuisance odors will be undertaken. This is recognized by the ED in the RTC, which states that “30 TAC § 309.13(e) requires domestic wastewater treatment facilities to meet buffer zone requirements for the abatement and control of nuisance odors.”⁶⁰ Nevertheless, the ED contends that “[b]ecause GVSUD owns the buffer zone, nuisance odor is not expected to occur as a result of the permitted activities at the [proposed CCWWTP].”⁶¹ Again, the Application fails to demonstrate that GVSUD has met the buffer zone requirements, as explained in more detail in Sections II.B.4 and II.B.9, above, so it also fails to demonstrate that nuisance odors will be controlled. It is not in the public interest to issue a new discharge authorization that may result in nuisance odors when regionalized wastewater services are available, particularly when nearby schools are located within the three-mile radius of the proposed CCWWTP. This is especially true given that the City has submitted documentation calling into question GVSUD’s ability to implement the buffer zone compliance method identified in the Application. As such, there is reason to doubt “the merits of the underlying application and supporting documentation in [TCEQ]’s administrative record,” and “whether the [A]pplication meets the requirements for permit issuance,”⁶² meaning there is also reason to question the “the analysis and opinions of the [ED].”⁶³

Given the above-cited relevant and material disputed issues of fact and ED responses to the City’s Public Comments, the City requests a contested case hearing concerning the Application and Draft Permit.

III. REQUEST FOR RECONSIDERATION

As noted above, the City requests that the ED reconsider its decision to grant the Application and issue the Draft Permit. Under TCEQ’s rules, “[a] request for reconsideration . . . must be filed no later than 30 days after the chief clerk mails (or otherwise transmits) the executive director’s decision and response to comments.”⁶⁴ Unlike a contested case hearing request, which

⁵⁷ RTC at 23.

⁵⁸ 30 Tex. Admin. Code § 55.203.

⁵⁹ *Id.*

⁶⁰ RTC at 23.

⁶¹ *Id.* at 27.

⁶² 30 Tex. Admin. Code § 55.203.

⁶³ *Id.*

⁶⁴ *Id.* § 55.201(a).

December 17, 2021

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must be filed by an affected person, “[a]ny person, other than a state agency that is prohibited by law from contesting the issuance of a permit or license . . . may file a request for reconsideration of the [ED]’s decision.”⁶⁵ Such a request “must be in writing” and filed “with the chief clerk within the [30-day] time” noted above.⁶⁶ Like a contested case hearing request, a request for reconsideration “should also contain the name, address, daytime telephone number, and, where possible, fax number of the person who files the request.”⁶⁷ The request must also “expressly state that the person is requesting reconsideration of the [ED]’s decision, and give reasons why the decision should be reconsidered.”

This request complies with TCEQ’s form and filing requirements for requests for reconsideration of the ED’s decision. This request is timely filed. It includes the City’s contact information and states that the City is requesting reconsideration of the ED’s decision. Finally, the City incorporates the relevant and material disputed issues of fact and ED responses to the City’s Public Comments, included in Section II.B, above, into this Section III as the reason why the ED’s decision to grant the Application and issue the Draft Permit should be reconsidered.

IV. CONCLUSION

The City appreciates TCEQ’s consideration of this request, and for the foregoing reasons, respectfully requests that TCEQ either deny the Application or grant this request for a contested case hearing and/or reconsideration of the ED’s decision regarding the Application and Draft Permit. Should you have any questions or concerns related hereto, please feel free to contact me using the information provided above.

Sincerely,



David J. Klein

DJK/dsr
Enclosures

cc: Mark Browne, City Manager, City of Schertz
Brian James, Assistant City Manager, City of Schertz
Charles Kelm, Assistant City Manager, City of Schertz

⁶⁵ *Id.* § 55.201(e).

⁶⁶ *Id.*

⁶⁷ *Id.*

Attachment A

The "*Public Comments*"

Mr. Klein's Direct Line: (512) 322-5818
Email: dklein@lglawfirm.com

July 30, 2021

Ms. Laurie Gharis, MC-105
Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

**VIA ELECTRONIC FILING AND
FIRST CLASS MAIL**

Re: Public Comments, Request for Public Meeting, and Hearing Request
Application for Proposed TPDES Permit No. WQ0015917001
(EPA I.D. No. TX0140546)
Applicant: Green Valley Special Utility District (CN600684294)
Site Name: Clearwater Creek Wastewater Treatment Plant (RN111093126)

Dear Ms. Gharis:

The City of Schertz, Texas ("*City*"), my client, hereby submits this letter to the Texas Commission on Environmental Quality ("*TCEQ*"), providing formal public comments and requesting a public meeting and contested case hearing regarding the above-referenced application ("*Application*") of Green Valley Special Utility District ("*GVSUD*") for a new Texas Pollutant Discharge Elimination System ("*TPDES*") permit, and the proposed draft permit for such Application ("*Draft Permit*"). These comments are timely filed.

I represent the City regarding the Application and Draft Permit. Please include me on the TCEQ's mailing list for all filings in the above-referenced Application. My mailing/contact information is as follows:

Mr. David J. Klein
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
dklein@lglawfirm.com
Phone: (512) 322-5818
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I. BACKGROUND

In its Application, GVSUD requests authorization from the TCEQ to discharge treated domestic wastewater at a daily average flow not to exceed 400,000 gallons per day (“*GPD*”) at the proposed Clearwater Creek Wastewater Treatment Plant (the “*CCWWTP*”). The *CCWWTP* is to be located in Bexar County, Texas, and the proposed discharge route for the treated wastewater is from the plant site to Womans Hollow Creek,¹ thence to Martinez Creek, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 Texas Administrative Code (“*TAC*”) § 307.10) for Classified Segment No. 1902 are primary contact recreation, high aquatic life use, and 5.0 mg/L dissolved oxygen. Classified Segment No. 1902 is currently listed on the 2020 Texas Integrated Report – Texas 303(d) List of impaired and threatened waters (the “*303(d) List*”). The listings are for bacteria in the water from the confluence with the San Antonio River in Karnes County to a point 100 meters (110 yards) downstream of IH 10 in Bexar/Guadalupe County.

The Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (“*NORI*”) was issued on October 30, 2020 and published on November 13, 2020. An amended *NORI* was issued on April 30, 2021 and published on May 12, 2021. The Notice of Application and Preliminary Decision (“*NAPD*”) was issued on June 17, 2021 and published on June 30, 2021. Pursuant to 30 TAC § 55.152(a), the current deadline to file public comments regarding the Application and Draft Permit is July 30, 2021. To this end, presented below are the City’s timely filed public comments raising significant disputed issues of fact that are relevant and material to the TCEQ’s decision on the Application and are the basis for the City’s request for a public meeting and contested case hearing, should the Application not be remanded back to technical review and/or denied outright.

The City requests that the TCEQ deny the Application and corresponding Draft Permit because GVSUD has not provided all of the information required in TCEQ application forms TCEQ-10053 (06/25/2018) Municipal Wastewater Application Administrative Report (“*Administrative Report*”) and TCEQ-10054 (06/01/2017) Domestic Wastewater Permit Application, Technical Reports (“*Technical Reports*”). In addition, the Application and Draft Permit fail to: (1) meet the state and TCEQ’s regionalization requirements; (2) demonstrate a need for the Final Phase of the Draft Permit; (3) satisfy water quality, antidegradation, and stream standard requirements; and (4) include other information and documentation required by TCEQ form TCEQ-10053ins (06/25/2018) Instructions for Completing the Domestic Wastewater Permit Application (“*Instructions*”).

II. PUBLIC COMMENTS

The City asserts that the Application and Draft Permit should be denied because the Application does not meet applicable statutory and regulatory requirements for a TPDES permit

¹ As demonstrated by the screenshot from TCEQ’s Location Mapper tool, attached hereto and incorporated herein for all purposes as Attachment A, which shows, according to the *NAPD*, “the exact location” of the *CCWWTP*, the correct name of the proposed receiving water is Woman Hollering Creek, not Womans Hollow Creek, as referred to in the *NORI*, Amended *NORI*, *NAPD*, and Application.

application, the Draft Permit fails to meet Texas Water Code (“*TWC*”), Chapter 26, and the TCEQ’s regionalization requirements for wastewater treatment plants (“*WWTPs*”), and GVSUD has not demonstrated a need for the CCWWTP. The City further maintains that the Application and Draft Permit should be denied because (i) they do not adequately protect against the CCWWTP’s negative impacts on water quality, antidegradation, and stream standards; (ii) GVSUD has not secured ownership/possession of the real property interests necessary to properly construct and operate the CCWWTP; and (iii) the Application fails to include other required elements, such as a sufficient Sewage Sludge Solids Management Plan, map of the proposed service area, and the requisite original photograph of the proposed location for the CCWWTP. In addition, the Application and Draft Permit should be denied due to nuisance odors that will result from the permitting of the CCWWTP, especially given GVSUD’s failure to satisfy all buffer zone requirements. Finally, the Application is incomplete given that GVSUD asserts that it has an approved pretreatment program.

A. The Application fails to comply with the State’s regionalization policy.

The TCEQ is required to implement the State’s policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.² In order to implement this regionalization policy, Section 1.B of the TCEQ’s TPDES permit application form Domestic Technical Report 1.1 contains three questions related to the potential for regionalization of WWTPs, each tailored to address the question of whether existing nearby wastewater treatment facilities and/or collection systems could provide service to the service area proposed in the TPDES permit application.³ All three regionalization questions in Section 1.B are relevant to GVSUD’s Application, and GVSUD has failed to complete the regionalization analysis and process in each instance. The TCEQ’s issuance of the Draft Permit also demonstrates that this issue was not taken into consideration when it processed the Application.

For Section 1.B.1, the Instructions require non-city applicants to “indicate if any portion of the proposed service area is located in an incorporated city,” and, if so, to “provide correspondence” demonstrating “consent to provide service or denial to provide service from the city.”⁴ If the nearby city consents to provide service, the applicant must provide a cost analysis justifying the need for the proposed facility.⁵ The Application, received August 31, 2020, indicates that “City responses are pending,”⁶ but GVSUD never supplemented the Application to include the City’s responses to numerous follow-up communications between the City and GVSUD—communications that the TCEQ should have been aware of and taken into consideration. In its communications with GVSUD, the City requested that GVSUD clarify the location of the proposed service area so that it could develop a response to the regionalization request. GVSUD never provided such information. Based upon the Application, the processing of the Application, and the Draft Permit, this potential overlap and applicable regionalization analysis was never

² *TWC* § 26.081(a); *see also* *TWC* §§ 26.003, 26.0282; Instructions at 64.

³ Application Technical Reports at 21 – 22.

⁴ Instructions at 64.

⁵ *Id.*

⁶ Application Technical Reports at 21.

completed by GVSUD or taken into consideration by the TCEQ. Consequently, the Application and Draft Permit should be denied.

Similarly, Section 1.B.2 requires applicants to “[i]ndicate if any portion of the proposed service area is inside another utility’s sewer Certificate of Convenience and Necessity [“CCN”] area.”⁷ Here too, if the answer is yes, then the applicant must “provide justification and a cost analysis of expenditures that shows the cost of connecting to the CCN facilities versus the cost of the proposed facility or expansion.”⁸ While GVSUD correctly indicated that a portion of the proposed service area is located within the City’s corporate limits, it denies that said portion falls inside the City’s sewer CCN service area.⁹ The City believes that this denial is incorrect. Again, GVSUD failed to include the boundaries of the service area proposed to be served by the CCWWTP, as required by Domestic Technical Report 1.0. Rather, in its Application, GVSUD has only provided the “Clearwater Creek WWTP Area Map,” included in Attachment I, depicting the “Clearwater Creek Sewershed” (the “*Sewershed Map*”). To the extent it is relevant to the proposed service area of the CCWWTP, attached hereto and incorporated herein for all purposes is **Attachment B**, which contains small and large scale maps of the City’s sewer CCN No. 20271. When compared to GVSUD’s Sewershed Map, it is clear that the sewershed depicted for the CCWWTP extends into the boundaries of the City’s sewer CCN. Therefore, if GVSUD intends the CCWWTP to serve its entire sewershed, then GVSUD was required to justify the need for the CCWWTP based on a cost analysis included with the Application, which it did not. Based upon the Application, the processing of the Application, and the Draft Permit, the potential overlap and applicable regionalization analysis was never taken into consideration by GVSUD or the TCEQ. Consequently, the Application and Draft Permit should be denied.

Finally, Section 1.B.3, concerns the existence of permitted domestic WWTPs or sanitary sewer collection systems located within a three-mile radius of the proposed wastewater treatment facility.¹⁰ If such facilities exist, then the applicant is, again, required to indicate, and provide supporting documentation, regarding any such neighboring utilities’ responses to mandatory correspondence from the applicant regarding wastewater service for the proposed service area.¹¹ Just as with Sections 1.B.1 and 1.B.2, if any of the nearby utilities consent to provide service, the applicant must provide a justification for the proposed facility and a comparison of the costs to construct it against those to connect to the applicable existing facility.¹² While GVSUD properly disclosed the existence of nearby facilities, it indicated that no such facilities “have the capacity to accept or are willing to expand to accept the volume of wastewater proposed in [the Application].”¹³ As explained above, that is not accurate given the nature of the City’s communications with GVSUD. The City asked GVSUD to provide the location of the proposed service area, and it never received a thorough answer, obstructing the regionalization analysis. Based upon the Application, the processing of the Application, and the Draft Permit, this

⁷ *Id.* at 22.

⁸ *Id.*

⁹ *Id.*

¹⁰ Instructions at 65; Application Technical Reports at 22.

¹¹ *Id.*

¹² *Id.*

¹³ Application Technical Reports at 22.

applicable regionalization analysis was never taken into consideration. Consequently, the Application and Draft Permit should be denied.

B. The Application fails to sufficiently demonstrate need for the authorized discharge amount of 0.4 million gallons per day.

The City contends that the Application and Draft Permit should be denied because the Final Phase of the proposed CCWWTP is not needed. In conjunction with the TCEQ's regionalization policy, Section 1 of Domestic Technical Report 1.1 requires a TPDES permit applicant to "[p]rovide a detailed discussion regarding the need for any phase(s) not currently permitted."¹⁴ The Instructions further clarify this requirement, stating:

Provide justification for the proposed flows . . . Provide an anticipated construction start date and operation schedule for each phase being proposed. If construction is dependent upon housing/commercial development, provide information from the developer. Provide information such as the size of the development (number of lots), the date construction on the development is scheduled to begin, and the anticipated growth rate of the development (number of houses per month or year). . . . If additional space is needed, submit the justification information as an attachment.

Attach population estimates and/or projections used to derive the flow estimates and anticipated growth rates for developments. Provide the source and basis upon which population figures were derived (census and/or other methodology). Also, provide population projections at the end of the design life of the treatment facility (usually 50+ years) and the source and basis upon which population figures were derived.¹⁵

Per the Instructions, "[f]ailure to provide sufficient justification for the continued need for the permit and/or each proposed phase may result in a recommendation for denial of the application or proposed phases."¹⁶

Here, instead of providing the requisite "detailed discussion" outlined above, the Application merely states:

This requested permit is proposed to support planned residential and commercial growth in GVSUD's sewer CCN area. GVSUD holds sewer CCN for proposed service area. The current contract for service equates to 950 EDUs of service or 232,750 gpm.¹⁷

First, the City contends that 232,750 gallons per minute is not an accurate indication of the treated effluent likely to be generated by 950 EDUs. That amount of wastewater is equivalent to

¹⁴ *Id.* at 21.

¹⁵ Instructions at 64.

¹⁶ *Id.*

¹⁷ Application Technical Reports at 21.

a wastewater discharge of 335.16 million gallons per day (“*MGD*”). Rather, the City asserts that GVSUD only intends to have a flow of 232,750 GPD (0.232750 MGD).

Second, with a total proposed discharge of 0.233 MGD, the Application seeks an excessive and unnecessary amount of treatment capacity. Thus, the Application does not demonstrate the need for the Draft Permit’s Final Phase authorization to discharge up to 0.4 MGD of treated effluent, and the Application and Draft Permit, as proposed, should be denied.

C. The Application raises concerns that the proposed discharge will not be in compliance with the TCEQ’s antidegradation policy.

As indicated above, the Application and Draft Permit authorize the discharge of treated domestic wastewater from the proposed CCWWTP to Womans Hollow Creek, thence to Martinez Creek, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 TAC § 307.10) for Classified Segment No. 1902 are primary contact recreation 1, high aquatic life use, and 5.0 mg/L dissolved oxygen. Segment No. 1902 is also currently listed on the 303(d) List for bacteria in the water. Thus, the City has concerns that the discharge into Segment No. 1902, as proposed by the Draft Permit, would impact water quality in that watercourse.

Specifically, the Application and Draft Permit raise concerns with the City that the proposed discharge will neither be in compliance with the TCEQ’s antidegradation policy nor maintain its current stream standard. Pursuant to 30 TAC § 307.5, the proposed discharge is subject to that antidegradation policy and implementation procedures under Tier 1 and Tier 2. Therefore, before approving the Application, the Commission must ensure that antidegradation will not occur as a result of the proposed discharge. Additionally, because Segment No. 1902 is an impaired water body on the TCEQ’s 303(d) List, the proposed discharge may unnecessarily further downgrade the segment’s water quality if statutory and regulatory requirements for antidegradation and stream standards are not met. Thus, due to these additional concerns, the Application and Draft Permit, as presented, should be denied.

Furthermore, the Application describes the unclassified Womans Hollow Creek as a “Wet Weather Creek,”¹⁸ despite containing information suggesting it may be intermittent or intermittent with perennial pools, stating that it is a “[s]low shallow running creek with perennial pools.”¹⁹ The Application also indicates that no perennial streams join the receiving water within three miles downstream of the discharge point.²⁰ Martinez Creek, however, which is joined by Womans Hollow Creek less than three miles downstream of the discharge point, is included on the 303(d) List as Segment No. 1902A and described as a “[p]erennial stream.”²¹ As such, the effluent set proposed in the Draft Permit may be based on an incorrect stream characterization and inconsistent with state and federal regulations.

¹⁸ *Id.* at 30.

¹⁹ *Id.* at 31.

²⁰ *Id.* at 30.

²¹ Tex. Comm’n on Env’tl. Quality, *2020 Texas Integrated Report - Texas 303(d) List 88* (2020), www.tceq.texas.gov/waterquality/assessment/20twqi/20txir.

D. GVSUD lacks sufficient legal title and/or rights to land to own and operate the proposed CCWWTP.

In addition to the foregoing bases for denying the Application, the City believes that the Application is deficient because it does not establish—and GVSUD cannot establish—that it holds sufficient legal rights to real property necessary to own and operate the CCWWTP. As evidenced by the Bexar Appraisal District reports attached hereto and incorporated herein for all purposes as **Attachment C**, GVSUD does not own the land at the address provided for the proposed CCWWTP. However, pursuant to the Instructions:

If the owner of the land is not the same as the applicant, a long-term lease agreement for the life of the facility must be provided. A lease agreement can only be submitted if the facility is not a fixture of the land (e.g., above-ground package plant). . . . If the facility is considered a fixture of the land (e.g., ponds, units half-way in the ground), there are two options. The owner of the land can apply for the permit as a co-applicant or a copy of an executed deed recorded easement must be provided. A long-term lease agreement is not sufficient if the facility is considered a fixture of the land.

Both the long-term lease agreement and the deed recorded easement must give the facility owner sufficient rights to the land for the operation of the facility.”²²

In its Application, GVSUD incorrectly indicated that it owns the land where the CCWWTP will be located,²³ and the third page of TCEQ’s “Checklist for Admin Review of Municipal Application for Permit,” attached hereto and incorporated herein for all purposes as **Attachment D**, demonstrates that TCEQ relied upon that assertion in reviewing the Application. However, GVSUD is not the owner of the land where the proposed CCWWTP will be located, and it has not provided the TCEQ with any document demonstrating ownership or a long-term lease agreement. As such, GVSUD has failed to demonstrate that it possesses sufficient rights to the land for the operation of the proposed CCWWTP.

E. The Application contains a number of additional deficiencies.

After a careful review of the Application, the City believes that the Application has the following additional deficiencies, and that due to these deficiencies, the Application and Draft Permit should be denied:

1. **Service Area Map.** The Application does not contain a map clearly identifying the proposed service area for the CCWWTP. As noted briefly above, TCEQ requires GVSUD to provide a map showing the “boundaries of the area served by the treatment facility.”²⁴ However, it is uncertain whether GVSUD has provided such map. If the map provided by GVSUD in the Application to address this requirement is the Sewershed Map, showing the

²² Instructions at 33.

²³ Application Administrative Report at 8.

²⁴ *Id.* at 11.

CCWWTP's proposed sewershed, then GVSUD's proposed service area boundaries are unclear; otherwise, the Application is lacking this important, required piece of information. In either case, the Sewershed Map does not indicate whether the CCWWTP is intended to serve the entire sewershed shown thereon, a portion of which extends into the City's sewer CCN service area.

2. **Sewage Sludge Solids Management Plan.** In Domestic Technical Report 1.0, Section 9, the TCEQ requires the applicant to select the anticipated sludge disposal method and provide sludge disposal site information, including the disposal site name, permit or registration number, and disposal site's county.²⁵ Section 9 also requires the applicant to indicate the method of transportation, hauler name, and hauler registration number.²⁶ In response, GVSUD did not provide most of this information, instead stating that the information is to be determined and admitting that neither a sludge disposal site nor hauler has been selected.²⁷ GVSUD also has not complied with the TCEQ's requirement to provide a copy of the contractual agreements demonstrating that the receiving facility will accept the sludge.²⁸ GVSUD's failure to identify a method for sludge disposal creates another deficiency in the Application and indicates that GVSUD's operation of the CCWWTP will not comply with federal and state requirements.
3. **Original Photographs.** The Application does not contain an original photograph of the proposed location for the CCWWTP, and thereby violates the Instructions, which indicate that applicants "must" submit "[a]t least one photograph of the new . . . treatment unit(s) location."²⁹
4. **Pretreatment Program.** The Application is inconsistent as to whether GVSUD has an approved pretreatment program under 40 CFR Part 403. In Domestic Technical Report 1.0, GVSUD indicates it does not have such a program, but GVSUD's answer to the first question in Section D of Domestic Worksheet 6.0 indicates otherwise. Without clarity as to whether GVSUD does have an approved pretreatment program, it is impossible to determine whether it should have completed Domestic Worksheets 4.0, 5.0, or some portion thereof, in addition to completing Domestic Worksheet 6.0.
5. **Buffer Zone.** Next, the City asserts that GVSUD's Application fails to provide proof of a sufficient buffer zone compliance method. Section 3 of Domestic Administrative Report 1.1 requires a TPDES permit applicant to indicate how the buffer zone requirements of 30 TAC § 309.13(e) will be met.³⁰ The Instructions further specify that "[t]he buffer zone, either 150 or 500 feet from the treatment units . . . can be met by ownership, legal restrictions preventing residential structures within the buffer zone, an approved nuisance odor prevention plan, or a variance to the buffer zone."³¹ GVSUD indicated it would

²⁵ Application Technical Reports at 12 – 13.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 13.

²⁹ Instructions at 43.

³⁰ Application Administrative Report at 14.

³¹ Instructions at 43.

satisfy the buffer zone requirements through ownership,³² but as explained in more detail above, GVSUD possesses no ownership interest, nor legal right sufficient to comply with the requirements of 30 TAC § 309.13(e). Specifically, the Instructions indicate that “[o]wnership means that the applicant owns all the land surrounding the treatment units that fall within the buffer zone,”³³ which GVSUD does not. Furthermore, 30 TAC § 309.13(e) provides that “wastewater treatment plant units may not be located closer than 150 feet to the nearest property line.” As shown on the maps included in the Application, GVSUD’s proposed 150-foot buffer zone is rectangular. That does not properly buffer a 150-foot radius around the proposed facility. In any case, the maps depict the buffer zone extending beyond the boundary of the CCWWTP property.

6. **Nuisance Odors.** In addition to the buffer zone issues described above, an additional, unneeded treatment and disposal facility, if not operated properly, may result in nuisance odors that will adversely affect the quality of life of nearby residents and the public. In accordance with 30 TAC § 309.13(e), the Applicant must demonstrate that sufficient measures to prevent nuisance odors will be undertaken. It is not in the public interest to issue a new discharge authorization that may result in nuisance odors when regionalized wastewater services are available, particularly when nearby schools are located within the three-mile radius of the proposed CCWWTP.

For the above-cited reasons, the City recommends that the TCEQ deny the Application and Draft Permit.

III. REQUEST FOR PUBLIC MEETING

The City requests a public meeting regarding the Application in light of the issues raised in this letter. The TCEQ’s regulations in 30 TAC § 55.154(c) provide that “[a]t any time, the executive director or the Office of the Chief Clerk may hold public meetings,” and that “[t]he executive director or the Office of the Chief Clerk shall hold a public meeting if: (1) the executive director determines that there is a substantial or significant degree of public interest in an application.” Pursuant to 30 TAC § 55.150, this opportunity to request a public meeting under 30 TAC § 55.154(c) applies to applications for a new TPDES permit, such as the Application. Accordingly, the City, for the benefit of its citizens, has a substantial and significant degree of public interest in the Application. The City is willing to work with the TCEQ and GVSUD to determine a location for such a public meeting.

IV. REQUEST FOR CONTESTED CASE HEARING

The City also requests a contested case hearing regarding the Application, Draft Permit, and each and every issue raised in the City’s public comments, and any and all supplements and/or amendments thereto. For the reasons set forth herein, the City is an affected person, as defined by 30 TAC § 55.203. The City has a personal justiciable interest to a legal right, duty, privilege, power, or economic interest that is not common to the general public that would be adversely

³² Application Administrative Report at 14

³³ Instructions at 43.

affected should the Draft Permit be granted. In determining whether a person is an affected person, the TCEQ may consider, among other factors, (1) “whether the interest claimed is one protected by the law under which the application will be considered; (2) distance restrictions or other limitations imposed by law on the affected interest; (3) whether a reasonable relationship exists between the interest claimed and the activity regulated; . . . and (7) *for governmental entities, their statutory authority over or interest in the issues relevant to the application.*”³⁴ The TCEQ may also consider “the merits of the underlying application and supporting documentation . . . , including whether the application meets the requirements for permit issuance.”³⁵ All such considerations are applicable to the City, and, as noted in its public comments in Section II, above, the City has a particular interest in the issues relevant to the Application because the Application indicates that the proposed service area for the CCWWTP is located within its corporate boundaries and possibly its sewer CCN service area.

V. CONCLUSION

The City reserves its right to supplement these public comments and this request for a contested case hearing as it learns more about the Application—additional information may become apparent through a public meeting (and thereby-extended comment period) regarding this Application. The City appreciates your consideration of these public comments and requests for a public meeting and contested case hearing.

Thank you for your consideration of this important matter. If you or your staff have any questions regarding this matter, please contact me at your convenience.

Sincerely,



David J. Klein

DJK/dsr
Enclosures

cc: Mark Browne, City Manager, City of Schertz
Brian James, Assistant City Manager, City of Schertz
Charles Kelm, Assistant City Manager, City of Schertz

³⁴ 30 TAC § 55.203(c) (emphasis added).

³⁵ *Id.* § 55.203(d).

Attachment A



Location Mapper

Version 4.1

User Guide



Find address or place



SCH

Albert Rd

Shady Dr, Box 8

Trainer Halls Rd

Beyer Path

Albert Rd

Great Rock Rd

St. Hedwig

Stapper Rd

St Hedwig Estate

Creekside Dr
St Hedwig Estate

Miller Rd

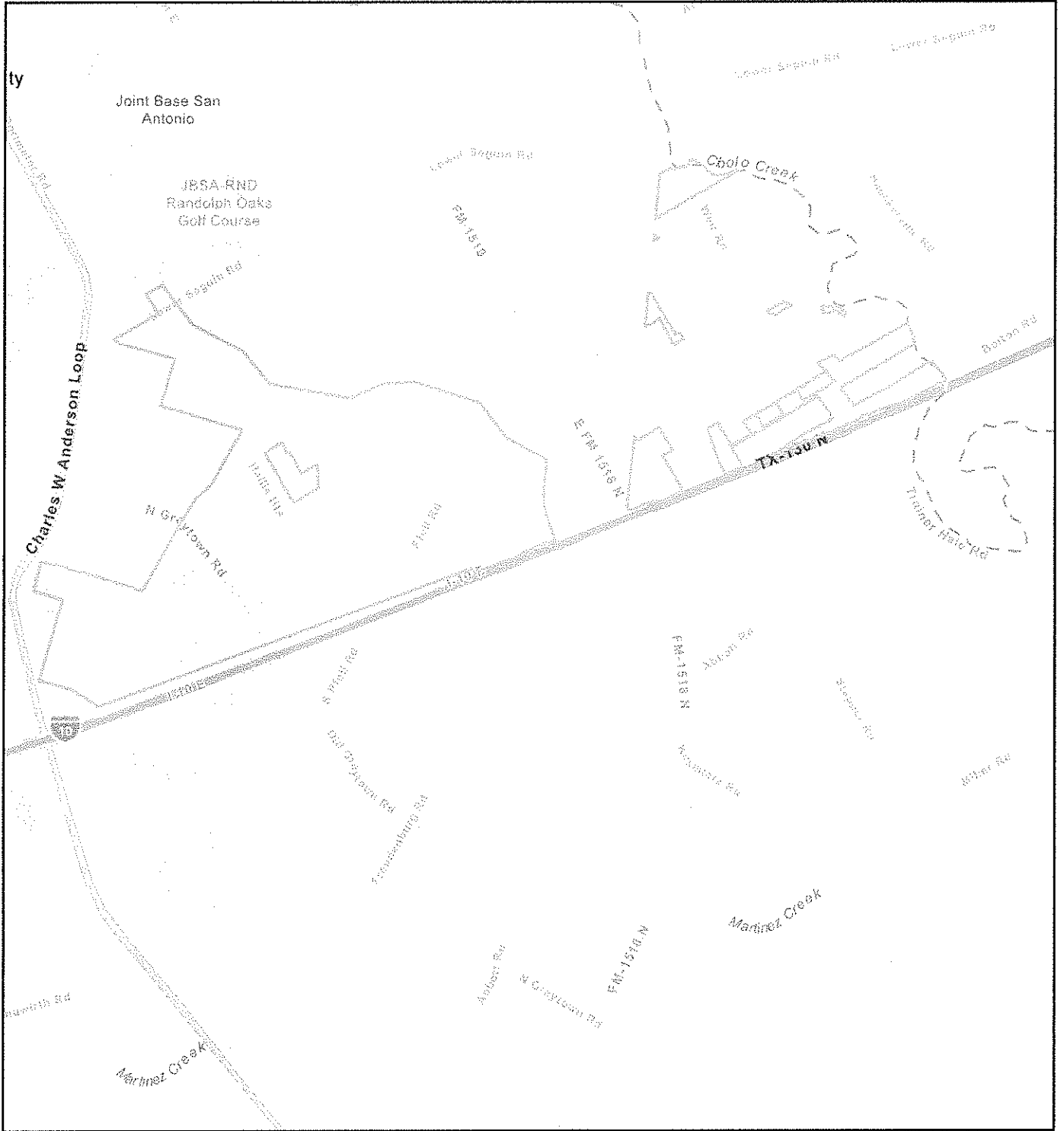


0 0.05mi 0.15 0.3mi
28° 13' 02.29" N 98° 25' 00.00" W

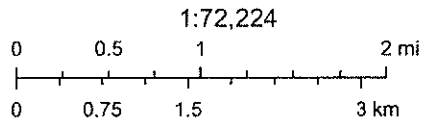


Attachment B

City of Schertz Sewer CCN No. 20271

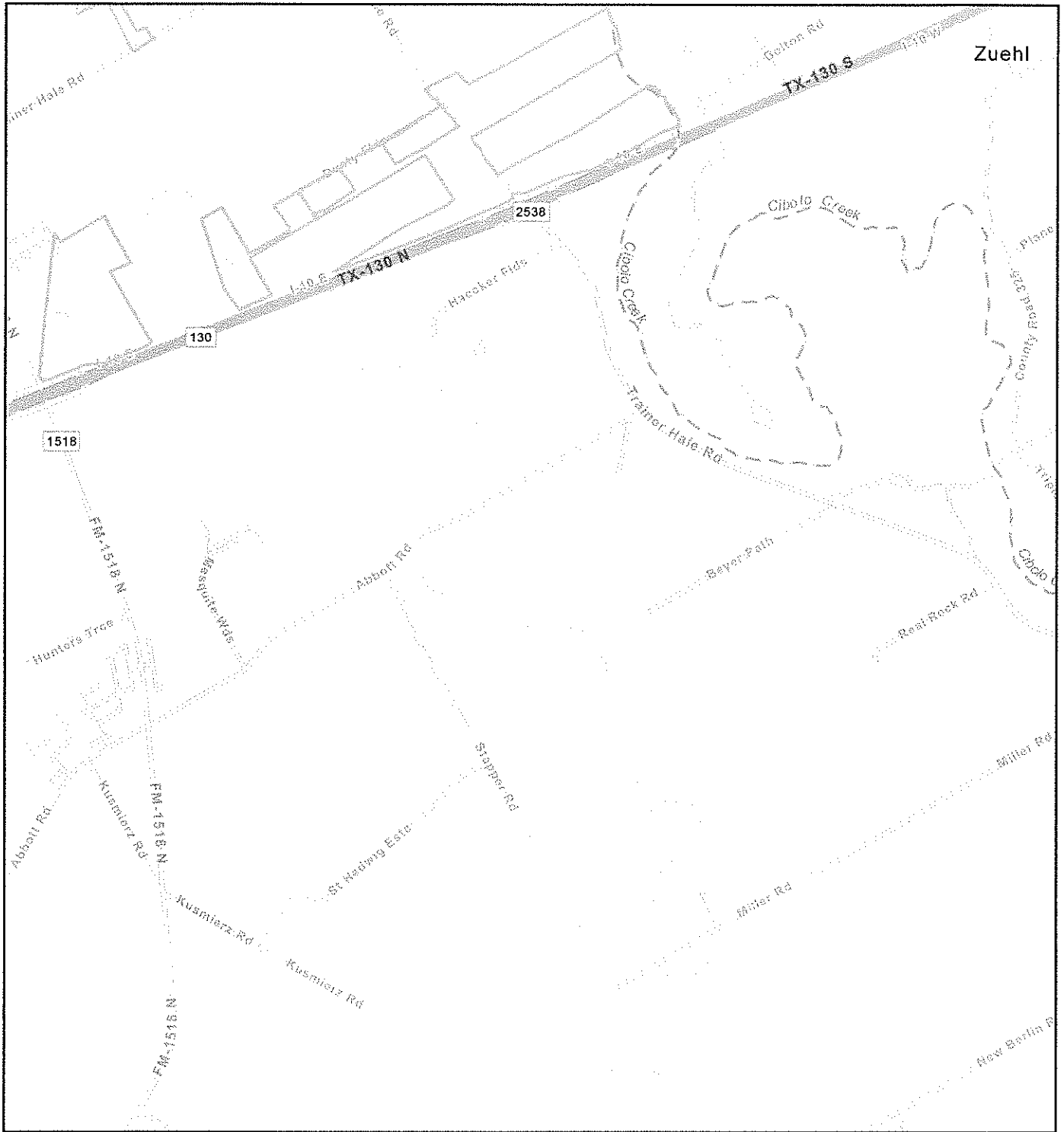


July 29, 2021

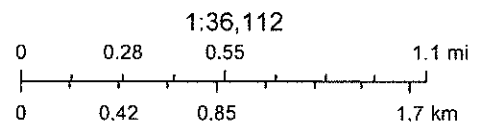


Texas Parks & Wildlife, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA

City of Schertz Sewer CCN No. 20271(Large Scale)



July 29, 2021



Attachment C

Bexar CAD

Property Search Map Search

Property Search Results > 1 - 6 of 6 for Year 2021

[Export Results](#)

[New Search](#)

Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a single map.

Property Address Legal Description

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value	
<input type="checkbox"/> 1166658	80400-000-1880	Mobile Home	4060 STAPPER RD TX	DUNCAN CRAIG & JOANN		\$44,290	View Details View Map
<input type="checkbox"/> 1172641	04019-000-1882	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	DUNCAN HAZEL JOANN		\$5,390	View Details View Map
<input type="checkbox"/> 169912	04019-000-1880	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL W & SUTTON CAROLYN & DUNCAN HAZEL J		\$37,730	View Details View Map
<input type="checkbox"/> 1172711	04019-000-1883	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL WILLIAM		\$12,150	View Details View Map
<input type="checkbox"/> 169348	04019-000-0191	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL WILLIAM		\$114,590	View Details View Map
<input type="checkbox"/> 169913	04019-000-1881	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SUTTON DONALD J & CAROLYN R		\$176,210	View Details View Map

Page: 1

**Protest status and date information current as of Jul 28 2021 1:22AM.
 2021 and prior year appraisal data current as of Jul 2 2021 6:19AM
 For property information, contact (210) 242-2432 or (210) 224-8511 or
email.
 For website information, contact (210) 242-2500.**

Attachment D

~~print NEET packet for pay review~~

~~900346 per permit print for activities + M.D. circular~~

CHECK LIST FOR ADMIN REVIEW OF MUNICIPAL APPLICATION FOR PERMIT		
Permit No. WQ00 <u>15917001</u>	TX <u>0140540</u>	MGD <u>0.4</u>
CN <u>600684294</u>	RN <u>111093126</u>	County: <u>Bexar</u> Region No. <u>13</u>
Facility: () Major (✓) Minor	App Rcvd Date: <u>8/31/2020</u>	Permit Expiration Date: <u>NEW</u>
(✓) Inactive () Active	Segment No. <u>1902</u>	

Note: A minor facility is generally one in which the final flow is less than 1.0 MGD.

Application Review Date: 10/16/2020

A copy of the pre-tech review was provided by the Municipal Permits Team (for new, major amendments and major facilities).

A copy of the groundwater review was provided (for TLAP new, major amendment, SADD minor amendment, and all applications with (or proposing) Class B sludge provisions).

For new and major amendment applications that propose surface water discharge, the standards review for RWA comments is included.

Coastal Zone sheet is included. Yes No

Fees or Penalties Owed: No [] Yes Amount Owed: _____

SECTION 1 APPLICATION FEES

Application Fees: The appropriate item checked and payment verified in receipt rpt or boexi rpt. Note: copies of checks should be removed and shredded.

Municipal Fees

Proposed/Final Phase Flow	New/Major Amend.	Renewals	Minor Amendment or Modification <u>without</u> Renewal (for any flow)
< .05 MGD	[] \$350.00	[] \$315.00	
≥ .05 but < .10 MGD	[] \$550.00	[] \$515.00	
≥ .10 but < .25 MGD	[] \$850.00	[] \$815.00	
≥ .25 but < .50 MGD	<input checked="" type="checkbox"/> \$1,250.00	[] 1,215.00	
≥ .50 but < 1.0 MGD	[] \$1,650.00	[] 1,615.00	
≥ 1.0 MGD	[] \$2,050.00	[] 2,015.00	

SECTION 2 TYPE OF APPLICATION

The Type of application is marked
 Reason for amendment or modification (if applicable). Also, check Tech. Report 1.1 Section 4 on page 3 (Unbuilt Phases) and Section 1.A on page 20 (Justification of permit need).

SECTION 3 FACILITY OWNER (APPLICANT) AND CO-APPLICANT

Legal name of applicant is listed (*the owner of the facility must apply for the permit*)
 Legal name of co-applicant is listed (*if required to apply with facility owner*)

Core Data Form (CDF) is provided. A separate CDF is required for each customer.

Section I – General Information

Reason for submittal is marked.

Customer (CN) and Regulated Entity (RN) Reference Nos. provided – verify with Central Registry

Section II – Customer Information

Customer legal name is provided and it matches name on admin report

Texas SOS/Filing number is provided – verify with SOS

Texas State Tax ID is provided – verify with Texas Comptroller

Type of customer is marked – refer to information below

Corporation: Check with Secretary of State (SOS) at: <https://direct.sos.state.tx.us/acct/acct-login.asp> verify the entity status and charter number – print page. Verify correct legal spelling of applicant's name. Check spelling with SOS against the name listed in the application. (Permit must be issued in name as filed with SOS.) The applicant must be "**in existence and active**" before the application can be processed further.

Those entities subject to state franchise taxes: If applicable, check with Comptroller (website at: <http://ecpa.cpa.state.tx.us/coa/coaStart.html>). Verify the tax identification number is correct. Note: Non-profit organizations and partnerships are not subject to the state franchise tax.

Individual: Complete Attachment 1 of Admin. Report 1.0 The complete legal name, including the middle name; and all other information is required. This info is required by Chapter 26.027C of the Texas Water Code. A separate form is required for each individual.

Utility District: Check IWUD to verify that district is not dissolved (inactive is O.K. to process)

Trust: A copy of an executed trust agreement is provided. Verify that applicant's name is the same as the name in the trust agreement. NOTE: Executed trust must show signatures of trustees or beneficiaries forming the trust and which county it is recorded in.

Partnership: Verify with Secretary of State (SOS) that partnership is registered, active, and has a filing number. Check spelling with SOS against the name submitted in Item 1; Check that SOS # is correct; Print page from SOS website. OR if the partnership is not listed with the SOS, a copy of the partnership agreement is provided by the applicant. The agreement must: give the name of the partnership as provided on the application for permit; list names of partners; bear signatures of the partners; state the terms of the partnership; and must be recorded in the county where the facility (plant) is located.

Municipality/Governmental Agencies/School Districts: City, County, ISD, Fed, etc. – applicable info is listed.

Other _____

Number of employees is marked

Customer role is marked

Mailing address for the applicant is provided - verify on USPS website. This address is used on the permit.

Email address is provided - using GM email in app

Telephone number is provided

Section III – Regulated Entity Information

Regulated Entity Name is provided and it matches name on admin report

Street address or location description of facility is adequately described. If different from current permit, new permit may be required. Use USPS website/GIS mapping to confirm street address

The county where the facility is located is provided

The name of the nearest city is provided

The zip code is provided

The longitude and latitude of the facility is provided – check mapit

Primary SIC Code is provided

Permit No. listed under appropriate programs- if not listed, add it

Section IV – Preparer Information

Name, title, telephone number, and email address is provided

Section V – Authorized Signature

Company name, title, printed name, phone number, signature, and date provided

SECTION 4 APPLICATION CONTACT INFORMATION

Administrative and Technical contact name, address, electronic information provided

SECTION 5 PERMIT CONTACT INFORMATION

Permit (2) contact names, addresses, electronic information provided

SECTION 6 BILLING INFORMATION

Billing contact name, address, electronic information provided

SECTION 7 REPORTING INFORMATION

DMR/MER contact name, address, electronic information provided

SECTION 8 NOTICE INFORMATION

Minor Amendment *without* Renewal – NORI not required. Skip review of notice information.

Name, address and phone number of one person responsible for publishing NORI is provided

Method of sending NORI package is provided

Name and phone number of contact to be in NORI is provided

Location where application will be available is provided and is in the county where the facility is located - the location must be a building supported by taxpayer funds. Note: If discharge is directly into water body that borders two counties, application must be placed in a public facility in both counties and the notice must be published in both counties

Bilingual Items 1 – 5 are completed. If "Yes" to question 1 and "Yes" to either question 2, 3 or 4, then e.5 must be completed

SECTION 9 REGULATED ENTITY and PERMITTED SITE INFORMATION

Permit No. and Expiration date is listed, if not, verify with permit or PARIS

Name of project or site is provided. Should correspond to Item 22 on CDF.

Owner of the facility identified in the application is the same as the name given in Section 3.A

NOTE: THE OWNER OF THE FACILITY IS REQUIRED TO APPLY FOR THE PERMIT

(Refer to legal policy memo for complete definition and discussion of facility.)

Marked whether ownership of the facility is public, private or both

Owner of the land where permitted facility is or will be located is the **SAME** as the applicant.

The owner of the land on which the facility is located is **DIFFERENT FROM** the owner of the facility: A copy of a lease agreement or easement, with a term for the duration of the permit, between applicant and landowner, has been provided. See Lease Agreement/Easement Memo dated 2/14/06, that states that a lease is sufficient for pond systems, and that details the provisions that a lease agreement or easement must contain. OR, landowner can apply as a co-permittee. Lease must identify property by legal description or map.

Effluent Disposal Site Owner:

N/A - (no effluent disposal proposed)

If land disposal is authorized in permit or proposed, the applicant **OWNS** land on which site is located

If applicant **DOES NOT OWN** land where site is located, a long-term lease agreement is provided which includes: a term of at least 5 years; is current or it includes an option to renew the term; is between the current applicant and the landowner; and includes description of property by legal description or map.

(For new TLAP permits only: A copy of an executed option to purchase agreement may be provided to show that applicant will have ownership of the land upon permit approval.)

Sewage Sludge Disposal Site Owner:

N/A - (no sludge disposal proposed)

If sludge is authorized in permit or proposed, the applicant **OWNS** land on which disposal site is located, otherwise lease is needed unless Class B sludge is land applied. Check the permit under Sludge Provisions to determine if sludge is authorized. Note: For BLU sludge application – lease is not needed; Landowner just needs to sign sludge affidavit (if different from applicant)

If sludge disposal is proposed or authorized in the permit, the applicant must also submit the applicable sludge forms.

SECTION 10 DISCHARGE INFORMATION

- Checked if treatment facility location in permit is correct.
- Checked if discharge info in permit is correct. If applicable, the discharge route description is adequately described and describes the discharge route to the nearest major watercourse. Changing the point of discharge and route from the current permit description requires a major amendment
- The name of the city (or nearest city) where the outfall(s) is/will be located has been provided
- The county where the outfall is located is provided
- The longitude and latitude of the outfall is provided
- Marked item regarding authorization for discharge into a city, county, or state ditch. If applicable, correspondence is provided. Email TXDOT if discharge is to a state highway right-of-way or roadside ditch.
- For a daily average flow of 5 MGD or more: the names of all counties located within 100 miles downstream from the point of discharge. These counties will be listed on contact sheet.

SECTION 11 DISPOSAL (TLAP) INFORMATION

- The written location description of the disposal site is adequately described. (NOTE: A CHANGE IN LOCATION OR INCREASE IN ACREAGE REQUIRES A MAJOR AMENDMENT. A decrease in acreage may also be a major amendment (due to flow rate) - check with permit writer)
- The name of the city (or nearest city) has been provided
- The county where the disposal site is located is provided
- The longitude and latitude of the disposal site is provided
- The written flow of effluent from the facility to the effluent disposal site is adequately described
- The nearest watercourse to the disposal site is listed

SECTION 12 MISCELLANEOUS INFORMATION

- Identified whether or not facility or discharge are on Indian land (If yes, we do not have permit authority.)
- For permits that allow sewage disposal the location description is adequately described. For an already-existing permit, check to see that the location has not changed
- Must indicate whether any former TCEQ employees who were paid for services regarding this application
- Fees or Penalties Owed: No [] Yes - See page 1 of checklist

SECTION 13 ATTACHMENTS

- Lease agreement or deed recorded easement, if the land where the treatment facility is located or the effluent disposal site are not owned by the applicant or co-applicant
- An ORIGINAL or equivalent FULL-SIZED USGS 7.5 minute topographic map (8 1/2 x 11 acceptable for amendment and renewal applications) is provided and labeled showing: applicant's property boundary [] treatment facility boundaries [] point of discharge [] highlighted discharge route for three miles downstream or until it reaches a classified segment [] scale, [] effluent disposal site(s) [] pond(s) [] sludge disposal/land application site [] an area of not less than one mile in all directions of the site

Need full size

All original or equivalent full sized maps must show:

- Color map [] Clear contour lines [] Upper left corner must identify map as USGS Department of the Interior Geological Survey [] Lower left corner, datum & project information [] Bottom, magnetic declination [] Bottom, must show scale [] Bottom, identify contour intervals [] Bottom, national map accuracy std. statement [] Bottom, show State of TX and quad location [] Around map, lat and long coordinates [] Bottom, quadrangle name [] Bottom, must identify map date

SECTION 14 SIGNATURE PAGE

Note: The signature information below lists the proper signatories for the various entities and the current version of the application contains a paragraph referencing 30 TAC 305.44. The person signing the application verifies that he or she is authorized, under this rule, to sign the application. We must verify that the title meets the requirements or signatory authority has been delegated.

- Original Signature Page is required.
- Signature must be properly notarized – check that signature date and notarized date are the same.

Owner Co-Permittee

- City - Elected official or principle executive officer of the city may be public works director.
- Individual: only the individual signs for himself/herself.
- Partnership: General Partner or exec officer
- Corporation: at least level of VP (CEO, Chairman of Board, Secretary can be equiv. to V.P., Member or General Manager for LLC, Manager of one or more manufacturing, production, or operating facilities employing more than 250 persons - refer to 30 TAC 305.44)
- Utility District: at least the level of vice president, on Board of Directors or District Manager
- Water Authority: Regional managers.
- Independent School Districts: at least level of the Assistant Superintendent or board members.
- Governmental Agencies: Division Directors or Regional Directors.
- Trust: The trustee that has been identified in the trust agreement.
- Other: _____

ADMIN REPORT 1.1 For All New or Major Amendment Applications

SECTION 1 Affected Landowner Information -

Landowner Map:

The applicant's complete property boundaries are delineated which includes boundaries of contiguous property owned by the applicant

For domestic facilities, show the buffer zone and identify all of the landowners whose property is located within the buffer zone - *tech address*

The property boundaries of the landowners surrounding the applicant's property have been clearly delineated on the map

The location of the facility within applicant's property is shown.

For TPDES applications:

The point(s) of discharge is clearly identified on the map and the discharge route(s) is highlighted.

The scale of map is provided to measure one mile downstream or if discharge is into a lake, bay estuary, or affected by tides, 1/2 mile up & down stream is measured.

The property boundaries of landowners adjacent to the discharge route(s) for one mile downstream from the point of discharge have been clearly delineated and the route is clearly delineated. OR If discharge is into a lake, bay estuary, or affected by tides, the property boundaries of landowners 1/2 mile up & downstream and those property owners across the lake along the shore line that fall within a 1/2 mile radius of the point of discharge are clearly delineated on the map.

For TLAP applications (i.e., irrigation, evaporation, etc.):

The boundaries of the disposal site is clearly identified on the map.

The boundaries of all landowners surrounding the disposal site.

Cross-referenced list of landowners is provided.

Disk or four sets of labels were provided

Source of landowners' info was provided.

Provided response regarding permanent school fund land. If information filled out on General Land Office, then indicate so on the contact sheet.

SECTION 2 Original Photographs

The original (color) ground level photos of treatment unit area, disposal or discharge areas (2 photos – one upstream, one downstream) have been provided

Plot plan or map showing location and direction of each photo

SECTION 3 Buffer Zone Map *tech address*

Buffer zone map (8 1/2 by 11): The permit writer will review this during the pre-tech review. Any deficiencies will be addressed by them.

SUPPLEMENTAL PERMIT INFORMATION FORM (SPIF)

SPIF is provided - TPDES only

TECHNICAL REPORT – MUNICIPAL/DOMESTIC APPLICATIONS

Minor Amendment without Renewal. Review not required. Just make sure report is provided.

THE FOLLOWING ITEMS APPLY TO ALL APPLICATIONS:

The existing permitted design flow (including all permit phases) is indicated

If flow indicated is greater than permitted, a major amendment is required.

If flow amount is less than permitted amount, confirm with applicant that they are requesting to reduce the flow.

For facilities that have not been constructed the anticipated construction and operation dates are provided for all phases.

Site Drawing must be submitted (*see email from Lana 1/10/2019*).

The permit authorizes irrigation/evaporation/subsurface disposal method and the information has been addressed in the technical report. Verify the acreage. If the acreage has changed from what is currently permitted, a major amendment is required.

The applicable worksheets must be completed:

Worksheet 3.0 - required for land disposal of effluent

Worksheet 3.1 - required for land disposal (new and major amendment only)

Worksheet 3.2 - required for subsurface land disposal (new and major amendment only)

Worksheet 3.3 - required for subsurface area drip dispersal systems (SADDS) (new and major amendment); may be required for renewal on a case-by-case basis.

SADDS Applications: Compliance history items must be completed for SADDS disposal. When the application is administratively complete, a copy of the application and a transmittal letter must be sent to the State Department of Health Services. See the folder titled "SADDS" (under the Individual Permit Review folder) for a template of the letter.

Worksheet 7.0 – required for SADD applications (new and major amendment only) - We do not review the form; we just make sure that it is submitted. If it is not submitted, request it in a NOD.

Sludge disposal and/or land application is authorized in the permit on property owned or under applicant's control.

If facility is beneficially applying class B sludge on the same site as the facility, the applicant must submit the Beneficial Land Use of Sewage Sludge (Class B) Permit Application - Form No. 10451 (See Class B Sludge Permit checklist). The applicant must also submit the appropriate sludge application fee.

If authorization is for sludge processing, storage, disposal, composting, marketing and distribution of sludge, sludge surface disposal, or sludge monofill or for temporary storage in sludge lagoons, the applicant must submit the Domestic Wastewater Permit Application: Sewage Sludge Technical Report – Form No. 10056.
Check for:

required signatures (if applicable)

site acreage acreage application area site boundaries shown on USGS map

Notes: If the applicant is disposing or land applying sludge on land owned or under their control, but it is not authorized in their permit or by any other TCEQ authorization, a major amendment is required.

If the application is for a new permit or major amendment, then you need to check for the appropriate affected landowner requirements.

Worksheet 6.0 must be addressed if a domestic facility is labeled as public or both, (not required for federal agencies or water treatment plants)

THE FOLLOWING ITEMS ONLY APPLY TO MINOR RENEWAL APPLICATIONS:

- The type of treatment plant has been indicated.
- The list of units and their dimensions have been provided
- The flow diagram has been provided.
- The required grab sample test results have been provided for all constituents - *not required if plant not operational.*
- Sludge disposal is authorized off site, and the ultimate sludge disposal method has been identified.
- Worksheet 2.0 - For TPDES permits - the stream data has been addressed.
- Worksheet 4.0 - For discharge permits: If the applicant has a permitted phase equal to or greater than 1 MGD or more than one phase, and interim or final phase(s) that have not been constructed has a flow equal to or greater than 1 MGD, the applicant must perform the all of the required effluent testing to renew that phase.

WHEN APPLICATION IS NOT ADMINISTRATIVELY COMPLETE:

Complete NOD. See NOD SOP

WHEN APPLICATION IS ADMINISTRATIVELY COMPLETE:

Complete NORI package. See NORI SOP
NORI not required for minor amendment. Complete the Routing and Contact (list "n/a" for item regarding person responsible for publication of the notice) Blue sheets only.

Prepare SPIF forms (only for TPDES permits)

- checked application type
- entered county name
- entered administrative completeness date
- ensured permit number is on form
- *check agency receiving SPIF

Minor amendments - ALL agencies BUT Texas Historical Commission and Army Corps of Engineers

Renewals - All agencies BUT Texas Historical Commission

New and Major Amendments - All agencies

- check that the segment number (if known) is entered in receiving water body information.
- On the accompanying map, delineate the discharge route in such a way that copies will reflect the highlighted discharge route.

***NOTE:** Copy of SPIFs not required for Houston - US Fish and Wildlife and Galveston-US Army Corps of Engineers

Admin Complete PARIS Entry and Other Reminders

WQ Folder - Application Search

Application Summary Tab—verify application info

Admin Review Tab

- Admin Review Begin Date
- Admin Complete Date
- SPIF
- NORI

Public Participation Tab – No longer required to enter public notice details. See Katherine's email dated 3/30/2017.

CR Folder – RE Search

AI Detail Screen—verify facility info

Enter Contact Info – Contact List

- Owner
- Applicant
- Technical
- Billing (To edit existing info – select Billing Maintenance)
- MER (TLAP only)
- Remove CN affiliation for MER contact (TLAP and TPDES)

OTHER

- Copy of notice, contact sheet, and labels to I/Drive
- SADDS – Application to Dept. of Health Services
- Email TXDOT if discharge is to a state highway right-of-way or roadside ditch.
- Email NORI
- Update facility name (if needed in PARIS)
- Update coordinates (if needed in PARIS), make sure correct link in Notice
- EPA ID CN, location address, facility name (if needed in PARIS)

Attachment B

The "*Appraisal District Reports*"

Bexar CAD

Property Search Map Search

Property Search Results > 1 - 2 of 2 for Year 2022

Export Results

New Search

Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a single map.

Property Address Legal Description

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value	
<input type="checkbox"/> 991095	05193-000-1028	Real	14394 INTERSTATE 10 E CONVERSE, TX 78109	GREEN VALLEY SPECIAL UTILITY		N/A	View Details View Map
<input type="checkbox"/> 1056538	05193-000-1561	Real	E IH 10 CONVERSE, TX 78109	GREEN VALLEY SPECIAL UTILITY		N/A	View Details View Map

Page: 1

2022 data current as of Dec 16 2021 1:19AM.
2021 and prior year data current as of Dec 3 2021 6:20AM
For property information, contact (210) 242-2432 or (210) 224-8511 or
email.
For website information, contact (210) 242-2500.

This year is not certified and ALL values will be represented with "N/A".

Website version: 1.2.2.33

Database last updated on: 12/16/2021 1:19 AM

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Bexar CAD

[Property Search](#) [Map Search](#)

Property Search Results > 1 - 6 of 6 for Year 2022

[Export Results](#) [New Search](#)

Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a single map.

Property Address Legal Description

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value	
<input type="checkbox"/> 1166658	80400-000-1880	Mobile Home	4060 STAPPER RD TX	DUNCAN CRAIG & JOANN		N/A	View Details View Map
<input type="checkbox"/> 1172641	04019-000-1882	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map
<input type="checkbox"/> 1172711	04019-000-1883	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map
<input type="checkbox"/> 169913	04019-000-1881	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map
<input type="checkbox"/> 169348	04019-000-0191	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map
<input type="checkbox"/> 169912	04019-000-1880	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map

Page: 1

2022 data current as of Dec 16 2021 1:19AM.
2021 and prior year data current as of Dec 3 2021 6:20AM
For property information, contact (210) 242-2432 or (210) 224-8511 or email.
For website information, contact (210) 242-2500.

This year is not certified and ALL values will be represented with "N/A".

Website version: 1.2.2.33

Database last updated on: 12/16/2021 1:19 AM

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Lori Rowe

From: PUBCOMMENT-OCC
Sent: Monday, December 20, 2021 10:57 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0015917001
Attachments: 2021.12.17 CCMA Contested Case Hearing Request re_ Proposed TPDES Permit No. WQ00159170012.pdf

H
RFR

From: mchambers@lglawfirm.com <mchambers@lglawfirm.com>
Sent: Friday, December 17, 2021 3:57 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0015917001

REGULATED ENTY NAME CLEARWATER CREEK WWTP

RN NUMBER: RN111093126

PERMIT NUMBER: WQ0015917001

DOCKET NUMBER:

COUNTY: BEXAR

PRINCIPAL NAME: GREEN VALLEY SPECIAL UTILITY DISTRICT

CN NUMBER: CN600684294

FROM

NAME: Maris Chambers

E-MAIL: mchambers@lglawfirm.com

COMPANY: Lloyd Gosselink Rochelle & Townsend, P.C.

ADDRESS: 816 CONGRESS AVE Suite 1900
AUSTIN TX 78701-2442

PHONE: 5123225804

FAX: 5124720532

COMMENTS: Please find attached the Cibolo Creek Municipal Authority's Request for Contested Case Hearing and/or Request for Reconsideration of the Executive Director's Decision on Application for Proposed TPDES Permit No. WQ0015917001.

Ms. Chambers' Direct Line: (512) 322-5804
Email: mchambers@lglawfirm.com

December 17, 2021

Ms. Laurie Gharis, MC-105
Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

VIA ELECTRONIC FILING

Re: Request for Contested Case Hearing and/or Request for Reconsideration of the Executive Director's Decision on Application for Proposed TPDES Permit No. WQ0015917001 (EPA I.D. No. TX0140546)
Applicant: Green Valley Special Utility District (CN600684294)
Site Name: Clearwater Creek Wastewater Treatment Plant (RN111093126)

Dear Ms. Gharis:

My client, the Cibolo Creek Municipal Authority ("**CCMA**"), hereby requests a contested case hearing and/or reconsideration of the Executive Director's decision regarding the above-referenced application ("**Application**") filed by Green Valley Special Utility District ("**GVSUD**") for a new Texas Pollutant Discharge Elimination System ("**TPDES**") permit and the associated draft TPDES Permit No. WQ0015917001 ("**Draft Permit**").

I. **BACKGROUND**

A. **Description of Facility**

In its Application, GVSUD requests authorization from the Texas Commission on Environmental Quality ("**TCEQ**") to discharge treated domestic wastewater at a daily average flow not to exceed 400,000 gallons per day ("**GPD**") at the proposed Clearwater Creek Wastewater Treatment Plant (the "**CCWWTP**"). The Draft Permit includes an Interim I phase with a daily average flow not to exceed 0.10 million gallons per day ("**MGD**"), an Interim II phase with a daily average flow not to exceed 0.20 MGD, and a Final phase with a daily average flow not to exceed 0.40 MGD. The CCWWTP is to be located at 4060 Stapper Road, Saint Hedwig, Bexar County, Texas 78152, and is intended to serve areas located in the extraterritorial jurisdiction ("**ETJ**") of the City of San Antonio and other outlying areas of Bexar County. If the Draft Permit is issued, the CCWWTP will be an activated sludge process plant operated in the extended aeration mode.

The proposed discharge route for the treated wastewater is from the site of the CCWWTP to Woman Hollering Creek (also known as Womans Hollow Creek),¹ thence to Martinez Creek in Segment No. 1902A of the San Antonio River Basin, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. Woman Hollering Creek is characterized by the TCEQ as an unclassified intermittent stream with perennial pools and presumed to have a limited aquatic life use and corresponding dissolved oxygen criteria. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 Texas Administrative Code (“*TAC*”) § 307.10) for Classified Segment No. 1902 are primary contact recreation, high aquatic life use, and 5.0 mg/L dissolved oxygen. Classified Segment Nos. 1902 and 1902A are currently listed on the 2020 Texas Integrated Report – Texas 303(d) List of impaired and threatened waters (the “*303(d) List*”) for bacteria in the water.

B. Procedural History

TCEQ received the Application on August 31, 2020, and the Executive Director (“*ED*”) declared it administratively complete on October 30, 2020. On November 13, 2020, GVSUD published the Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (“*NORI*”) in English in the *San Antonio Express-News* and the *Austin American-Statesman*. Then, on November 25, 2020, GVSUD published the *NORI* in Spanish in *Conexión*. An amended *NORI* was issued on April 30, 2021, revising the discharge route description and street address for the proposed CCWWTP and correcting the address for public viewing and copying of the Application. GVSUD published the amended *NORI* in English in the *San Antonio Express-News* and in Spanish in *Conexión* on May 12, 2021.

The Notice of Application and Preliminary Decision (“*NAPD*”), indicating that the ED had completed the technical review of the Application and prepared the Draft Permit, was issued on June 17, 2021. On June 30, 2021, GVSUD published the *NAPD* in English in the *San Antonio Express-News* and in Spanish in *Conexión*. Next, the ED issued a Notice of Public Meeting on August 3, 2021, which was published in the *San Antonio Express-News* on August 5, 2021. Pursuant to 30 TAC § 55.152(b), because such public meeting was held on September 14, 2021, the deadline to provide public comment on the Application and Draft Permit closed at the close of that meeting. CCMA timely filed public comments on July 30, 2021, and also participated in the informal discussion and formal comment phases of the September 14, 2021 public meeting. The ED filed his Response to Public Comment (“*RTC*”) on November 15, 2021, and notice of the ED’s final decision that the Application meets the requirements of applicable law was mailed on November 18, 2021. Therefore, this request is timely filed.

II. REQUEST FOR CONTESTED CASE HEARING

CCMA requests a contested case hearing based on the following relevant and material disputed issues of fact, all of which were raised by CCMA during the public comment period. In

¹ As demonstrated by the screenshot from TCEQ’s Location Mapper tool, included in the Public Comments, Request for Public Meeting, and Hearing Request timely filed by CCMA on July 30, 2021, which shows, according to the *NAPD*, “the exact location” of the CCWWTP, the correct name of the proposed receiving water is Woman Hollering Creek, not Womans Hollow Creek, as referred to in the *NORI*, Amended *NORI*, *NAPD*, and Application. As such, Woman Hollering Creek will be used throughout the remainder of this request.

support thereof, the Public Comments, Request for Public Meeting, and Hearing Request timely filed by CCMA on July 30, 2021 (the “**Public Comments**”), attached hereto as **Attachment A**, are reasserted and incorporated herein for all purposes.

A. Legal Standards and Requirements for Hearing Requests

In order to be granted, a contested case hearing request must (1) be filed by an affected person, and (2) comply with the applicable form and filing requirements set forth in the Texas Water Code (“**TWC**”) and TAC. Specifically, TCEQ “may not grant a request for a contested case hearing unless [it] determines that the request was filed by an affected person as defined by Section 5.115” of the TWC.² Procedurally, a contested case hearing request must also satisfy the conditions prescribed by TCEQ rules adopted in Title 30 TAC, Chapter 55.³

1. CCMA is an affected person.

For the purpose of an administrative hearing involving a contested matter, TWC § 5.115 defines an “affected person” as one “who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the administrative hearing.”⁴ Section 5.115 further clarifies that “[a]n interest common to members of the general public does not qualify as a personal justiciable interest.”⁵ As directed by the TWC, TCEQ has adopted rules specifying factors to be considered in determining whether a person is an affected person entitled to standing in a contested case hearing.⁶ Those rules specify that “all factors shall be considered,” including, but not limited to, the following:

- whether the interest claimed is one protected by the law under which the application will be considered;
- distance restrictions or other limitations imposed by law on the affected interest;
- whether a reasonable relationship exists between the interest claimed and the activity regulated;
- likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
- likely impact of the regulated activity on use of the impacted natural resource by the person;
- whether the requestor timely submitted comments on the application that were not withdrawn; and

² Tex. Water Code § 5.556.

³ 30 Tex. Admin. Code §§ 55.101, .201.

⁴ Tex. Water Code § 5.115; *accord* 30 Tex. Admin. Code § 55.203.

⁵ *Id.*

⁶ Tex. Water Code § 5.115; 30 Tex. Admin. Code § 55.203.

- for governmental entities, their statutory authority over or interest in the issues relevant to the application.⁷

Considering the factors enumerated above, CCMA is an “affected person” as such term is defined by TWC § 5.115:

- CCMA has an interest protected by the law under which the Application should have been considered and statutory authority over and interest in the issues relevant to the Application because TCEQ’s rules in 30 TAC, Chapter 351, Subchapter F designate CCMA as “the governmental entity to develop a regional sewerage system in that area of Cibolo Creek Watershed, in the vicinity of the cities of Cibolo, Schertz, Universal City, Selma, Bracken, and Randolph Air Force Base” (the “*Regional Area*”),⁸ and mandate that “[a]ll future permits and amendments to existing permits pertaining to discharges of domestic wastewater effluent within the [Regional Area] shall be issued only to [CCMA].”⁹
- As noted in the ED’s RTC, “TCEQ uses the threshold of three miles to determine if there is another entity in the vicinity that is willing and able to accept wastewater from a proposed facility to meet the regionalization requirement in accordance with TWC § 26.0282,”¹⁰ and, here, the proposed CCWWTP would be located less than 2.5 miles from CCMA’s existing regional wastewater treatment plant, known as the South Regional Water Reclamation Plant, permitted under TPDES Permit No. WQ0015334001).
- Though it is located approximately five (5) miles from the proposed CCWWTP, CCMA and the City of Schertz (the “*City*”) jointly own and operate the Woman Hollering Wastewater Treatment Facility under TPDES Permit No. WQ0015371001.¹¹ This existing permit authorizes the discharge of waste to Woman Hollering Creek, thence to Martinez Creek in Segment No. 1902A of the San Antonio River Basin, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin—the very same discharge route proposed by the Draft Permit. Because Classified Segment Nos. 1902 and 1902A are already listed on the 303(d) List for bacteria in the water, the authorization of an additional, unnecessary discharge into these Segments could degrade water quality therein. Thus, the proposed discharge is likely to impact CCMA and the City’s interest in the continued use of the proposed discharge route. That interest is not only protected by the law under which the

⁷ 30 Tex. Admin. Code § 55.203(c); accord Tex. Water Code § 5.115.

⁸ 30 Tex. Admin. Code § 351.62.

⁹ *Id.* § 351.65.

¹⁰ RTC at 19.

¹¹ See Tex. Loc. Gov’t Code § 572.011 (authorizing “[t]wo or more public entities that have the authority to engage in the collection, transportation, treatment, or disposal of sewage [to] join together as cotenants or co-owners to plan, finance, acquire, construct, own, operate, or maintain facilities to: (1) achieve economies of scale in providing essential . . . sewage systems to the public; (2) promote the orderly economic development of this state; and (3) provide environmentally sound protection of this state’s future . . . wastewater needs”).

Application should have been considered, but a reasonable relationship also exists between the interest and the proposed discharge.

- CCMA timely submitted comments on the Application that were not withdrawn.

2. The form and filing of this hearing request comply with all applicable procedural requirements.

TCEQ's procedural requirements for contested case hearing requests are set forth in 30 TAC § 55.201. Pursuant to that Section, a contested case hearing request must be (1) submitted in writing, (2) timely filed "no later than 30 days after the chief clerk mails (or otherwise transmits) the [ED]'s decision and response to comments," and (3) based on an issue or issues raised in the requestor's own timely filed, and not later withdrawn, public comments.¹² A hearing request must also:

- (1) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request;
- (2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
- (4) list all relevant and material disputed issues of fact that were raised by the requestor during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director's responses to the requestor's comments that the requestor disputes, the factual basis of the dispute, and list any disputed issues of law; and
- (5) provide any other information specified in the public notice of application.¹³

Here, this request complies with TCEQ's form and filing requirements for contested case hearing requests. As demonstrated in Section I.B, above, this request is timely filed. As noted in the above introduction to this Section II and described in more detail, herein, this request is based on CCMA's timely-filed written Public Comments and other oral public comments submitted at the September 14, 2021 public meeting. The required contact information for CCMA, for purposes of this request, is as follows:

¹² 30 Tex. Admin. Code § 55.201; *accord* Tex. Water Code § 5.115.

¹³ 30 Tex. Admin. Code § 55.201.

Maris M. Chambers
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
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Section II.A.1, above, identifies CCMA's personal justiciable interest affected by the Application, including a number of brief, but specific, written statements explaining CCMA's proximity to the proposed CCWWTP and how and why CCMA will be adversely affected by the proposed CCWWTP in a manner not common to members of the general public. An explicit request for a contested case hearing is contained, among other places, in the introductory paragraph of this Section II. Finally, Section II.B, below, lists the relevant and material disputed issues of fact raised by CCMA during the public comment period and specifies those of the ED's responses to public comment that CCMA disputes. Thus, CCMA has satisfied all of the procedural requirements for contested case hearing requests.

B. Contested Issues

This hearing request is based upon the following relevant and material disputed issues of fact raised in CCMA's Public Comments and the ED's disputed responses thereto.

1. The Application's proposed service area overlaps with the TCEQ-designated regional wastewater treatment provider's regional area under 30 TAC, Chapter 351, Subchapter F.

The Application and Draft Permit violate TCEQ's regulations in 30 TAC, Chapter 351, Subchapter F because it authorizes GVSUD to install a sewerage system within CCMA's TCEQ-designated regional wastewater treatment services area. Under TCEQ's rules, CCMA "is designated the governmental entity to develop a regional sewerage system in [the Regional Area],"¹⁴ and TCEQ is required to issue "[a]ll future permits and amendments to existing permits pertaining to discharges of domestic wastewater effluent within the [Regional Area] . . . only to [CCMA]."¹⁵ According to the Application, however, the service area for the proposed CCWWTP includes territory within the Regional Area. Specifically, the Application expressly and clearly admits that a portion of such service area extends into the corporate limits of the City.¹⁶ Thus, absent a special condition in the Draft Permit prohibiting GVSUD from treating wastewater originating from within the Regional Area, the Application violates both 30 TAC §§ 351.62 and 351.65. Therefore, TCEQ cannot issue the Draft Permit as proposed, pertaining to the discharge of domestic wastewater effluent within the Regional Area, to an entity other than CCMA.

¹⁴ *Id.* § 351.62.

¹⁵ *Id.* § 351.65.

¹⁶ Application Technical Reports at 21.

Further, the ED “has determined that GVSUD has complied with the regionalization policy” and “was not required to provide information regarding regional providers in its [A]pplication.”¹⁷ CCMA disputes those determinations. According to the RTC, the ED made such determinations on the basis that he “disagrees that the service area’s location is the appropriate method for determining if Chapter 351 applies.”¹⁸ Rather, as stated in the RTC, the ED interprets 30 TAC, Chapter 351, Subchapter F as indicating that “the location of the discharge point . . . determines if 30 TAC Chapter 351 applies, not the location of the proposed service area.”¹⁹ In applying that interpretation, the ED draws a distinction between the Mid Cibolo Creek watershed and the Lower Cibolo Creek watershed. He concludes that all of the areas used to define the scope of the Regional Area “discharge to the watershed of Mid Cibolo Creek,” whereas Woman Hollering Creek, the proposed receiving water for the discharges contemplated by the Application, “is in the watershed of Lower Cibolo Creek.”²⁰ It is unclear what the ED means by his statement that all of the areas within the Regional Area discharge into the Mid Cibolo Creek watershed as he does not provide any indication of the boundaries of the areas he refers to or of the Regional Area as a whole. Without a clear understanding as to the limits of the Regional Area, there is no way to determine whether the ED’s assertion that “[a]ll these areas discharge to the watershed of Mid Cibolo Creek” is accurate.²¹ Further, there is no reason to believe that the Mid Cibolo Creek watershed should be distinguished from the Lower Cibolo Creek watershed, and the ED does not provide one in the RTC. On the contrary, TCEQ’s regulations define the Regional Area by reference to the “Cibolo Creek Watershed” as a whole.²² Therefore, because the ED expressly states that the proposed discharge is in the Lower Cibolo Creek watershed, which is a part of the overall Cibolo Creek watershed defined as the Regional Area, he has implicitly acknowledged that the proposed discharge is in the Regional Area. Consequently, 30 TAC § 351.65 precludes TCEQ from issuing the Draft Permit to GVSUD because it “pertain[s] to discharges of domestic wastewater effluent within the [Regional Area],” and permits pertaining to such discharges may only be issued to CCMA.²³

Thus, the ED’s interpretation and application of 30 TAC, Chapter 351, Subchapter F improperly narrows the scope of CCMA’s authority as a regional wastewater treatment services provider. Even if it didn’t, however, the ED’s determination that GVSUD was not required to provide regionalization information related to Chapter 351 would preclude TCEQ from making an informed decision as to whether the Application satisfies the state’s regionalization policy, as implemented by TCEQ in designating CCMA as the regional provider. In other words, although the ED disagrees that this Application interferes with CCMA’s TCEQ-given authority to be the sole wastewater treatment services provider in the Regional Area, it could not have the information necessary to make that determination if GVSUD truly were not required to provide information regarding regional providers in its Application. Furthermore, and as discussed in more detail below, there is no basis for concluding that “GVSUD has complied with the regionalization policy”

¹⁷ RTC at 19.

¹⁸ *Id.* at 20.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² 30 Tex. Admin. Code § 351.61 – 62.

²³ *Id.* § 351.65.

when the administrative record lacks any evidence from GVSUD to demonstrate whether CCMA, under the ED's stated standard, "is willing and able to accept [and treat] wastewater from [the] proposed [service area]."²⁴

2. The Application fails to comply with the state's regionalization policy.

The Application does not meet TCEQ's requirements for TPDES permit issuance because GVSUD failed to provide sufficient information regarding regionalization. Further, if issued, the Draft Permit would violate the state's policy "to encourage and promote the development and use of regional and areawide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state."²⁵ As noted by the ED, in order to implement this regionalization policy, the "Domestic Wastewater Permit Application Technical Report requires information concerning need and regionalization for wastewater treatment plants."²⁶ Specifically, because "TCEQ uses the threshold of three miles to determine if there is another entity in the vicinity that is willing and able to accept wastewater from a proposed facility," TPDES permit applicants "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 has sufficient existing capacity to accept the additional wastewater."²⁷ If so, the application must contain documentation demonstrating consent or denial by the owner of such facilities to provide the service proposed by the application.²⁸ Further, if such an entity consents to provide service, the application must include a cost analysis justifying the need for the proposed facility.²⁹ Given the intended location of the CCWWTP and its proposed service area, such documentation should have been included in the Application, but it was not. Rather, applying the standard enumerated in the RTC, the Application lacks any evidence to demonstrate whether two neighboring entities with "wastewater treatment plant[s] or sewer collection lines within the area [have] sufficient existing capacity to accept the additional wastewater."³⁰ Therefore, the Application does not meet the requirements for permit issuance, and CCMA disputes the ED's determination that "GVSUD has complied with the regionalization policy."³¹ Furthermore, because the proposed CCWWTP is to be located within less than 2.5 miles of CCMA's existing regional wastewater treatment plant, and portions of the proposed service area for the CCWWTP are located within the City's corporate limits and sewer CCN, the Draft Permit, if issued, would violate the state's regionalization policy.

²⁴ RTC at 19 – 20.

²⁵ Tex. Water Code § 26.003; *see also id.* §§ 26.081, 26.0282; Instructions at 64.

²⁶ RTC at 19.

²⁷ *Id.*

²⁸ Instructions at 64 – 65.

²⁹ *Id.*; Technical Reports at 21 – 22.

³⁰ RTC at 19.

³¹ *Id.*

3. The Application fails to sufficiently demonstrate a need for the authorized discharge amount of 0.4 million gallons per day.

CCMA contends that the Application does not demonstrate a need for the proposed CCWWTP and that the Draft Permit, if issued, should not include the Final phase authorizing a daily average flow not to exceed 0.40 MGD. As noted by the ED, TWC § 26.0282 of the TWC provides that “in considering the issuance, amendment, or renewal of a permit to discharge waste, [TCEQ] may deny or alter the terms and conditions of the proposed permit, amendment, or renewal based on consideration of need.”³² To facilitate this consideration by TCEQ, Section 1 of Domestic Technical Report 1.1 requires a TPDES permit applicant to “[p]rovide a detailed discussion regarding the need for any phase(s) not currently permitted.”³³ Instead of providing the requisite “detailed discussion,” the Application states only: “This requested permit is proposed to support planned residential and commercial growth in GVSUD’s sewer CCN area. The current contract for service equates to 950 EDUs of service or 232,750 gpm.”³⁴ First, CCMA contends that 232,750 gallons per minute is not an accurate indication of the treated effluent likely to be generated by 950 EDUs, or equivalent dwelling units because that amount of wastewater is equivalent to a wastewater discharge of 335.16 MGD. Second, with a total proposed discharge of 0.233 MGD, the Application seeks an excessive amount of treatment capacity. Though the ED contends that “GVSUD provided additional information to justify the ultimate flow and detailed information regarding the number of connections,” no such information was included in the administrative record available to CCMA.³⁵ Consequently, CCMA cannot confirm the veracity of that statement and contends that a factual dispute exists as to whether GVSUD has demonstrated a need for the Final phase of the Draft Permit. Third, to the extent that any of the 0.4 MGD of wastewater treatment capacity is to be utilized from raw wastewater generated within the Regional Area or the sewer CCN area of Schertz, then such capacity is not needed because GVSUD cannot treat that wastewater; rather, such wastewater can only be treated by CCMA and retail wastewater service within Schertz’s sewer CCN boundaries can only be provided by Schertz. Thus, the Application does not demonstrate a need for the proposed CCWWTP; and the Draft Permit, if issued, should not include the Final phase.

4. The Application raises concerns that the proposed discharge will not be in compliance with the TCEQ’s antidegradation policy.

As indicated above, the Application and Draft Permit authorize the discharge of treated domestic wastewater from the proposed CCWWTP to Woman Hollering Creek, thence to Martinez Creek in Segment No. 1902A of the San Antonio River Basin, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 TAC § 307.10) for Classified Segment No. 1902 are primary contact recreation 1, high aquatic life use, and 5.0 mg/L dissolved oxygen. Segment Nos. 1902 and 1902A are also currently listed on the 303(d) List for bacteria in the water. Furthermore, these Segments are already subject to the discharge

³² *Id.*; Tex. Water Code § 26.0282.

³³ Technical Reports at 38.

³⁴ *Id.* at 21.

³⁵ RTC at 21.

from the Woman Hollering Wastewater Treatment Facility jointly owned and operated by CCMA and the City. Thus, CCMA has concerns that the discharge into Segment Nos. 1902 and 1902A, as proposed by the Draft Permit, would impact water quality in that watercourse and disputes the ED's contention that "[t]he effluent limits in the [D]raft [P]ermit have been calculated to maintain and protect the existing instream uses."³⁶ Further, because Classified Segment Nos. 1902 and 1902A are already listed on the 303(d) List for bacteria in the water, the authorization of an additional, unnecessary discharge into these Segments could degrade water quality therein. That interest is not only protected by the law under which the Application should have been considered, but a reasonable relationship also exists between the interest and the proposed discharge.

5. GVSUD lacks sufficient legal title and/or rights to land to own and operate the proposed CCWWTP.

The Application fails to meet the requirements for permit issuance because GVSUD lacks sufficient legal title and/or rights to land to own and operate the proposed CCWWTP. As evidenced by the Bexar Appraisal District reports attached to and incorporated in CCMA's Public Comments, GVSUD does not own the land at the address provided for the proposed CCWWTP.³⁷ Having provided such documentation to TCEQ, CCMA contests the ED's reliance on the fact that, according to the Application, it does.³⁸ In support of CCMA's contention that GVSUD lacks sufficient rights to the land where the proposed CCWWTP is to be located, attached hereto and incorporated herein for all purposes as **Attachment B** are updated Bexar Appraisal District reports (the "*Appraisal District Reports*") showing that GVSUD has not obtained ownership of the property at 4060 Stapper Road in the time since CCMA filed its Public Comments on July 30, 2021. Furthermore, the disputed issue of whether GVSUD has sufficient rights to the land where the CCWWTP is to be located is relevant and material to the determination of whether GVSUD can, as indicated in its Application, satisfy buffer zone compliance requirements through ownership, which is relevant to whether the Application meets the requirements for permit issuance.

6. The Application does not contain a map clearly identifying the proposed service area for the CCWWTP.

CCMA disputes the ED's contention that "GVSUD was not required to describe the area it will serve or include a map of the service area."³⁹ On the contrary, the Instructions direct TPDES applicants like GVSUD to "[p]rovide a site drawing . . . that shows the boundaries of the treatment facility and the area served by the treatment facility,"⁴⁰ and the Technical Reports state that such applicants must "[p]rovide a site drawing for the facility that shows . . . [t]he boundaries of the area served by the treatment facility."⁴¹ However, it is uncertain whether GVSUD has provided the ED with such a map because the "Clearwater Creek WWTP Area Map" included in the

³⁶ *Id.* at 13.

³⁷ Public Comments at 7.

³⁸ RTC at 26 – 27.

³⁹ *Id.* at 21.

⁴⁰ Instructions at 51.

⁴¹ Technical Reports at 3.

Application as “Attachment B: Site Drawing” depicts only the “Clearwater Creek Sewershed” and does not indicate whether or how that sewershed relates to the proposed service area. Therefore, there is reason to doubt “the merits of the underlying application and supporting documentation in [TCEQ]’s administrative record” and “whether the [A]pplication meets the requirements for permit issuance.”⁴² Further, there is reason to question “the analysis and opinions of the [ED],” which may be based upon GVSUD’s incomplete Application.⁴³

7. The Application lacks the requisite Sewage Sludge Solids Management Plan.

CCMA disputes the ED’s contention that “[f]or all new permit applications, the applicant has the option to identify the name and permit number of the disposal site after the draft permit is issued” and that “GVSUD may wait until it needs to dispose of the sludge before determining the method of sludge disposal, contracting with a hauler and disposal site.”⁴⁴ On the contrary, the Instructions state:

If sewage sludge is transported to another wastewater treatment facility or permitted sludge processing facility for further treatment, provide a written statement or a copy of contractual agreements confirming that the identified wastewater treatment facility will accept the sludge. . . . If a statement or contract is not provided, authorization for disposal of sewage sludge will not be included in a permit. . . . Provide detailed information for **each** disposal site. The information must include the name of the site, the site’s permit or registration number, and the county in which each disposal site is located. . . . Provide the method used to transport the sludge to the disposal site. The hauler’s sludge transporter registration number must also be provided, if applicable. Check whether the sludge is hauled in liquid, semi-liquid, semi-solid, or solid form.⁴⁵

Further, none of the language in Domestic Technical Report 1.0, Section 9, which requires a TPDES permit applicant to select the anticipated sludge disposal method and provide sludge disposal site information, including the disposal site name, permit or registration number, and disposal site’s county, suggests such requirements are optional.⁴⁶ The ED’s RTC also fails to address CCMA’s timely submitted public comment indicating that GVSUD has also failed to comply with TCEQ’s requirement to provide a copy of the contractual agreements demonstrating that the receiving facility will accept the sludge.⁴⁷ Because it lacks the required sludge-related information and documentation, there is reason to doubt “the merits of the underlying application and supporting documentation in [TCEQ]’s administrative record” and “whether the [A]pplication meets the requirements for permit issuance.”⁴⁸ Further, there is reason to question “the analysis

⁴² 30 Tex. Admin. Code § 55.203.

⁴³ *Id.*

⁴⁴ RTC at 27.

⁴⁵ Instructions at 59 (emphasis in original).

⁴⁶ Application Technical Reports at 12 – 13.

⁴⁷ *Id.* at 13; Public Comments at 9.

⁴⁸ 30 Tex. Admin. Code § 55.203.

and opinions of the [ED],” which may be based upon an incomplete application.⁴⁹

8. The Application lacks the requisite original photographs.

Under the Instructions, TPDES permit applicants “must” submit “[a]t least one photograph of the new . . . treatment unit(s) location.”⁵⁰ This requirement is implemented by Section 2 of the Administrative Report, which requires “[a]t least one original photograph of the new . . . treatment unit location.”⁵¹ TCEQ regulations define a treatment unit as any “component of a wastewater treatment facility.”⁵² Therefore, CCMA disputes the ED’s contention that “GVSUD complied with this requirement.”⁵³ The Application and supporting documents made available to CCMA do not contain an original photograph of the proposed location for the CCWWTP. Consequently, there is reason to doubt “the merits of the underlying [A]pplication and supporting documentation in [TCEQ]’s administrative record,” and “whether the [A]pplication meets the requirements for permit issuance,”⁵⁴ which indicates that there is reason to question the “the analysis and opinions of the [ED]” to the extent they are based on an incomplete application.⁵⁵

9. The Application is inconsistent as to whether GVSUD has an approved pretreatment program under 40 CFR Part 403.

In Domestic Technical Report 1.0, GVSUD indicates it does not have an approved pretreatment program,⁵⁶ but GVSUD’s answer to the first question in Section D of Domestic Worksheet 6.0 indicates otherwise.⁵⁷ Nevertheless, the RTC provides that, “[a]ccording to the [ED]’s review[,] GVSUD’s [A]pplication does not contain any inconstant [sic] information regarding whether GVSUD has an approved pretreatment program.”⁵⁸ The RTC further states that “[d]uring technical review the [ED] confirmed that GVSUD does not require a pretreatment program.”⁵⁹ The Application and supporting documents made available to CCMA do not support that contention, and no such documentation was cited or produced by the ED. Without clarity as to whether GVSUD has an approved pretreatment program, it is impossible to determine whether it should have completed Domestic Worksheets 4.0, 5.0, or some portion thereof, in addition to completing Domestic Worksheet 6.0. As such, there is reason to doubt “the merits of the underlying application and supporting documentation in [TCEQ]’s administrative record” and “whether the [A]pplication meets the requirements for permit issuance.”⁶⁰ Consequently, there is reason to question “the analysis and opinions of the [ED],” which may be based upon an incomplete application.⁶¹

⁴⁹ *Id.*

⁵⁰ Instructions at 43.

⁵¹ Administrative Report at 14.

⁵² 30 Tex. Admin. Code § 217.2.

⁵³ RTC at 17.

⁵⁴ 30 Tex. Admin. Code § 55.203.

⁵⁵ *Id.*

⁵⁶ Technical Reports at 7.

⁵⁷ *Id.* at 69.

⁵⁸ RTC at 27.

⁵⁹ *Id.*

⁶⁰ 30 Tex. Admin. Code § 55.203.

⁶¹ *Id.*

10. The Application fails to provide proof of a sufficient buffer zone compliance method.

Section 3 of Domestic Administrative Report 1.1 requires a TPDES permit applicant to “indicate how the buffer zone requirements [of 30 TAC § 309.13(e)] will be met.”⁶² The Instructions further specify that “[t]he buffer zone, either 150 or 500 feet from the treatment units . . . can be met by ownership, legal restrictions preventing residential structures within the buffer zone, an approved nuisance odor prevention plan, or a variance to the buffer zone.”⁶³ GVSUD indicated it would satisfy the buffer zone requirements through ownership,⁶⁴ but as explained in more detail in Section II.B.5, above, GVSUD possesses no ownership interest nor legal right sufficient to comply with the requirements of 30 TAC § 309.13(e). As evidenced by the Appraisal District Reports included in **Attachment B**, GVSUD does not own the land at the address provided for the proposed CCWWTP. Specifically, the Instructions indicate that “[o]wnership means that the applicant owns all the land surrounding the treatment units that fall within the buffer zone,”⁶⁵ which GVSUD does not. Furthermore, 30 TAC § 309.13(e) provides that “wastewater treatment plant units may not be located closer than 150 feet to the nearest property line.” As shown on the maps included in the Application, GVSUD’s proposed 150-foot buffer zone is rectangular. That does not properly buffer a 150-foot radius around the proposed facility. In any case, the maps depict the buffer zone extending beyond the boundary of the proposed location for the CCWWTP. Having provided documentation demonstrating GVSUD lacks the ownership rights to select ownership as the method of buffer zone compliance, CCMA contests the ED’s reliance on the fact that, “[a]ccording to GVSUD[,] it will own the required buffer zone.”⁶⁶ As such, there is reason to doubt “the merits of the underlying application and supporting documentation in [TCEQ]’s administrative record” and “whether the [A]pplication meets the requirements for permit issuance.”⁶⁷ Further, there is reason to question “the analysis and opinions of the [ED],” which may be based upon an incomplete application.⁶⁸

11. Nuisance Odors.

In addition to the buffer zone issues described above, an additional, unneeded treatment and disposal facility, if not operated properly, may result in nuisance odors that will adversely affect the quality of life of nearby residents and the public. In accordance with 30 TAC § 309.13(e), the applicant must demonstrate that sufficient measures to prevent nuisance odors will be undertaken. This is recognized by the ED in the RTC, which states that “30 TAC § 309.13(e) requires domestic wastewater treatment facilities to meet buffer zone requirements for the abatement and control of nuisance odors.”⁶⁹ Nevertheless, the ED contends that “[b]ecause GVSUD owns the buffer zone, nuisance odor is not expected to occur as a result of the permitted activities at the [proposed CCWWTP].”⁷⁰ Again, the Application fails to demonstrate that

⁶² Administrative Report at 14.

⁶³ Instructions at 43.

⁶⁴ Administrative Report at 14.

⁶⁵ Instructions at 43.

⁶⁶ RTC at 23.

⁶⁷ 30 Tex. Admin. Code § 55.203.

⁶⁸ *Id.*

⁶⁹ RTC at 23.

⁷⁰ *Id.* at 27.

GVSUD has met the buffer zone requirements, as explained in more detail in Sections II.B.5 and II.B.10, above, so it also fails to demonstrate that nuisance odors will be controlled. It is not in the public interest to issue a new discharge authorization that may result in nuisance odors when regionalized wastewater services are available, particularly when nearby schools are located within the three-mile radius of the proposed CCWWTP. This is especially true given that CCMA has submitted documentation calling into question GVSUD's ability to implement the buffer zone compliance method identified in the Application. As such, there is reason to doubt "the merits of the underlying application and supporting documentation in [TCEQ]'s administrative record," and "whether the [A]pplication meets the requirements for permit issuance,"⁷¹ meaning there is also reason to question the "the analysis and opinions of the [ED]."⁷²

Given the above-cited relevant and material disputed issues of fact and ED responses to CCMA's Public Comments, CCMA requests a contested case hearing concerning the Application and Draft Permit.

III. REQUEST FOR RECONSIDERATION

As noted above, CCMA requests that the ED reconsider its decision to grant the Application and issue the Draft Permit. In the alternative, CCMA requests that the ED reconsider the current terms of the Draft Permit and add a requirement in the "Other Conditions" Section stating that:

"Permittee shall not utilize this TPDES Permit in any manner that violates TCEQ's regionalization rules in 30 TAC, Chapter 351, Subchapter F, including, but not limited to, developing, operating, and/or maintaining a sewerage system in the regional area established under 30 TAC § 351.61."

Under TCEQ's rules, "[a] request for reconsideration . . . must be filed no later than 30 days after the chief clerk mails (or otherwise transmits) the executive director's decision and response to comments."⁷³ Unlike a contested case hearing request, which must be filed by an affected person, "[a]ny person, other than a state agency that is prohibited by law from contesting the issuance of a permit or license . . . may file a request for reconsideration of the [ED]'s decision."⁷⁴ Such a request "must be in writing" and filed "with the chief clerk within the [30-day] time" noted above.⁷⁵ Like a contested case hearing request, a request for reconsideration "should also contain the name, address, daytime telephone number, and, where possible, fax number of the person who files the request."⁷⁶ The request must also "expressly state that the person is requesting reconsideration of the [ED]'s decision, and give reasons why the decision should be reconsidered."

⁷¹ 30 Tex. Admin. Code § 55.203.

⁷² *Id.*

⁷³ *Id.* § 55.201(a).

⁷⁴ *Id.* § 55.201(e).

⁷⁵ *Id.*

⁷⁶ *Id.*

December 17, 2021

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This request complies with TCEQ's form and filing requirements for requests for reconsideration of the ED's decision. This request is timely filed. It includes CCMA's contact information and states that CCMA is requesting reconsideration of the ED's decision. Finally, CCMA incorporates the relevant and material disputed issues of fact and ED responses to CCMA's Public Comments, included in Section II.B, above, into this Section III as the reason why the ED's decision to grant the Application and issue the Draft Permit should be reconsidered. The proposed Other Condition above, if added, would recognize and memorialize that the CCWWTP cannot be used to develop a sewerage system within the CCMA Regional Area.

IV. CONCLUSION

CCMA appreciates TCEQ's consideration of this request, and for the foregoing reasons, respectfully requests that TCEQ either deny the Application or grant this request for a contested case hearing and/or reconsideration of the ED's decision regarding the Application and Draft Permit. Should you have any questions or concerns related hereto, please feel free to contact me using the information provided above.

Sincerely,



Maris M. Chambers

MMC/dsr
Enclosures

cc: Richard Braud, President, Board of Directors, Cibolo Creek Municipal Authority
Clint Ellis, General Manager, Cibolo Creek Municipal Authority

Attachment A

The "*Public Comments*"

Ms. Chambers' Direct Line: (512) 322-5804
Email: mchambers@lglawfirm.com

July 30, 2021

Ms. Laurie Gharis, MC-105
Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

**VIA ELECTRONIC FILING AND
FIRST CLASS MAIL**

Re: Public Comments, Request for Public Meeting, and Hearing Request
Application for Proposed TPDES Permit No. WQ0015917001
(EPA I.D. No. TX0140546)
Applicant: Green Valley Special Utility District (CN600684294)
Site Name: Clearwater Creek Wastewater Treatment Plant (RN111093126)

Dear Ms. Gharis:

Cibolo Creek Municipal Authority ("**CCMA**"), my client, hereby submits this letter to the Texas Commission on Environmental Quality ("**TCEQ**"), providing formal public comments and requesting a public meeting and contested case hearing regarding the above-referenced application ("**Application**") of Green Valley Special Utility District ("**GVSUD**") for a new Texas Pollutant Discharge Elimination System ("**TPDES**") permit, and the proposed draft permit for such Application ("**Draft Permit**"). These comments are timely filed.

I represent CCMA regarding the Application and Draft Permit. Please include me on the TCEQ's mailing list for all filings in the above-referenced Application. My mailing/contact information is as follows:

Ms. Maris M. Chambers
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
mchambers@lglawfirm.com
Phone: (512) 322-5804
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I. BACKGROUND

In its Application, GVSUD requests authorization from the TCEQ to discharge treated domestic wastewater at a daily average flow not to exceed 400,000 gallons per day (“*GPD*”) at the proposed Clearwater Creek Wastewater Treatment Plant (the “*CCWWTP*”). The CCWWTP is to be located in Bexar County, Texas, and the proposed discharge route for the treated wastewater is from the plant site to Womans Hollow Creek,¹ thence to Martinez Creek, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 Texas Administrative Code (“*TAC*”) § 307.10) for Classified Segment No. 1902 are primary contact recreation, high aquatic life use, and 5.0 mg/L dissolved oxygen. Classified Segment No. 1902 is currently listed on the 2020 Texas Integrated Report – Texas 303(d) List of impaired and threatened waters (the “*303(d) List*”). The listings are for bacteria in the water from the confluence with the San Antonio River in Karnes County to a point 100 meters (110 yards) downstream of IH 10 in Bexar/Guadalupe County.

The Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (“*NORI*”) was issued on October 30, 2020 and published on November 13, 2020. An amended NORI was issued on April 30, 2021 and published on May 12, 2021. The Notice of Application and Preliminary Decision (“*NAPD*”) was issued on June 17, 2021 and published on June 30, 2021. Pursuant to 30 TAC § 55.152(a), the current deadline to file public comments regarding the Application and Draft Permit is July 30, 2021. To this end, presented below are CCMA’s timely filed public comments raising significant disputed issues of fact that are relevant and material to the TCEQ’s decision on the Application and are the basis for CCMA’s request for a public meeting, and contested case hearing, should the Application not be remanded back to technical review and/or denied.

CCMA requests that the TCEQ deny the Application because GVSUD has not provided all of the information required in TCEQ application forms TCEQ-10053 (06/25/2018) Municipal Wastewater Application Administrative Report (“*Administrative Report*”) and TCEQ-10054 (06/01/2017) Domestic Wastewater Permit Application, Technical Reports (“*Technical Reports*”). In addition, the Application and Draft Permit fail to: (1) meet regionalization requirements; (2) demonstrate a need for the Final phase of the Draft Permit; (3) satisfy water quality, antidegradation, and stream standard requirements; and (4) include other information and documentation required by TCEQ form TCEQ-10053ins (06/25/2018) Instructions for Completing the Domestic Wastewater Permit Application (“*Instructions*”).

II. PUBLIC COMMENTS

CCMA asserts that the Application and Draft Permit should be denied because the Application does not meet applicable statutory and regulatory requirements for a TPDES permit application, the Draft Permit fails to meet Texas Water Code (“*TWC*”), Chapter 26, and the

¹ As demonstrated by the screenshot from TCEQ’s Location Mapper tool, attached hereto and incorporated herein for all purposes as **Attachment A**, which shows, according to the NAPD, “the exact location” of the CCWWTP, the correct name of the proposed receiving water is Woman Hollering Creek, not Womans Hollow Creek, as referred to in the NORI, Amended NORI, NAPD, and Application.

TCEQ's regionalization requirements for wastewater treatment plants ("*WWTPs*"), and GVSUD has not demonstrated a need for the CCWWTP. CCMA further maintains that the Application and Draft Permit should not be granted because (i) they do not adequately protect against the CCWWTP's negative impacts on water quality, antidegradation, and stream standards; (ii) GVSUD has not secured ownership/possession of the real property interests necessary to properly construct and operate the CCWWTP; and (iii) the Application fails to include other required elements, such as a sufficient Sewage Sludge Solids Management Plan, map of the proposed service area, and the requisite original photograph of the proposed location for the CCWWTP. In addition, the Application and Draft Permit should be denied due to nuisance odors that will result from the permitting of the CCWWTP, especially given GVSUD's failure to satisfy all buffer zone requirements. Finally, the Application is incomplete given that GVSUD asserts that it has an approved pretreatment program.

A. A designated regional wastewater treatment provider is available to GVSUD under 30 TAC, Chapter 351, Subchapter F.

The Application and Draft Permit violate applicable regulatory requirements prohibiting GVSUD from providing wastewater treatment services within CCMA's TCEQ-designated regional wastewater service area. Under 30 TAC § 351.62, CCMA is "designated **the** governmental entity to develop a regional sewerage system in that area of Cibolo Creek Watershed, in the vicinity of the cities of Cibolo, **Schertz**, Universal City, Selma, Bracken, and Randolph Air Force Base." (Emphasis added). Further, 30 TAC § 351.65 reads as follows: "All future permits and amendments to existing permits pertaining to discharges of domestic wastewater effluent within the Cibolo Creek regional area **shall be issued only to [CCMA].**" (Emphasis added).

Although the Application does not contain any maps depicting the boundaries of the proposed service area of the CCWWTP, it does indicate that a portion of said service area is located within the corporate limits of the City of Schertz (the "*City*").² Because a significant portion of the City's corporate limits and extraterritorial jurisdiction are included within CCMA's service area—in addition to the fact that the City purchases wholesale wastewater service from CCMA and is named under 30 TAC § 351.62—CCMA is concerned that the Draft Permit authorizes GVSUD to provide service within the service area designated exclusively to CCMA. However, because GVSUD failed to provide a map of its proposed service area, CCMA cannot determine whether said service area overlaps with its own. Nevertheless, given the significant overlap of the City's corporate boundaries and CCMA's service area, CCMA believes it is more likely than not that GVSUD's proposed service area would infringe upon its own. Therefore, given the high likelihood that the Draft Permit authorizes the provision of service within CCMA's TCEQ-designated wastewater service area, the Application and Draft Permit very likely violate the TCEQ's regionalization regulations. Further, as discussed in more detail below, the contents of the Application and Draft Permit indicate that neither the Application nor its processing by TCEQ evaluated or assessed whether issuance of the Draft Permit would violate 30 TAC § 351.62 and/or 30 TAC § 351.65.

² Application Technical Reports at 21.

B. The Application fails to comply with the State's regionalization policy.

The TCEQ is required to implement the State's policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.³ In order to implement this regionalization policy, Section 1.B of the TCEQ's TPDES permit application form Domestic Technical Report 1.1 contains three questions related to the potential for regionalization of WWTPs, each tailored to address the question of whether existing nearby wastewater treatment facilities and/or collection systems could provide service to the service area proposed in the TPDES permit application.⁴ All three regionalization questions in Section 1.B are relevant to GVSUD's Application, and GVSUD has failed to complete the regionalization analysis and process in each instance. The TCEQ's issuance of the Draft Permit also demonstrates that this issue was not taken into consideration when it processed the Application.

For Section 1.B.1, the Instructions require non-city applicants to "indicate if any portion of the proposed service area is located in an incorporated city," and, if so, to "provide correspondence" demonstrating "consent to provide service or denial to provide service from the city."⁵ If the nearby city consents to provide service, the applicant must provide a cost analysis justifying the need for the proposed facility.⁶ The Application, received August 31, 2020, indicates that "City responses are pending,"⁷ but it is CCMA's understanding and belief that the City did respond to GVSUD. Therefore, because GVSUD never supplemented the Application to include the City's response(s), the TCEQ was rendered unable to take into consideration whether or not the City had the willingness and ability to provide service to the proposed service area of the CCWWTP under its wholesale agreement with CCMA. CCMA further understands and believes that, in its communications with GVSUD, the City requested that GVSUD clarify the location of the proposed service area, but GVSUD never provided such information. CCMA therefore contends that, based upon the Application, the processing of the Application, and the Draft Permit, the applicable regionalization analysis was never completed by GVSUD or taken into consideration by the TCEQ. Consequently, the Application and Draft Permit should be denied.

Similarly, Section 1.B.2 requires applicants to "[i]ndicate if any portion of the proposed service area is inside another utility's sewer Certificate of Convenience and Necessity [("CCN")] area."⁸ Here too, if the answer is yes, then the applicant must "provide justification and a cost analysis of expenditures that shows the cost of connecting to the CCN facilities versus the cost of the proposed facility or expansion."⁹ While GVSUD correctly indicated that a portion of the proposed service area is located within the City's corporate limits, it denies that said portion falls inside the City's sewer CCN service area.¹⁰ CCMA believes that this denial is incorrect. Again,

³ TWC § 26.081(a); *see also* TWC §§ 26.003, 26.0282; Instructions at 64.

⁴ Application Technical Reports at 21 – 22.

⁵ Instructions at 64.

⁶ *Id.*

⁷ Application Technical Reports at 21.

⁸ *Id.* at 22.

⁹ *Id.*

¹⁰ *Id.*

GVSUD failed to include the boundaries of the service area proposed to be served by the CCWWTP, as required by Domestic Technical Report 1.0. Rather, in its Application, GVSUD has only provided the “Clearwater Creek WWTP Area Map,” included in Attachment I, which depicts the “Clearwater Creek Sewershed” (the “*Sewershed Map*”). To the extent it is relevant to the proposed service area of the CCWWTP, attached hereto and incorporated herein for all purposes is **Attachment B**, which contains small and large scale maps of the City’s sewer CCN No. 20271. When compared to GVSUD’s Sewershed Map, it is clear that the sewershed depicted for the CCWWTP extends into the boundaries of the City’s sewer CCN. Significantly for CCMA, the overlapping areas of the City’s sewer CCN and the proposed sewershed are part of CCMA’s regional service area. In any case, given that it includes portions of the City’s sewer CCN service area, if GVSUD intends the CCWWTP to serve its entire sewershed, then GVSUD was required to justify the need for the CCWWTP based on a cost analysis included with the Application. It did not do so. Therefore, based upon the Application, the processing of the Application, and the Draft Permit, the potential overlap and applicable regionalization analysis was never taken into consideration by GVSUD or the TCEQ. Consequently, the Application and Draft Permit should be denied.

Finally, Section 1.B.3, concerns the existence of permitted domestic WWTPs or sanitary sewer collection systems located within a three-mile radius of the proposed wastewater treatment facility.¹¹ If such facilities exist, the applicant is, again, required to indicate, and provide supporting documentation, regarding any such neighboring utilities’ responses to mandatory correspondence from the applicant regarding wastewater service for the proposed service area.¹² Just as with Sections 1.B.1 and 1.B.2, if any of the nearby utilities consent to provide service, the applicant must provide a justification for the proposed facility and a comparison of the costs to construct it against those to connect to the applicable existing facility.¹³ While GVSUD properly disclosed the existence of nearby facilities, it indicated that no such facilities “have the capacity to accept or are willing to expand to accept the volume of wastewater proposed in [the Application].”¹⁴ As explained above, that is not accurate given the nature of the City’s communications with GVSUD, but that is also the case with regard to the communications between CCMA and GVSUD. Like the City, CCMA asked GVSUD to provide the location of the proposed service area, and it never received a direct, specific answer, obstructing the regionalization analysis. Thus, based upon the Application, the processing of the Application, and the Draft Permit, this applicable regionalization analysis was never taken into consideration. Consequently, the Application and Draft Permit should be denied.

C. The Application fails to sufficiently demonstrate need for the authorized discharge amount of 0.4 million gallons per day.

CCMA contends that the Application and Draft Permit should be denied because the Final Phase of the proposed CCWWTP is not needed. In conjunction with the TCEQ’s regionalization policy, Section 1 of Domestic Technical Report 1.1 requires a TPDES permit applicant to

¹¹ Instructions at 65; Application Technical Reports at 22.

¹² *Id.*

¹³ *Id.*

¹⁴ Application Technical Reports at 22.

“[p]rovide a detailed discussion regarding the need for any phase(s) not currently permitted.”¹⁵
The Instructions further clarify this requirement, stating:

Provide justification for the proposed flows . . . Provide an anticipated construction start date and operation schedule for each phase being proposed. If construction is dependent upon housing/commercial development, provide information from the developer. Provide information such as the size of the development (number of lots), the date construction on the development is scheduled to begin, and the anticipated growth rate of the development (number of houses per month or year). . . . If additional space is needed, submit the justification information as an attachment.

Attach population estimates and/or projections used to derive the flow estimates and anticipated growth rates for developments. Provide the source and basis upon which population figures were derived (census and/or other methodology). Also, provide population projections at the end of the design life of the treatment facility (usually 50+ years) and the source and basis upon which population figures were derived.¹⁶

Per the Instructions, “[f]ailure to provide sufficient justification for the continued need for the permit and/or each proposed phase may result in a recommendation for denial of the application or proposed phases.”¹⁷

Here, instead of providing the requisite “detailed discussion” outlined above, the Application merely states:

This requested permit is proposed to support planned residential and commercial growth in GVSUD’s sewer CCN area. GVSUD holds sewer CCN for proposed service area. The current contract for service equates to 950 EDUs of service or 232,750 gpm.¹⁸

First, CCMA contends that 232,750 gallons per minute is not an accurate indication of the treated effluent likely to be generated by 950 EDUs, or equivalent dwelling units. That amount of wastewater is equivalent to a wastewater discharge of 335.16 million gallons per day (“*MGD*”). Rather, CCMA asserts that GVSUD only intends to have a flow of 232,750 GPD (0.232750 MGD).

Second, with a total proposed discharge of 0.233 MGD, the Application seeks an excessive amount of treatment capacity. Thus, the Application does not demonstrate the need for the Draft Permit’s Final Phase authorization to discharge up to 0.4 MGD of treated effluent, and the Application and Draft Permit, as proposed, should be denied.

¹⁵ *Id.* at 21.

¹⁶ Instructions at 64.

¹⁷ *Id.*

¹⁸ Application Technical Reports at 21.

D. The Application raises concerns that the proposed discharge will not be in compliance with the TCEQ's antidegradation policy.

As indicated above, the Application and Draft Permit authorize the discharge of treated domestic wastewater from the proposed CCWWTP to Womans Hollow Creek, thence to Martinez Creek, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 TAC § 307.10) for Classified Segment No. 1902 are primary contact recreation 1, high aquatic life use, and 5.0 mg/L dissolved oxygen. Segment No. 1902 is also currently listed on the 303(d) List for bacteria in the water. Thus, CCMA has concerns that the discharge into Segment No. 1902, as proposed by the Draft Permit, would impact water quality in that watercourse.

Specifically, the Application and Draft Permit raise concerns with CCMA that the proposed discharge will neither be in compliance with the TCEQ's antidegradation policy nor maintain its current stream standard. Pursuant to 30 TAC § 307.5, the proposed discharge is subject to that antidegradation policy and implementation procedures under Tier 1 and Tier 2. Therefore, before approving the Application, the Commission must ensure that antidegradation will not occur as a result of the proposed discharge. Additionally, because Segment No. 1902 is an impaired water body on the TCEQ's 303(d) List, the proposed discharge may unnecessarily further downgrade the segment's water quality if statutory and regulatory requirements for antidegradation and stream standards are not met. Thus, due to these additional concerns, the Application and Draft Permit, as presented, should be denied.

Furthermore, the Application describes the unclassified Womans Hollow Creek as a "Wet Weather Creek,"¹⁹ despite containing information suggesting it may be intermittent or intermittent with perennial pools, stating that it is a "[s]low shallow running creek with perennial pools."²⁰ The Application also indicates that no perennial streams join the receiving water within three miles downstream of the discharge point.²¹ Martinez Creek, however, which is joined by Womans Hollow Creek less than three miles downstream of the discharge point, is included on the 303(d) List as Segment No. 1902A and described as a "[p]erennial stream."²² As such, the effluent set proposed in the Draft Permit may be based on an incorrect stream characterization and inconsistent with state and federal regulations.

E. GVSUD lacks sufficient legal title and/or rights to land to own and operate the proposed CCWWTP.

In addition to the foregoing bases for denying the Application, CCMA believes that the Application is deficient because it does not establish—and GVSUD cannot establish—that it holds sufficient legal rights to real property necessary to own and operate the CCWWTP. As evidenced by the Bexar Appraisal District reports attached hereto and incorporated herein for all purposes as

¹⁹ *Id.* at 30.

²⁰ *Id.* at 31.

²¹ *Id.* at 30.

²² Tex. Comm'n on Env'tl. Quality, *2020 Texas Integrated Report - Texas 303(d) List 88* (2020), www.tceq.texas.gov/waterquality/assessment/20twqi/20txir.

Attachment C, GVSUD does not own the land at the address provided for the proposed CCWWTP. However, pursuant to the Instructions:

If the owner of the land is not the same as the applicant, a long-term lease agreement for the life of the facility must be provided. A lease agreement can only be submitted if the facility is not a fixture of the land (e.g., above-ground package plant). . . . If the facility is considered a fixture of the land (e.g., ponds, units half-way in the ground), there are two options. The owner of the land can apply for the permit as a co-applicant or a copy of an executed deed recorded easement must be provided. A long-term lease agreement is not sufficient if the facility is considered a fixture of the land.

Both the long-term lease agreement and the deed recorded easement must give the facility owner sufficient rights to the land for the operation of the facility.”²³

In its Application, GVSUD incorrectly indicated that it owns the land where the CCWWTP will be located,²⁴ and the third page of TCEQ’s “Checklist for Admin Review of Municipal Application for Permit,” attached hereto and incorporated herein for all purposes as **Attachment D**, demonstrates that TCEQ relied upon that assertion in reviewing the Application. However, GVSUD is not the owner of the land where the proposed CCWWTP will be located, and it has not provided the TCEQ with any document demonstrating ownership or a long-term lease agreement. As such, GVSUD has failed to demonstrate that it possesses sufficient rights to the land for the operation of the proposed CCWWTP.

F. The Application contains a number of additional deficiencies.

After a careful review of the Application, CCMA believes that the Application has the following additional deficiencies, and that due to these deficiencies, the Application and Draft Permit should be denied:

1. **Service Area Map.** The Application does not contain a map clearly identifying the proposed service area for the CCWWTP. As noted briefly above, TCEQ requires GVSUD to provide a map showing the “boundaries of the area served by the treatment facility.”²⁵ However, it is uncertain whether GVSUD has provided such map. If the map provided by GVSUD in the Application to address this requirement is the Sewershed Map, showing the CCWWTP’s proposed sewershed, then GVSUD’s proposed service area boundaries are unclear; otherwise, the Application is lacking this important, required piece of information. In either case, the Sewershed Map does not indicate whether the CCWWTP is intended to serve the entire sewershed shown thereon, a portion of which extends into the City’s sewer CCN service area and the regional service area of CCMA.
2. **Sewage Sludge Solids Management Plan.** In Domestic Technical Report 1.0, Section 9, the TCEQ requires the applicant to select the anticipated sludge disposal method and

²³ Instructions at 33.

²⁴ Application Administrative Report at 8.

²⁵ *Id.* at 11.

provide sludge disposal site information, including the disposal site name, permit or registration number, and disposal site's county.²⁶ Section 9 also requires the applicant to indicate the method of transportation, hauler name, and hauler registration number.²⁷ In response, GVSUD did not provide most of this information, instead stating that the information is to be determined and admitting that neither a sludge disposal site nor hauler has been selected.²⁸ GVSUD also has not complied with the TCEQ's requirement to provide a copy of the contractual agreements demonstrating that the receiving facility will accept the sludge.²⁹ GVSUD's failure to identify a method for sludge disposal creates another deficiency in the Application and indicates that GVSUD's operation of the CCWWTP will not comply with federal and state requirements.

3. **Original Photographs.** The Application does not contain an original photograph of the proposed location for the CCWWTP, and thereby violates the Instructions, which indicate that applicants "must" submit "[a]t least one photograph of the new . . . treatment unit(s) location."³⁰
4. **Pretreatment Program.** The Application is inconsistent as to whether GVSUD has an approved pretreatment program under 40 CFR Part 403. In Domestic Technical Report 1.0, GVSUD indicates it does not have such a program, but GVSUD's answer to the first question in Section D of Domestic Worksheet 6.0 indicates otherwise. Without clarity as to whether GVSUD does have an approved pretreatment program, it is impossible to determine whether it should have completed Domestic Worksheets 4.0, 5.0, or some portion thereof, in addition to completing Domestic Worksheet 6.0.
5. **Buffer Zone.** Next, CCMA asserts that GVSUD's Application fails to provide proof of a sufficient buffer zone compliance method. Section 3 of Domestic Administrative Report 1.1 requires a TPDES permit applicant to indicate how the buffer zone requirements of 30 TAC § 309.13(e) will be met.³¹ The Instructions further specify that "[t]he buffer zone, either 150 or 500 feet from the treatment units . . . can be met by ownership, legal restrictions preventing residential structures within the buffer zone, an approved nuisance odor prevention plan, or a variance to the buffer zone."³² GVSUD indicated it would satisfy the buffer zone requirements through ownership,³³ but as explained in more detail above, GVSUD possesses no ownership interest, nor legal right sufficient to comply with the requirements of 30 TAC § 309.13(e). Specifically, the Instructions indicate that "[o]wnership means that the applicant owns all the land surrounding the treatment units that fall within the buffer zone,"³⁴ which GVSUD does not. Furthermore, 30 TAC § 309.13(e) provides that "wastewater treatment plant units may not be located closer than 150 feet to the nearest property line." As shown on the maps included in the Application,

²⁶ Application Technical Reports at 12 – 13.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* at 13.

³⁰ Instructions at 43.

³¹ Application Administrative Report at 14.

³² Instructions at 43.

³³ Application Administrative Report at 14

³⁴ Instructions at 43.

GVSUD's proposed 150-foot buffer zone is rectangular. That does not properly buffer a 150-foot radius around the proposed facility. In any case, the maps depict the buffer zone extending beyond the boundary of the CCWWTP property.

6. **Nuisance Odors.** In addition to the buffer zone issues described above, an additional, unneeded treatment and disposal facility, if not operated properly, may result in nuisance odors that will adversely affect the quality of life of nearby residents and the public. In accordance with 30 TAC § 309.13(e), the Applicant must demonstrate that sufficient measures to prevent nuisance odors will be undertaken. It is not in the public interest to issue a new discharge authorization that may result in nuisance odors when regionalized wastewater services are available, particularly when nearby schools are located within the three-mile radius of the proposed CCWWTP.

For the above-cited reasons, CCMA recommends that the TCEQ deny the Application and Draft Permit.

III. REQUEST FOR PUBLIC MEETING

CCMA requests a public meeting regarding the Application in light of the issues raised in this letter. The TCEQ's regulations in 30 TAC § 55.154(c) provide that "[a]t any time, the executive director or the Office of the Chief Clerk may hold public meetings," and that "[t]he executive director or the Office of the Chief Clerk shall hold a public meeting if: (1) the executive director determines that there is a substantial or significant degree of public interest in an application." Pursuant to 30 TAC § 55.150, this opportunity to request a public meeting under 30 TAC § 55.154(c) applies to applications for a new TPDES permit, such as the Application. Accordingly, CCMA, for the benefit of its citizens, has a substantial and significant degree of public interest in the Application. CCMA is willing to work with the TCEQ and GVSUD to determine a location for such a public meeting.

IV. REQUEST FOR CONTESTED CASE HEARING

CCMA also requests a contested case hearing regarding the Application, Draft Permit, and each and every issue raised in CCMA's public comments, and any and all supplements and/or amendments thereto. For the reasons set forth herein, CCMA is an affected person, as defined by 30 TAC § 55.203. CCMA has a personal justiciable interest to a legal right, duty, privilege, power, or economic interest that is not common to the general public that would be adversely affected should the Draft Permit be granted. In determining whether a person is an affected person, the TCEQ may consider, among other factors, (1) "whether the interest claimed is one protected by the law under which the application will be considered; (2) distance restrictions or other limitations imposed by law on the affected interest; (3) whether a reasonable relationship exists between the interest claimed and the activity regulated; . . . and (7) *for governmental entities, their statutory authority over or interest in the issues relevant to the application.*"³⁵ The TCEQ may also consider "the merits of the underlying application and supporting documentation . . . , including

³⁵ 30 TAC § 55.203(c) (emphasis added).

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whether the application meets the requirements for permit issuance.”³⁶ All such considerations are applicable to CCMA, and, as noted in its public comments in Section II, above, CCMA has a particular interest in the issues relevant to the Application because the Application indicates that the proposed service area for the CCWWTP is very likely located within its TCEQ-designated regional wastewater service area.

V. CONCLUSION

CCMA reserves its right to supplement these public comments and this request for a contested case hearing as it learns more about the Application—additional information may become apparent through a public meeting (and thereby-extended comment period) regarding this Application. CCMA appreciates your consideration of these public comments and requests for a public meeting and contested case hearing.

Thank you for your consideration of this important matter. If you or your staff have any questions regarding this matter, please contact me at your convenience.

Sincerely,



Maris M. Chambers

MMC/dsr
Enclosures

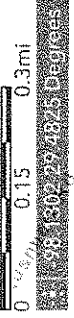
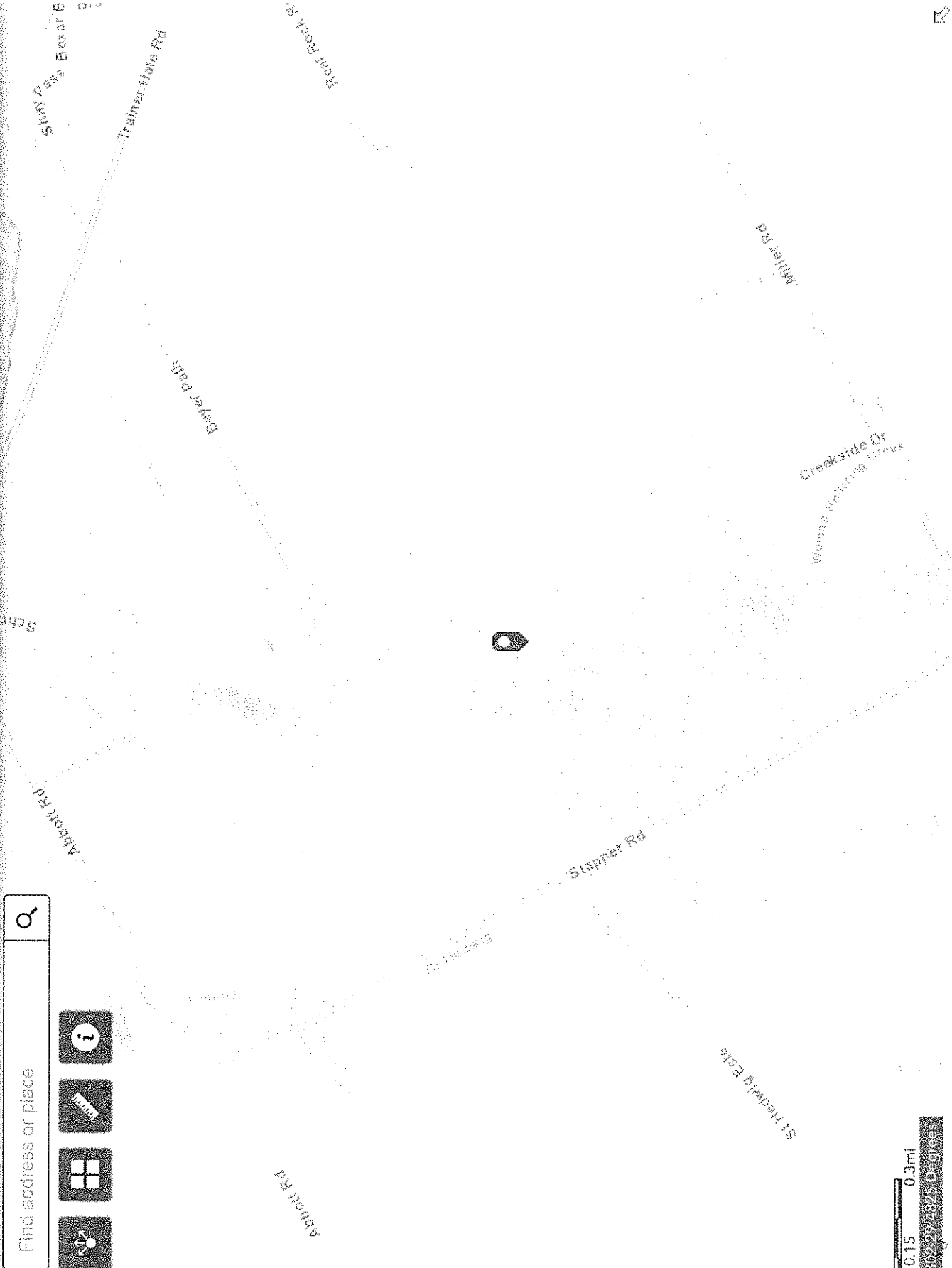
cc: Kenneth Greenwald, President, CCMA
Clint Ellis, General Manager, CCMA

³⁶ *Id.* § 55.203(d).

Attachment A

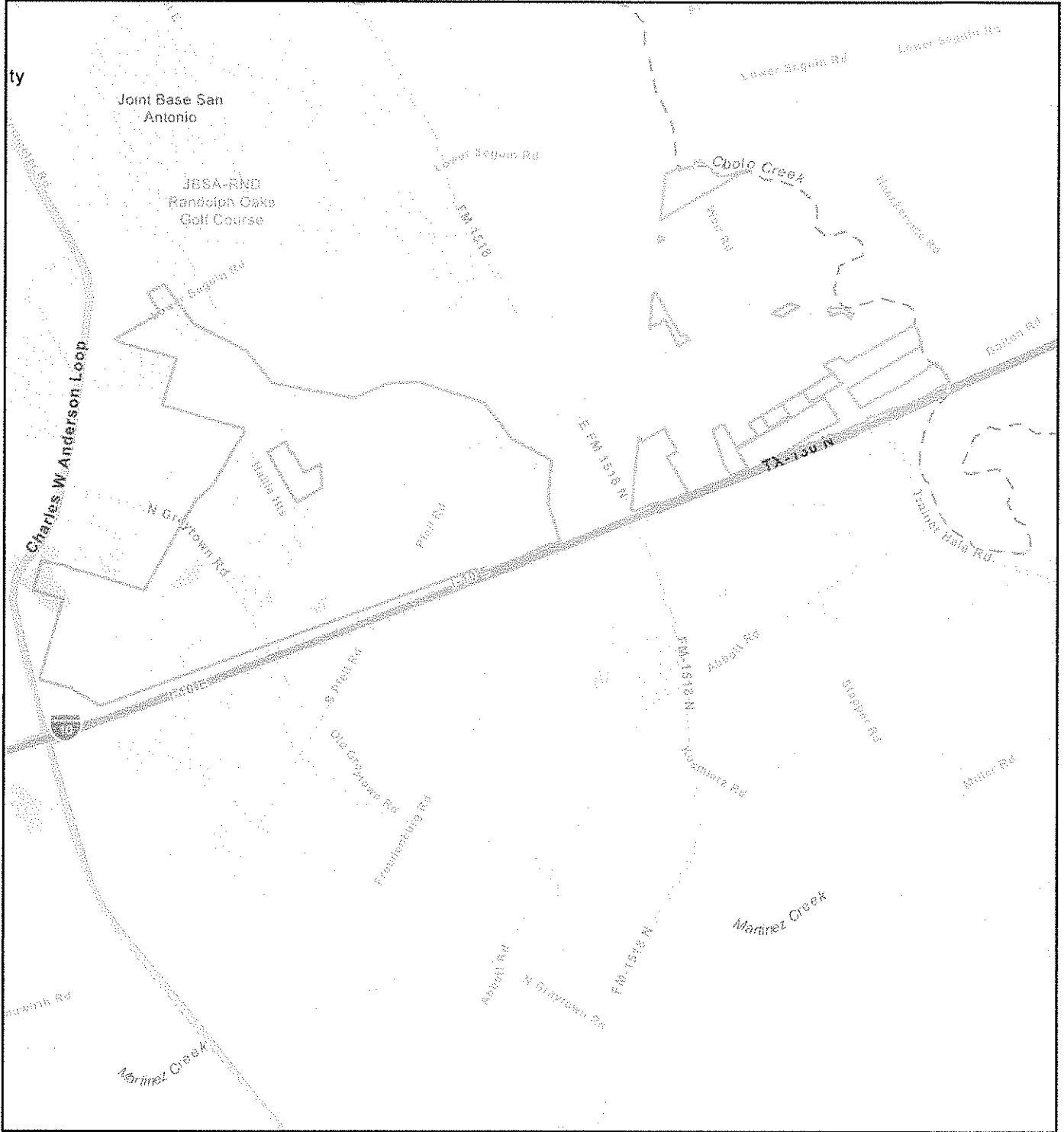


Find address or place

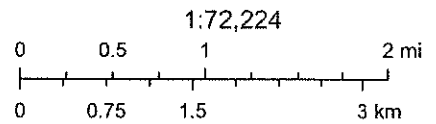


Attachment B

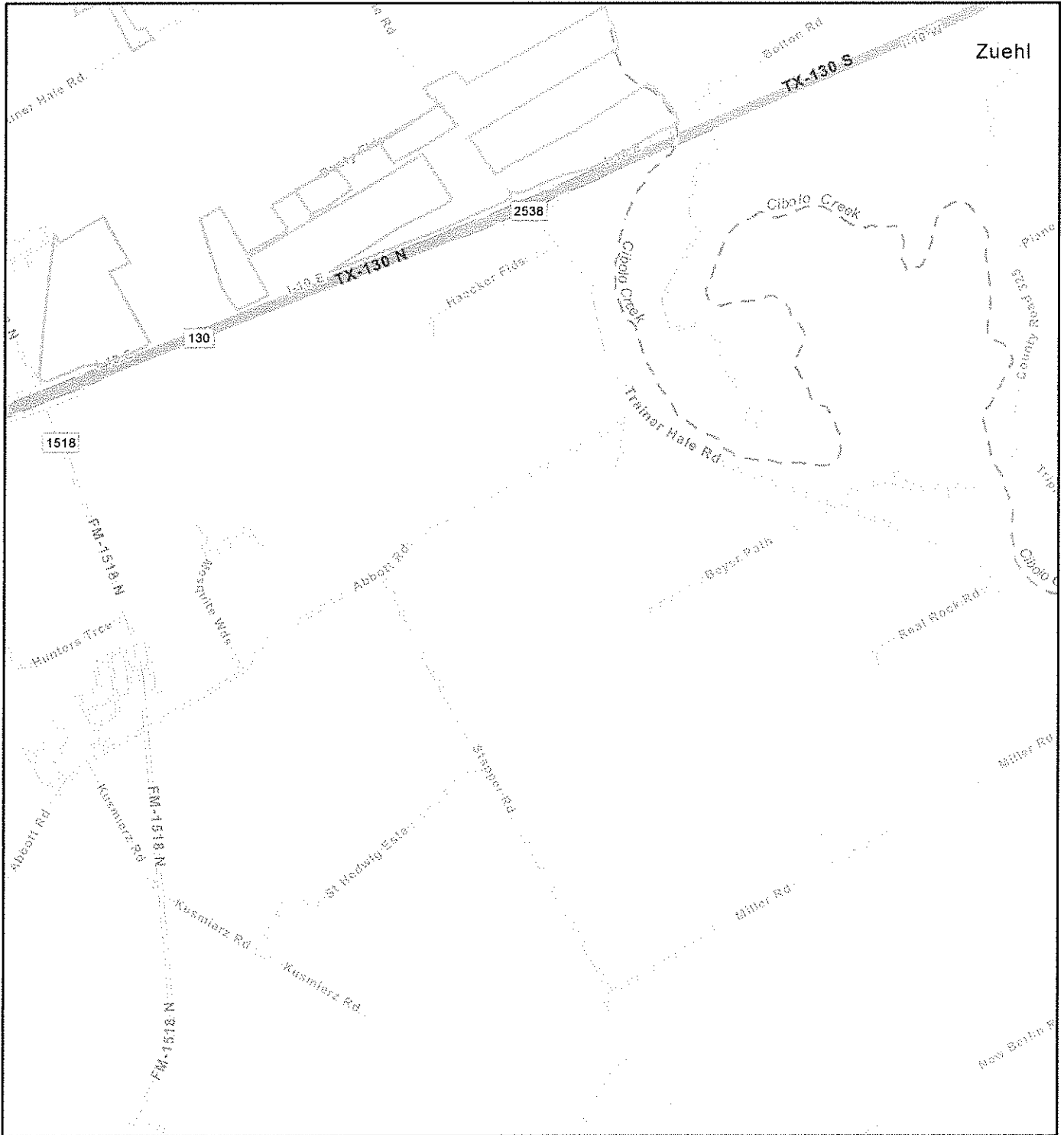
City of Schertz Sewer CCN No. 20271



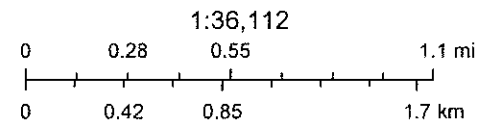
July 29, 2021



City of Schertz Sewer CCN No. 20271(Large Scale)



July 29, 2021



Texas Parks & Wildlife, Esri, HERE, Garmin, SafeGraph, INCREMENT P, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA

Attachment C

Bexar CAD

Property Search Map Search

Property Search Results > 1 - 6 of 6 for Year 2021

Export Results

New Search

Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a single map.

Property Address Legal Description

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value	
<input type="checkbox"/> 1166658	80400-000-1880	Mobile Home	4060 STAPPER RD TX	DUNCAN CRAIG & JOANN		\$44,290	View Details View Map
<input type="checkbox"/> 1172641	04019-000-1882	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	DUNCAN HAZEL JOANN		\$5,390	View Details View Map
<input type="checkbox"/> 169912	04019-000-1880	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL W & SUTTON CAROLYN & DUNCAN HAZEL J		\$37,730	View Details View Map
<input type="checkbox"/> 1172711	04019-000-1883	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL WILLIAM		\$12,150	View Details View Map
<input type="checkbox"/> 169348	04019-000-0191	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL WILLIAM		\$114,590	View Details View Map
<input type="checkbox"/> 169913	04019-000-1881	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SUTTON DONALD J & CAROLYN R		\$176,210	View Details View Map

Page: 1

**Protest status and date information current as of Jul 28 2021 1:22AM.
2021 and prior year appraisal data current as of Jul 2 2021 6:19AM
For property information, contact (210) 242-2432 or (210) 224-8511 or
email.
For website information, contact (210) 242-2500.**

Attachment D

~~print N&T packet for 1460-111~~

~~PLEASE PRINT
print pre-application & N&T packet~~

CHECK LIST FOR ADMIN REVIEW OF MUNICIPAL APPLICATION FOR PERMIT		
Permit No. WQ00 <u>15917001</u>	TX <u>0140540</u>	MGD <u>0.4</u>
CN <u>600694294</u>	RN <u>111093126</u>	County: <u>Bexar</u> Region No. <u>13</u>
Facility: () Major (✓) Minor	App Revd Date: <u>8/31/2020</u>	Permit Expiration Date: <u>NEW</u>
(✓) Inactive () Active	Segment No. <u>1902</u>	

Note: A minor facility is generally one in which the final flow is less than 1.0 MGD.

Application Review Date: 10/16/2020

A copy of the pre-tech review was provided by the Municipal Permits Team (for new, major amendments and major facilities).

A copy of the groundwater review was provided (for TLAP new, major amendment, SADD minor amendment, and all applications with (or proposing) Class B sludge provisions).

For new and major amendment applications that propose surface water discharge, the standards review for RWA comments is included.

Coastal Zone sheet is included. Yes No

Fees or Penalties Owed: No [] Yes Amount Owed: _____

SECTION 1 APPLICATION FEES

Application Fees: The appropriate item checked and payment verified in receipt rpt or boexi rpt. Note: copies of checks should be removed and shredded.

Municipal Fees

Proposed/Final Phase Flow	New/Major Amend.	Renewals	Minor Amendment or Modification <i>without</i> Renewal
< .05 MGD	[] \$350.00	[] \$315.00	[] \$150.00 (for any flow)
≥ .05 but < .10 MGD	[] \$550.00	[] \$515.00	
≥ .10 but < .25 MGD	[] \$850.00	[] \$815.00	
≥ .25 but < .50 MGD	<input checked="" type="checkbox"/> \$1,250.00	[] 1,215.00	
≥ .50 but < 1.0 MGD	[] \$1,650.00	[] 1,615.00	
≥ 1.0 MGD	[] \$2,050.00	[] 2,015.00	

SECTION 2 TYPE OF APPLICATION

The Type of application is marked

Reason for amendment or modification (if applicable). Also, check Tech. Report 1.1 Section 4 on page 3 (Unbuilt Phases) and Section 1.A on page 20 (Justification of permit need).

SECTION 3 FACILITY OWNER (APPLICANT) AND CO-APPLICANT

Legal name of applicant is listed (*the owner of the facility must apply for the permit*)

Legal name of co-applicant is listed (*if required to apply with facility owner*)

Core Data Form (CDF) is provided. A separate CDF is required for each customer.

Section I – General Information

Reason for submittal is marked.

Customer (CN) and Regulated Entity (RN) Reference Nos. provided – verify with Central Registry

Section II – Customer Information

Customer legal name is provided and it matches name on admin report

Texas SOS/Filing number is provided – verify with SOS

Texas State Tax ID is provided – verify with Texas Comptroller

Type of customer is marked – refer to information below

Corporation: Check with Secretary of State (SOS) at: <https://direct.sos.state.tx.us/acct/acct-login.asp> verify the entity status and charter number – print page. Verify correct legal spelling of applicant's name. Check spelling with SOS against the name listed in the application. (Permit must be issued in name as filed with SOS.) The applicant must be "In existence and active" before the application can be processed further.

Those entities subject to state franchise taxes: If applicable, check with Comptroller (website at: <http://ecpa.cpa.state.tx.us/coa/coaStart.html>. Verify the tax identification number is correct. Note: Non-profit organizations and partnerships are not subject to the state franchise tax.

Individual: Complete Attachment 1 of Admin. Report 1.0 The complete legal name, including the middle name; and all other information is required. This info is required by Chapter 26.027C of the Texas Water Code. A separate form is required for each individual.

Utility District: Check IWUD to verify that district is not dissolved (inactive is O.K. to process)

Trust: A copy of an executed trust agreement is provided. Verify that applicant's name is the same as the name in the trust agreement. NOTE: Executed trust must show signatures of trustees or beneficiaries forming the trust and which county it is recorded in.

Partnership: Verify with Secretary of State (SOS) that partnership is registered, active, and has a filing number. Check spelling with SOS against the name submitted in Item 1; Check that SOS # is correct; Print page from SOS website. OR if the partnership is not listed with the SOS, a copy of the partnership agreement is provided by the applicant. The agreement must: give the name of the partnership as provided on the application for permit; list names of partners; bear signatures of the partners; state the terms of the partnership; and must be recorded in the county where the facility (plant) is located.

Municipality/Governmental Agencies/School Districts: City, County, ISD, Fed, etc. – applicable info is listed.

Other _____

Number of employees is marked

Customer role is marked

Mailing address for the applicant is provided - verify on USPS website. This address is used on the permit.

Email address is provided *wang.6@gmail.com*

Telephone number is provided

Section III – Regulated Entity Information

Regulated Entity Name is provided and it matches name on admin report

Street address or location description of facility is adequately described. If different from current permit, new permit may be required. Use USPS website/GIS mapping to confirm street address

The county where the facility is located is provided

The name of the nearest city is provided

The zip code is provided

The longitude and latitude of the facility is provided – check mapit

Primary SIC Code is provided

Permit No. listed under appropriate programs- if not listed, add it

Section IV – Preparer Information

Name, title, telephone number, and email address is provided

Section V – Authorized Signature

Company name, title, printed name, phone number, signature, and date provided

SECTION 4 APPLICATION CONTACT INFORMATION

Administrative and Technical contact name, address, electronic information provided

SECTION 5 PERMIT CONTACT INFORMATION

Permit (2) contact names, addresses, electronic information provided

SECTION 6 BILLING INFORMATION

Billing contact name, address, electronic information provided

SECTION 7 REPORTING INFORMATION

DMR/MER contact name, address, electronic information provided

SECTION 8 NOTICE INFORMATION

Minor Amendment without Renewal – NORI not required. Skip review of notice information.

Name, address and phone number of one person responsible for publishing NORI is provided

Method of sending NORI package is provided

Name and phone number of contact to be in NORI is provided

Location where application will be available is provided and is in the county where the facility is located - the location must be a building supported by taxpayer funds. Note: If discharge is directly into water body that borders two counties, application must be placed in a public facility in both counties and the notice must be published in both counties

Bilingual Items 1 – 5 are completed. If “Yes” to question 1 and “Yes” to either question 2, 3 or 4, then e.5 must be completed **N**

SECTION 9 REGULATED ENTITY and PERMITTED SITE INFORMATION

Permit No. and Expiration date is listed, if not, verify with permit or PARIS

Name of project or site is provided. Should correspond to Item 22 on CDF.

Owner of the facility identified in the application is the same as the name given in Section 3.A

NOTE: THE OWNER OF THE FACILITY IS REQUIRED TO APPLY FOR THE PERMIT

(Refer to legal policy memo for complete definition and discussion of facility.)

Marked whether ownership of the facility is public, private or both

Owner of the land where permitted facility is or will be located is the **SAME** as the applicant.

The owner of the land on which the facility is located is **DIFFERENT FROM** the owner of the facility: A copy of a lease agreement or easement, with a term for the duration of the permit, between applicant and landowner, has been provided. See Lease Agreement/Easement Memo dated 2/14/06, that states that a lease is sufficient for pond systems, and that details the provisions that a lease agreement or easement must contain. OR, landowner can apply as a co-permittee. Lease must identify property by legal description or map.

Effluent Disposal Site Owner:

N/A - (no effluent disposal proposed)

If land disposal is authorized in permit or proposed, the applicant **OWNS** land on which site is located

If applicant **DOES NOT OWN** land where site is located, a long-term lease agreement is provided which includes: a term of at least 5 years; is current or it includes an option to renew the term; is between the current applicant and the landowner; and includes description of property by legal description or map.

(For new TLAP permits only: A copy of an executed option to purchase agreement may be provided to show that applicant will have ownership of the land upon permit approval.)

Sewage Sludge Disposal Site Owner:

N/A - (no sludge disposal proposed)

If sludge is authorized in permit or proposed, the applicant **OWNS** land on which disposal site is located, otherwise lease is needed unless Class B sludge is land applied. Check the permit under Sludge Provisions to determine if sludge is authorized. Note: For BLU sludge application – lease is not needed; Landowner just needs to sign sludge affidavit (if different from applicant)

If sludge disposal is proposed or authorized in the permit, the applicant must also submit the applicable sludge forms.

SECTION 10 DISCHARGE INFORMATION

- Checked if treatment facility location in permit is correct.
- Checked if discharge info in permit is correct. If applicable, the discharge route description is adequately described and describes the discharge route to the nearest major watercourse. Changing the point of discharge and route from the current permit description requires a major amendment
- The name of the city (or nearest city) where the outfall(s) is/will be located has been provided
- The county where the outfall is located is provided
- The longitude and latitude of the outfall is provided
- Marked item regarding authorization for discharge into a city, county, or state ditch. If applicable, correspondence is provided. Email TXDOT if discharge is to a state highway right-of-way or roadside ditch.
- For a daily average flow of 5 MGD or more: the names of all counties located within 100 miles downstream from the point of discharge. These counties will be listed on contact sheet.

SECTION 11 DISPOSAL (TLAP) INFORMATION

- The written location description of the disposal site is adequately described. (NOTE: A CHANGE IN LOCATION OR INCREASE IN ACREAGE REQUIRES A MAJOR AMENDMENT. A decrease in acreage may also be a major amendment (due to flow rate) - check with permit writer)
- The name of the city (or nearest city) has been provided
- The county where the disposal site is located is provided
- The longitude and latitude of the disposal site is provided
- The written flow of effluent from the facility to the effluent disposal site is adequately described
- The nearest watercourse to the disposal site is listed

SECTION 12 MISCELLANEOUS INFORMATION

- Identified whether or not facility or discharge are on Indian land (If yes, we do not have permit authority.)
- For permits that allow sewage disposal the location description is adequately described. For an already-existing permit, check to see that the location has not changed
- Must indicate whether any former TCEQ employees who were paid for services regarding this application
- Fees or Penalties Owed: No Yes - See page 1 of checklist

SECTION 13 ATTACHMENTS

- Lease agreement or deed recorded easement, if the land where the treatment facility is located or the effluent disposal site are not owned by the applicant or co-applicant
- An ORIGINAL or equivalent FULL-SIZED USGS 7.5 minute topographic map (8 1/2 x 11 acceptable for amendment and renewal applications) is provided and labeled showing: applicant's property boundary treatment facility boundaries point of discharge highlighted discharge route for three miles downstream or until it reaches a classified segment scale, effluent disposal site(s) pond(s) sludge disposal/land application site an area of not less than one mile in all directions of the site

All original or equivalent full sized maps must show:

- Color map Clear contour lines Upper left corner must identify map as USGS Department of the Interior Geological Survey Lower left corner, datum & project information Bottom, magnetic declination Bottom, must show scale Bottom, identify contour intervals Bottom, national map accuracy std. statement Bottom, show State of TX and quad location Around map, lat and long coordinates Bottom, quadrangle name Bottom, must identify map date

SECTION 14 SIGNATURE PAGE

Note: The signature information below lists the proper signatories for the various entities and the current version of the application contains a paragraph referencing 30 TAC 305.44. The person signing the application verifies that he or she is authorized, under this rule, to sign the application. We must verify that the title meets the requirements or signatory authority has been delegated.

Original Signature Page is required.

Signature must be properly notarized – check that signature date and notarized date are the same.

Owner Co-Permittee

- City - Elected official or principle executive officer of the city may be public works director.
- Individual: only the individual signs for himself/herself.
- Partnership: General Partner or exec officer
- Corporation: at least level of VP (CEO, Chairman of Board, Secretary can be equiv. to V.P., Member or General Manager for LLC, Manager of one or more manufacturing, production, or operating facilities employing more than 250 persons - refer to 30 TAC 305.44)
- Utility District: at least the level of vice president, on Board of Directors or District Manager
- Water Authority: Regional managers.
- Independent School Districts: at least level of the Assistant Superintendent or board members.
- Governmental Agencies: Division Directors or Regional Directors.
- Trust: The trustee that has been identified in the trust agreement.
- Other: _____

ADMIN REPORT 1.1 For All New or Major Amendment Applications

SECTION 1 Affected Landowner Information -

Landowner Map:

- The applicant's complete property boundaries are delineated which includes boundaries of contiguous property owned by the applicant
- For domestic facilities, show the buffer zone and identify all of the landowners whose property is located within the buffer zone - *tech address*
- The property boundaries of the landowners surrounding the applicant's property have been clearly delineated on the map
- The location of the facility within applicant's property is shown.

For TPDES applications:

- The point(s) of discharge is clearly identified on the map and the discharge route(s) is highlighted.
- The scale of map is provided to measure one mile downstream or if discharge is into a lake, bay estuary, or affected by tides, 1/2 mile up & down stream is measured.
- The property boundaries of landowners adjacent to the discharge route(s) for one mile downstream from the point of discharge have been clearly delineated and the route is clearly delineated. OR If discharge is into a lake, bay estuary, or affected by tides, the property boundaries of landowners 1/2 mile up & downstream and those property owners across the lake along the shore line that fall within a 1/2 mile radius of the point of discharge are clearly delineated on the map.

For TLAP applications (i.e., irrigation, evaporation, etc.):

- The boundaries of the disposal site is clearly identified on the map.
- The boundaries of all landowners surrounding the disposal site.
- Cross-referenced list of landowners is provided.
- Disk or four sets of labels were provided
- Source of landowners' info was provided.
- Provided response regarding permanent school fund land. If information filled out on General Land Office, then indicate so on the contact sheet.

SECTION 2 Original Photographs

- The original (color) ground level photos of treatment unit area, disposal or discharge areas (2 photos – one upstream, one downstream) have been provided
- Plot plan or map showing location and direction of each photo

SECTION 3 Buffer Zone Map *tech address*

Buffer zone map (8 1/2 by 11): The permit writer will review this during the pre-tech review. Any deficiencies will be addressed by them.

SUPPLEMENTAL PERMIT INFORMATION FORM (SPIF)

SPIF is provided - TPDES only

TECHNICAL REPORT – MUNICIPAL/DOMESTIC APPLICATIONS

Minor Amendment without Renewal. Review not required. Just make sure report is provided.

THE FOLLOWING ITEMS APPLY TO ALL APPLICATIONS:

The existing permitted design flow (including all permit phases) is indicated

If flow indicated is greater than permitted, a major amendment is required.

If flow amount is less than permitted amount, confirm with applicant that they are requesting to reduce the flow.

For facilities that have not been constructed the anticipated construction and operation dates are provided for all phases.

Site Drawing must be submitted (*see email from Lana 1/10/2019*).

The permit authorizes irrigation/evaporation/subsurface disposal method and the information has been addressed in the technical report. Verify the acreage. If the acreage has changed from what is currently permitted, a major amendment is required.

The applicable worksheets must be completed:

Worksheet 3.0 - required for land disposal of effluent

Worksheet 3.1 - required for land disposal (new and major amendment only)

Worksheet 3.2 - required for subsurface land disposal (new and major amendment only)

Worksheet 3.3 - required for subsurface area drip dispersal systems (SADDS) (new and major amendment); may be required for renewal on a case-by-case basis.

SADDS Applications: Compliance history items must be completed for SADDS disposal. When the application is administratively complete, a copy of the application and a transmittal letter must be sent to the State Department of Health Services. See the folder titled "SADDS" (under the Individual Permit Review folder) for a template of the letter.

Worksheet 7.0 – required for SADD applications (new and major amendment only) - We do not review the form; we just make sure that it is submitted. If it is not submitted, request it in a NOD.

Sludge disposal and/or land application is authorized in the permit on property owned or under applicant's control. If facility is beneficially applying class B sludge on the same site as the facility, the applicant must submit the Beneficial Land Use of Sewage Sludge (Class B) Permit Application - Form No. 10451 (See Class B Sludge Permit checklist). The applicant must also submit the appropriate sludge application fee.

If authorization is for sludge processing, storage, disposal, composting, marketing and distribution of sludge, sludge surface disposal, or sludge monofill or for temporary storage in sludge lagoons, the applicant must submit the Domestic Wastewater Permit Application: Sewage Sludge Technical Report – Form No. 10056.
Check for:

required signatures (if applicable)

site acreage acreage application area site boundaries shown on USGS map

Notes: If the applicant is disposing or land applying sludge on land owned or under their control, but it is not authorized in their permit or by any other TCEQ authorization, a major amendment is required.

If the application is for a new permit or major amendment, then you need to check for the appropriate affected landowner requirements.

[] Worksheet 6.0 must be addressed if a domestic facility is labeled as public or both, (not required for federal agencies or water treatment plants)

THE FOLLOWING ITEMS ONLY APPLY TO MINOR RENEWAL APPLICATIONS:

- [] The type of treatment plant has been indicated.
- [] The list of units and their dimensions have been provided
- [] The flow diagram has been provided.
- [] The required grab sample test results have been provided for all constituents - *not required if plant not operational.*
- [] Sludge disposal is authorized off site, and the ultimate sludge disposal method has been identified.
- [] Worksheet 2.0 - For TPDES permits - the stream data has been addressed.
- [] Worksheet 4.0 - For discharge permits: If the applicant has a permitted phase equal to or greater than 1 MGD or more than one phase, and interim or final phase(s) that have not been constructed has a flow equal to or greater than 1 MGD, the applicant must perform the all of the required effluent testing to renew that phase.

WHEN APPLICATION IS NOT ADMINISTRATIVELY COMPLETE:

Complete NOD. See NOD SOP

WHEN APPLICATION IS ADMINISTRATIVELY COMPLETE:

Complete NORI package. See NORI SOP
NORI not required for minor amendment. Complete the Routing and Contact (list "n/a" for item regarding person responsible for publication of the notice) Blue sheets only.

Prepare SPIF forms (only for TPDES permits)

checked application type

entered county name

entered administrative completeness date

ensured permit number is on form

*check agency receiving SPIF

Minor amendments - ALL agencies BUT Texas Historical Commission and Army Corps of Engineers

Renewals - All agencies BUT Texas Historical Commission

New and Major Amendments - All agencies

check that the segment number (if known) is entered in receiving water body information.

On the accompanying map, delineate the discharge route in such a way that copies will reflect the highlighted discharge route.

***NOTE:** Copy of SPIFs not required for Houston - US Fish and Wildlife and Galveston-US Army Corps of Engineers

Admin Complete PARIS Entry and Other Reminders

WO Folder - Application Search

Application Summary Tab--verify application info

Admin Review Tab

- Admin Review Begin Date
- Admin Complete Date
- SPIF
- NORI

Public Participation Tab – No longer required to enter public notice details. See Katherine's email dated 3/30/2017.

CR Folder – RE Search

AI Detail Screen--verify facility info

Enter Contact Info – Contact List

- Owner
- Applicant
- Technical
- Billing (To edit existing info – select Billing Maintenance)
- MER (TLAP only)
- Remove CN affiliation for MER contact (TLAP and TPDES)

OTHER

- Copy of notice, contact sheet, and labels to I/Drive
- SADDs – Application to Dept. of Health Services
- Email TXDOT if discharge is to a state highway right-of-way or roadside ditch.
- Email NORI
- Update facility name (if needed in PARIS)
- Update coordinates (if needed in PARIS), make sure correct link in Notice
- EPA ID CN, location address, facility name (if needed in PARIS)

Attachment B

The "*Appraisal District Reports*"

Bexar CAD

Property Search Map Search

Property Search Results > 1 - 2 of 2 for Year 2022

Export Results

New Search

Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a single map.

Property Address Legal Description

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value	
<input type="checkbox"/> 991095	05193-000-1028	Real	14394 INTERSTATE 10 E CONVERSE, TX 78109	GREEN VALLEY SPECIAL UTILITY		N/A	View Details View Map
<input type="checkbox"/> 1056538	05193-000-1561	Real	E IH 10 CONVERSE, TX 78109	GREEN VALLEY SPECIAL UTILITY		N/A	View Details View Map

Page: 1

2022 data current as of Dec 16 2021 1:19AM.
2021 and prior year data current as of Dec 3 2021 6:20AM
For property information, contact (210) 242-2432 or (210) 224-8511 or email.
For website information, contact (210) 242-2500.

This year is not certified and ALL values will be represented with "N/A".

Website version: 1.2.2.33

Database last updated on: 12/16/2021 1:19 AM

© N. Harris Computer Corporation

Bexar CAD

Property Search Results > 1 - 6 of 6 for Year 2022

[Export Results](#)

[New Search](#)

Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a single map.

Property Address Legal Description

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value	
<input type="checkbox"/> 1166658	80400-000-1880	Mobile Home	4060 STAPPER RD TX	DUNCAN CRAIG & JOANN		N/A	View Details View Map
<input type="checkbox"/> 1172641	04019-000-1882	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map
<input type="checkbox"/> 1172711	04019-000-1883	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map
<input type="checkbox"/> 169913	04019-000-1881	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map
<input type="checkbox"/> 169348	04019-000-0191	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map
<input type="checkbox"/> 169912	04019-000-1880	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map

2022 data current as of Dec 16 2021 1:19AM.
2021 and prior year data current as of Dec 3 2021 6:20AM
For property information, contact (210) 242-2432 or (210) 224-8511 or email.
For website information, contact (210) 242-2500.

This year is not certified and ALL values will be represented with "N/A".

Lori Rowe

From: PUBCOMMENT-OCC
Sent: Monday, December 20, 2021 10:57 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0015917001
Attachments: 2021.12.17 City of Saint Hedwig Request for Contested Case Hearing re_ Proposed TPDES Permit No. WQ0015917001..pdf

H
RFR

From: mchambers@lglawfirm.com <mchambers@lglawfirm.com>
Sent: Friday, December 17, 2021 3:19 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0015917001

REGULATED ENTY NAME CLEARWATER CREEK WWTP

RN NUMBER: RN111093126

PERMIT NUMBER: WQ0015917001

DOCKET NUMBER:

COUNTY: BEXAR

PRINCIPAL NAME: GREEN VALLEY SPECIAL UTILIITY DISTRICT

CN NUMBER: CN600684294

FROM

NAME: Maris Chambers

E-MAIL: mchambers@lglawfirm.com

COMPANY: Lloyd Gosselink Rochelle & Townsend, P.C.

ADDRESS: 816 CONGRESS AVE Suite 1900
AUSTIN TX 78701-2442

PHONE: 5123225804

FAX: 5124720532

COMMENTS: Please find attached the Request for Contested Case Hearing and/or Reconsideration of the Executive Director's Decision on Application for Proposed TPDES Permit No. WQ0015917001.

Ms. Chambers' Direct Line: (512) 322-5804
Email: mchambers@lglawfirm.com

December 17, 2021

Ms. Laurie Gharis, MC-105
Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

VIA ELECTRONIC FILING

Re: Request for Contested Case Hearing and/or Request for Reconsideration of the Executive Director's Decision on Application for Proposed TPDES Permit No. WQ0015917001 (EPA I.D. No. TX0140546)
Applicant: Green Valley Special Utility District (CN600684294)
Site Name: Clearwater Creek Wastewater Treatment Plant (RN111093126)

Dear Ms. Gharis:

My client, the City of Saint Hedwig (the "**City**"), hereby requests a contested case hearing and/or reconsideration of the Executive Director's decision regarding the above-referenced application ("**Application**") filed by Green Valley Special Utility District ("**GVSUD**") for a new Texas Pollutant Discharge Elimination System ("**TPDES**") permit and the associated draft TPDES Permit No. WQ0015917001 ("**Draft Permit**").

I. **BACKGROUND**

A. **Description of Facility**

In its Application, GVSUD requests authorization from the Texas Commission on Environmental Quality ("**TCEQ**") to discharge treated domestic wastewater at a daily average flow not to exceed 400,000 gallons per day ("**GPD**") at the proposed Clearwater Creek Wastewater Treatment Plant (the "**CCWWTP**"). The Draft Permit includes an Interim I phase with a daily average flow not to exceed 0.10 million gallons per day ("**MGD**"), an Interim II phase with a daily average flow not to exceed 0.20 MGD, and a Final phase with a daily average flow not to exceed 0.40 MGD. The CCWWTP is to be located at 4060 Stapper Road, Saint Hedwig, Bexar County, Texas 78152, and is intended to serve areas located in the extraterritorial jurisdiction ("**ETF**") of the City of San Antonio and other outlying areas of Bexar County. If the Draft Permit is issued, the CCWWTP will be an activated sludge process plant operated in the extended aeration mode.

The proposed discharge route for the treated wastewater is from the site of the CCWWTP to Woman Hollering Creek (also known as Womans Hollow Creek),¹ thence to Martinez Creek in Segment No. 1902A of the San Antonio River Basin, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. Woman Hollering Creek is characterized by the TCEQ as an unclassified intermittent stream with perennial pools and presumed to have a limited aquatic life use and corresponding dissolved oxygen criteria. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 Texas Administrative Code (“*TAC*”) § 307.10) for Classified Segment No. 1902 are primary contact recreation, high aquatic life use, and 5.0 mg/L dissolved oxygen. Classified Segment Nos. 1902 and 1902A are currently listed on the 2020 Texas Integrated Report – Texas 303(d) List of impaired and threatened waters (the “*303(d) List*”) for bacteria in the water.

B. Procedural History

TCEQ received the Application on August 31, 2020, and the Executive Director (“*ED*”) declared it administratively complete on October 30, 2020. On November 13, 2020, GVSUD published the Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (“*NORI*”) in English in the *San Antonio Express-News* and the *Austin American-Statesman*. Then, on November 25, 2020, GVSUD published the *NORI* in Spanish in *Conexión*. An amended *NORI* was issued on April 30, 2021, revising the discharge route description and street address for the proposed CCWWTP and correcting the address for public viewing and copying of the Application. GVSUD published the amended *NORI* in English in the *San Antonio Express-News* and in Spanish in *Conexión* on May 12, 2021.

The Notice of Application and Preliminary Decision (“*NAPD*”), indicating that the ED had completed the technical review of the Application and prepared the Draft Permit, was issued on June 17, 2021. On June 30, 2021, GVSUD published the *NAPD* in English in the *San Antonio Express-News* and in Spanish in *Conexión*. Next, the ED issued a Notice of Public Meeting on August 3, 2021, which was published in the *San Antonio Express-News* on August 5, 2021. Pursuant to 30 TAC § 55.152(b), because such public meeting was held on September 14, 2021, the deadline to provide public comment on the Application and Draft Permit closed at the close of that meeting. The City timely filed public comments on September 14, 2021, and also participated in the informal discussion and formal comment phases of the September 14, 2021 public meeting. The ED filed his Response to Public Comment (“*RTC*”) on November 15, 2021, and notice of the ED’s final decision that the Application meets the requirements of applicable law was mailed on November 18, 2021. Therefore, this request is timely filed.

II. REQUEST FOR CONTESTED CASE HEARING

The City requests a contested case hearing based on the following relevant and material disputed issues of fact, all of which were raised by the City during the public comment period. In

¹ As demonstrated by the screenshot from TCEQ’s Location Mapper tool, included in the Public Comments, Request for Public Meeting, and Hearing Request timely filed by the City on September 14, 2021, which shows, according to the *NAPD*, “the exact location” of the CCWWTP, the correct name of the proposed receiving water is Woman Hollering Creek, not Womans Hollow Creek, as referred to in the *NORI*, Amended *NORI*, *NAPD*, and Application. As such, Woman Hollering Creek will be used throughout the remainder of this request.

support thereof, the Public Comments, Request for Public Meeting, and Hearing Request timely filed by the City on September 14, 2021 (the “**Public Comments**”), attached hereto as **Attachment A**, are reasserted and incorporated herein for all purposes.

A. Legal Standards and Requirements for Hearing Requests

In order to be granted, a contested case hearing request must (1) be filed by an affected person, and (2) comply with the applicable form and filing requirements set forth in the Texas Water Code (“**TWC**”) and TAC. Specifically, TCEQ “may not grant a request for a contested case hearing unless [it] determines that the request was filed by an affected person as defined by Section 5.115” of the TWC.² Procedurally, a contested case hearing request must also satisfy the conditions prescribed by TCEQ rules adopted in Title 30 TAC, Chapter 55.³

1. The City is an affected person.

For the purpose of an administrative hearing involving a contested matter, TWC § 5.115 defines an “affected person” as one “who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the administrative hearing.”⁴ Section 5.115 further clarifies that “[a]n interest common to members of the general public does not qualify as a personal justiciable interest.”⁵ As directed by the TWC, TCEQ has adopted rules specifying factors to be considered in determining whether a person is an affected person entitled to standing in a contested case hearing.⁶ Those rules specify that “all factors shall be considered,” including, but not limited to, the following:

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person;
- (6) whether the requestor timely submitted comments on the application that were not withdrawn; and

² Tex. Water Code § 5.556.

³ 30 Tex. Admin. Code §§ 55.101, .201.

⁴ Tex. Water Code § 5.115; *accord* 30 Tex. Admin. Code § 55.203.

⁵ *Id.*

⁶ Tex. Water Code § 5.115; 30 Tex. Admin. Code § 55.203.

- (7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.⁷

Considering the factors enumerated above, the City is an “affected person” as such term is defined by TWC § 5.115:

- The Texas Local Government Code (“*LGC*”) authorizes municipalities to “purchase, construct, or operate a [wastewater] utility system inside or outside the municipal boundaries;” “regulate the system in a manner that protects the interests of the municipality;” “extend the lines of [their] utility systems outside the municipal boundaries;” and “sell . . . sewer . . . service to any person outside its boundaries.”⁸ Further, “[a] municipality may . . . require property owners to connect to [its] sewer system.”⁹ Therefore, the City has statutory authority over and interest in the issues relevant to the Application because the proposed CCWWTP is to be located in the City’s ETJ.
- The City timely submitted comments on the Application that were not withdrawn.

2. The form and filing of this hearing request comply with all applicable procedural requirements.

TCEQ’s procedural requirements for contested case hearing requests are set forth in 30 TAC § 55.201. Pursuant to that Section, a contested case hearing request must be (1) submitted in writing, (2) timely filed “no later than 30 days after the chief clerk mails (or otherwise transmits) the [ED]’s decision and response to comments,” and (3) based on an issue or issues raised in the requestor’s own timely filed, and not later withdrawn, public comments.¹⁰ A hearing request must also:

- (1) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request;
- (2) identify the person’s personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor’s location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
- (4) list all relevant and material disputed issues of fact that were raised by the requestor during the public comment period and that are the basis of the hearing request. To facilitate the

⁷ 30 Tex. Admin. Code § 55.203(c); *accord* Tex. Water Code § 5.115.

⁸ Tex. Loc. Gov’t Code § 552.001; *accord id.* § 552.002, .906.

⁹ *Id.* § 214.013.

¹⁰ 30 Tex. Admin. Code § 55.201; *accord* Tex. Water Code § 5.115.

commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director's responses to the requestor's comments that the requestor disputes, the factual basis of the dispute, and list any disputed issues of law; and

(5) provide any other information specified in the public notice of application.¹¹

Here, this request complies with TCEQ's form and filing requirements for contested case hearing requests. As demonstrated in Section I.B, above, this request is timely filed. As noted in the above introduction to this Section II and described in more detail, herein, this request is based on the City's timely-filed written Public Comments and other oral public comments submitted at the September 14, 2021 public meeting. The required contact information for the City, for purposes of this request, is as follows:

Maris M. Chambers
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
Phone: (512) 322-5804
Fax: (512) 472-0532
Email: mchambers@lglawfirm.com

Section II.A.1, above, identifies the City's personal justiciable interest affected by the Application, including a number of brief, but specific, written statements explaining the City's proximity to the proposed CCWWTP and how and why the City will be adversely affected by the proposed CCWWTP in a manner not common to members of the general public. An explicit request for a contested case hearing is contained, among other places, in the introductory paragraph of this Section II. Finally, Section II.B, below, lists the relevant and material disputed issues of fact raised by the City during the public comment period and specifies those of the ED's responses to public comment that the City disputes. Thus, the City has satisfied all of the procedural requirements for contested case hearing requests.

B. Contested Issues

This hearing request is based upon the following relevant and material disputed issues of fact raised in the City's Public Comments and the ED's disputed responses thereto.

1. The Application fails to comply with the state's regionalization policy.

The Application does not meet TCEQ's requirements for TPDES permit issuance because GVSUD failed to provide sufficient information regarding regionalization. Further, if issued, the Draft Permit would violate the state's policy "to encourage and promote the development and use of regional and areawide waste collection, treatment, and disposal systems to serve the waste

¹¹ 30 Tex. Admin. Code § 55.201.

disposal needs of the citizens of the state.”¹² As noted by the ED, in order to implement this regionalization policy, the “Domestic Wastewater Permit Application Technical Report requires information concerning need and regionalization for wastewater treatment plants.”¹³ Specifically, because “TCEQ uses the threshold of three miles to determine if there is another entity in the vicinity that is willing and able to accept wastewater from a proposed facility,” TPDES permit applicants “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 has sufficient existing capacity to accept the additional wastewater.”¹⁴ If so, the application must contain documentation demonstrating consent or denial by the owner of such facilities to provide the service proposed by the application.¹⁵ Further, if such an entity consents to provide service, the application must include a cost analysis justifying the need for the proposed facility.¹⁶ Given the intended location of the CCWWTP and its proposed service area, such documentation should have been included in the Application, but it was not. Rather, applying the standard enumerated in the RTC, the Application lacks any evidence to demonstrate whether two neighboring entities with “wastewater treatment plant[s] or sewer collection lines within the area [have] sufficient existing capacity to accept the additional wastewater.”¹⁷ Therefore, the Application does not meet the requirements for permit issuance, and the City disputes the ED’s determination that “GVSUD has complied with the regionalization policy.”¹⁸ Furthermore, because the proposed CCWWTP is to be located within less than 2.5 miles of CCMA’s existing regional wastewater treatment plant, and portions of the proposed service area for the CCWWTP are located within the City of Schertz’ corporate limits and sewer CCN, the Draft Permit, if issued, would violate the state’s regionalization policy.

2. The Application fails to sufficiently demonstrate a need for the authorized discharge amount of 0.4 million gallons per day.

The City contends that the Application does not demonstrate a need for the proposed CCWWTP and that the Draft Permit, if issued, should not include the Final phase authorizing a daily average flow not to exceed 0.40 MGD. As noted by the ED, TWC § 26.0282 of the TWC provides that “in considering the issuance, amendment, or renewal of a permit to discharge waste, [TCEQ] may deny or alter the terms and conditions of the proposed permit, amendment, or renewal based on consideration of need.”¹⁹ To facilitate this consideration by TCEQ, Section I of Domestic Technical Report 1.1 requires a TPDES permit applicant to “[p]rovide a detailed discussion regarding the need for any phase(s) not currently permitted.”²⁰ Instead of providing the requisite “detailed discussion,” the Application states only: “This requested permit is proposed to support planned residential and commercial growth in GVSUD’s sewer CCN area. The current

¹² Tex. Water Code § 26.003; *see also id.* §§ 26.081, 26.0282; Instructions at 64.

¹³ RTC at 19.

¹⁴ *Id.*

¹⁵ Instructions at 64 – 65.

¹⁶ *Id.*; Technical Reports at 21 – 22.

¹⁷ RTC at 19.

¹⁸ *Id.*; Tex. Water Code § 26.0282.

¹⁹ Technical Reports 38

²⁰ *Id.* at 21.

contract for service equates to 950 EDUs of service or 232,750 gpm.”²¹ First, the City contends that 232,750 gallons per minute is not an accurate indication of the treated effluent likely to be generated by 950 EDUs, or equivalent dwelling units because that amount of wastewater is equivalent to a wastewater discharge of 335.16 MGD. Second, with a total proposed discharge of 0.233 MGD, the Application seeks an excessive amount of treatment capacity. Though the ED contends that “GVSUD provided additional information to justify the ultimate flow and detailed information regarding the number of connections,” no such information was included in the administrative record available to the City.²² Consequently, the City cannot confirm the veracity of that statement and contends that a factual dispute exists as to whether GVSUD has demonstrated a need for the Final phase of the Draft Permit. Third, to the extent that any of the 0.4 MGD of wastewater treatment capacity is to be utilized from raw wastewater generated within the Regional Area or the sewer CCN area of Schertz, then such capacity is not needed because GVSUD cannot treat that wastewater; rather, such wastewater can only be treated by CCMA and retail wastewater service within Schertz’s sewer CCN boundaries can only be provided by Schertz. Thus, the Application does not demonstrate a need for the proposed CCWWTP; and the Draft Permit, if issued, should not include the Final phase.

3. The Application raises concerns that the proposed discharge will not be in compliance with the TCEQ’s antidegradation policy.

As indicated above, the Application and Draft Permit authorize the discharge of treated domestic wastewater from the proposed CCWWTP to Woman Hollering Creek, thence to Martinez Creek in Segment No. 1902A of the San Antonio River Basin, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 TAC § 307.10) for Classified Segment No. 1902 are primary contact recreation I, high aquatic life use, and 5.0 mg/L dissolved oxygen. Segment Nos. 1902 and 1902A are also currently listed on the 303(d) List for bacteria in the water. Furthermore, these Segments are already subject to the discharge from the Woman Hollering Wastewater Treatment Facility jointly owned and operated by CCMA and the City of Schertz. Thus, the City has concerns that the discharge into Segment Nos. 1902 and 1902A, as proposed by the Draft Permit, would impact water quality in that watercourse and disputes the ED’s contention that “[t]he effluent limits in the [D]raft [P]ermit have been calculated to maintain and protect the existing instream uses.”²³ Further, because Classified Segment Nos. 1902 and 1902A are already listed on the 303(d) List for bacteria in the water, the authorization of an additional, unnecessary discharge into these Segments could degrade water quality therein. That interest is not only protected by the law under which the Application should have been considered, but a reasonable relationship also exists between the interest and the proposed discharge.

²¹ Technical Reports at 21.

²² RTC at 21.

²³ *Id.* at 13.

4. GVSUD lacks sufficient legal title and/or rights to land to own and operate the proposed CCWWTP.

The Application fails to meet the requirements for permit issuance because GVSUD lacks sufficient legal title and/or rights to land to own and operate the proposed CCWWTP. As evidenced by the Bexar Appraisal District reports attached to and incorporated in the City's Public Comments, GVSUD does not own the land at the address provided for the proposed CCWWTP.²⁴ Having provided such documentation to TCEQ, the City contests the ED's reliance on the fact that, according to the Application, it does.²⁵ In support of the City's contention that GVSUD lacks sufficient rights to the land where the proposed CCWWTP is to be located, attached hereto and incorporated herein for all purposes as **Attachment B** are updated Bexar Appraisal District reports (the "*Appraisal District Reports*") showing that GVSUD has not obtained ownership of the property at 4060 Stapper Road in the time since the City filed its Public Comments on September 14, 2021. Furthermore, the disputed issue of whether GVSUD has sufficient rights to the land where the CCWWTP is to be located is relevant and material to the determination of whether GVSUD can, as indicated in its Application, satisfy buffer zone compliance requirements through ownership, which is relevant to whether the Application meets the requirements for permit issuance.

5. The Application does not contain a map clearly identifying the proposed service area for the CCWWTP.

The City disputes the ED's contention that "GVSUD was not required to describe the area it will serve or include a map of the service area."²⁶ On the contrary, the Instructions direct TPDES applicants like GVSUD to "[p]rovide a site drawing . . . that shows the boundaries of the treatment facility and the area served by the treatment facility;"²⁷ and the Technical Reports state that such applicants must "[p]rovide a site drawing for the facility that shows . . . [t]he boundaries of the area served by the treatment facility."²⁸ However, it is uncertain whether GVSUD has provided the ED with such a map because the "Clearwater Creek WWTP Area Map" included in the Application as "Attachment B: Site Drawing" depicts only the "Clearwater Creek Sewershed" and does not indicate whether or how that sewershed relates to the proposed service area. Therefore, there is reason to doubt "the merits of the underlying application and supporting documentation in [TCEQ]'s administrative record" and "whether the [A]pplication meets the requirements for permit issuance."²⁹ Further, there is reason to question "the analysis and opinions of the [ED]," which may be based upon GVSUD's incomplete Application.³⁰

²⁴ Public Comments at 7.

²⁵ RTC at 26 – 27.

²⁶ *Id.* at 21.

²⁷ Instructions at 51.

²⁸ Technical Reports at 3.

²⁹ 30 Tex. Admin. Code § 55.203.

³⁰ *Id.*

6. The Application lacks the requisite Sewage Sludge Solids Management Plan.

The City disputes the ED's contention that "[f]or all new permit applications, the applicant has the option to identify the name and permit number of the disposal site after the draft permit is issued" and that "GVSUD may wait until it needs to dispose of the sludge before determining the method of sludge disposal, contracting with a hauler and disposal site."³¹ On the contrary, the Instructions state:

If sewage sludge is transported to another wastewater treatment facility or permitted sludge processing facility for further treatment, provide a written statement or a copy of contractual agreements confirming that the identified wastewater treatment facility will accept the sludge. . . . If a statement or contract is not provided, authorization for disposal of sewage sludge will not be included in a permit. . . . Provide detailed information for each disposal site. The information must include the name of the site, the site's permit or registration number, and the county in which each disposal site is located. . . . Provide the method used to transport the sludge to the disposal site. The hauler's sludge transporter registration number must also be provided, if applicable. Check whether the sludge is hauled in liquid, semi-liquid, semi-solid, or solid form.³²

Further, none of the language in Domestic Technical Report 1.0, Section 9, which requires a TPDES permit applicant to select the anticipated sludge disposal method and provide sludge disposal site information, including the disposal site name, permit or registration number, and disposal site's county, suggests such requirements are optional.³³ The ED's RTC also fails to address the City's timely submitted public comment indicating that GVSUD has also failed to comply with TCEQ's requirement to provide a copy of the contractual agreements demonstrating that the receiving facility will accept the sludge.³⁴ Because it lacks the required sludge-related information and documentation, there is reason to doubt "the merits of the underlying application and supporting documentation in [TCEQ]'s administrative record" and "whether the [A]pplication meets the requirements for permit issuance."³⁵ Further, there is reason to question "the analysis and opinions of the [ED]," which may be based upon an incomplete application.³⁶

7. The Application lacks the requisite original photographs.

Under the Instructions, TPDES permit applicants "must" submit "[a]t least one photograph of the new . . . treatment unit(s) location."³⁷ This requirement is implemented by Section 2 of the Administrative Report, which requires "[a]t least one original photograph of the new . . . treatment

³¹ RTC at 27.

³² Instructions at 59 (emphasis in original).

³³ Technical Reports at 12 – 13.

³⁴ *Id.* at 13; Public Comments at 8.

³⁵ 30 Tex. Admin. Code § 55.203.

³⁶ *Id.*

³⁷ Instructions at 43.

unit location.”³⁸ TCEQ regulations define a treatment unit as any “component of a wastewater treatment facility.”³⁹ Therefore, the City disputes the ED’s contention that “GVSUD complied with this requirement.”⁴⁰ The Application and supporting documents made available to the City do not contain an original photograph of the proposed location for the CCWWTP. Consequently, there is reason to doubt “the merits of the underlying [A]pplication and supporting documentation in [TCEQ]’s administrative record,” and “whether the [A]pplication meets the requirements for permit issuance,”⁴¹ which indicates that there is reason to question the “the analysis and opinions of the [ED]” to the extent they are based on an incomplete application.⁴²

8. The Application is inconsistent as to whether GVSUD has an approved pretreatment program under 40 CFR Part 403.

In Domestic Technical Report 1.0, GVSUD indicates it does not have an approved pretreatment program,⁴³ but GVSUD’s answer to the first question in Section D of Domestic Worksheet 6.0 indicates otherwise.⁴⁴ Nevertheless, the RTC provides that, “[a]ccording to the [ED]’s review[,] GVSUD’s [A]pplication does not contain any inconstant [sic] information regarding whether GVSUD has an approved pretreatment program.”⁴⁵ The RTC further states that “[d]uring technical review the [ED] confirmed that GVSUD does not require a pretreatment program.”⁴⁶ The Application and supporting documents made available to the City do not support that contention, and no such documentation was cited or produced by the ED. Without clarity as to whether GVSUD has an approved pretreatment program, it is impossible to determine whether it should have completed Domestic Worksheets 4.0, 5.0, or some portion thereof, in addition to completing Domestic Worksheet 6.0. As such, there is reason to doubt “the merits of the underlying application and supporting documentation in [TCEQ]’s administrative record” and “whether the [A]pplication meets the requirements for permit issuance.”⁴⁷ Consequently, there is reason to question “the analysis and opinions of the [ED],” which may be based upon an incomplete application.⁴⁸

9. The Application fails to provide proof of a sufficient buffer zone compliance method.

Section 3 of Domestic Administrative Report 1.1 requires a TPDES permit applicant to “indicate how the buffer zone requirements [of 30 TAC § 309.13(e)] will be met.”⁴⁹ The Instructions further specify that “[t]he buffer zone, either 150 or 500 feet from the treatment units . . . can be met by ownership, legal restrictions preventing residential structures within the buffer

³⁸ Administrative Report at 14.

³⁹ 30 Tex. Admin. Code § 217.2.

⁴⁰ RTC at 17.

⁴¹ 30 Tex. Admin. Code § 55.203.

⁴² *Id.*

⁴³ Technical Reports at 7.

⁴⁴ *Id.* at 69.

⁴⁵ RTC at 27.

⁴⁶ *Id.*

⁴⁷ 30 Tex. Admin. Code § 55.203.

⁴⁸ *Id.*

⁴⁹ Administrative Report at 14.

zone, an approved nuisance odor prevention plan, or a variance to the buffer zone.”⁵⁰ GVSUD indicated it would satisfy the buffer zone requirements through ownership,⁵¹ but as explained in more detail in Section II.B.4, above, GVSUD possesses no ownership interest nor legal right sufficient to comply with the requirements of 30 TAC § 309.13(e). As evidenced by the Appraisal District Reports included in **Attachment B**, GVSUD does not own the land at the address provided for the proposed CCWWTP. Specifically, the Instructions indicate that “[o]wnership means that the applicant owns all the land surrounding the treatment units that fall within the buffer zone,”⁵² which GVSUD does not. Furthermore, 30 TAC § 309.13(e) provides that “wastewater treatment plant units may not be located closer than 150 feet to the nearest property line.” As shown on the maps included in the Application, GVSUD’s proposed 150-foot buffer zone is rectangular. That does not properly buffer a 150-foot radius around the proposed facility. In any case, the maps depict the buffer zone extending beyond the boundary of the proposed location for the CCWWTP. Having provided documentation demonstrating GVSUD lacks the ownership rights to select ownership as the method of buffer zone compliance, the City contests the ED’s reliance on the fact that, “[a]ccording to GVSUD[,] it will own the required buffer zone.”⁵³ As such, there is reason to doubt “the merits of the underlying application and supporting documentation in [TCEQ]’s administrative record” and “whether the [A]pplication meets the requirements for permit issuance.”⁵⁴ Further, there is reason to question “the analysis and opinions of the [ED],” which may be based upon an incomplete application.⁵⁵

10. Nuisance Odors.

In addition to the buffer zone issues described above, an additional, unneeded treatment and disposal facility, if not operated properly, may result in nuisance odors that will adversely affect the quality of life of nearby residents and the public. In accordance with 30 TAC § 309.13(e), the applicant must demonstrate that sufficient measures to prevent nuisance odors will be undertaken. This is recognized by the ED in the RTC, which states that “30 TAC § 309.13(e) requires domestic wastewater treatment facilities to meet buffer zone requirements for the abatement and control of nuisance odors.”⁵⁶ Nevertheless, the ED contends that “[b]ecause GVSUD owns the buffer zone, nuisance odor is not expected to occur as a result of the permitted activities at the [proposed CCWWTP].”⁵⁷ Again, the Application fails to demonstrate that GVSUD has met the buffer zone requirements, as explained in more detail in Sections II.B.4 and II.B.9, above, so it also fails to demonstrate that nuisance odors will be controlled. It is not in the public interest to issue a new discharge authorization that may result in nuisance odors when regionalized wastewater services are available, particularly when nearby schools are located within the three-mile radius of the proposed CCWWTP. This is especially true given that the City has submitted documentation calling into question GVSUD’s ability to implement the buffer zone compliance method identified in the Application. As such, there is reason to doubt “the merits of

⁵⁰ Instructions at 43.

⁵¹ Administrative Report at 14

⁵² Instructions at 43.

⁵³ RTC at 23.

⁵⁴ 30 Tex. Admin. Code § 55.203.

⁵⁵ *Id.*

⁵⁶ RTC at 23.

⁵⁷ *Id.* at 27.

the underlying application and supporting documentation in [TCEQ]’s administrative record,” and “whether the [A]pplication meets the requirements for permit issuance,”⁵⁸ meaning there is also reason to question the “the analysis and opinions of the [ED].”⁵⁹

Given the above-cited relevant and material disputed issues of fact and ED responses to the City’s Public Comments, the City requests a contested case hearing concerning the Application and Draft Permit.

III. REQUEST FOR RECONSIDERATION

As noted above, the City requests that the ED reconsider its decision to grant the Application and issue the Draft Permit. Under TCEQ’s rules, “[a] request for reconsideration . . . must be filed no later than 30 days after the chief clerk mails (or otherwise transmits) the executive director’s decision and response to comments.”⁶⁰ Unlike a contested case hearing request, which must be filed by an affected person, “[a]ny person, other than a state agency that is prohibited by law from contesting the issuance of a permit or license . . . may file a request for reconsideration of the [ED]’s decision.”⁶¹ Such a request “must be in writing” and filed “with the chief clerk within the [30-day] time” noted above.⁶² Like a contested case hearing request, a request for reconsideration “should also contain the name, address, daytime telephone number, and, where possible, fax number of the person who files the request.”⁶³ The request must also “expressly state that the person is requesting reconsideration of the [ED]’s decision, and give reasons why the decision should be reconsidered.”

This request complies with TCEQ’s form and filing requirements for requests for reconsideration of the ED’s decision. This request is timely filed. It includes the City’s contact information and states that the City is requesting reconsideration of the ED’s decision. Finally, the City incorporates the relevant and material disputed issues of fact and ED responses to the City’s Public Comments, included in Section II.B, above, into this Section III as the reason why the ED’s decision to grant the Application and issue the Draft Permit should be reconsidered.

IV. CONCLUSION

The City appreciates TCEQ’s consideration of this request, and for the foregoing reasons, respectfully requests that TCEQ either deny the Application or grant this request for a contested case hearing and/or reconsideration of the ED’s decision regarding the Application and Draft Permit. Should you have any questions or concerns related hereto, please feel free to contact me using the information provided above.

⁵⁸ 30 Tex. Admin. Code § 55.203.

⁵⁹ *Id.*

⁶⁰ *Id.* § 55.201(a).

⁶¹ *Id.* § 55.201(e).

⁶² *Id.*

⁶³ *Id.*

December 17, 2021
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Sincerely,

A handwritten signature in cursive script that reads "Maris Chambers".

Maris M. Chambers

MMC/dsr
Enclosures

cc: Dee Grimm, Mayor, City of Saint Hedwig
Cynthia Trevino, Attorney, City of Saint Hedwig

Attachment A

The "*Public Comments*"

Ms. Chambers' Direct Line: (512) 322-5804
Email: mchambers@lglawfirm.com

September 14, 2021

Ms. Laurie Gharis, MC-105
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

VIA ELECTRONIC FILING

Re: Public Comments and Request for Contested Case Hearing
Application for Proposed TPDES Permit No. WQ0015917001
(EPA I.D. No. TX0140546)
Applicant: Green Valley Special Utility District (CN600684294)
Site Name: Clearwater Creek Wastewater Treatment Plant (RN111093126)

Dear Ms. Gharis:

The City of Saint Hedwig, Texas ("**City**"), my client, hereby submits this letter to the Texas Commission on Environmental Quality ("**TCEQ**"), providing formal public comments and requesting a contested case hearing regarding the above-referenced application ("**Application**") of Green Valley Special Utility District ("**GVSUD**") for a new Texas Pollutant Discharge Elimination System ("**TPDES**") permit, and the proposed draft permit for such Application ("**Draft Permit**"). These comments are timely filed.

I represent the City regarding the Application and Draft Permit. Please include me on the TCEQ's mailing list for all filings in the above-referenced Application. My mailing/contact information is as follows:

Ms. Maris M. Chambers
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
mchambers@lglawfirm.com
Phone: (512) 322-5804
Fax: (512) 472-0532

I. **BACKGROUND**

In its Application, GVSUD requests authorization from the TCEQ to discharge treated domestic wastewater at a daily average flow not to exceed 400,000 gallons per day ("**GPD**") at the proposed Clearwater Creek Wastewater Treatment Plant (the "**CCWWTP**"). The CCWWTP is to be located in Bexar County, Texas, and the proposed discharge route for the treated wastewater is

from the plant site to Womans Hollow Creek,¹ thence to Martinez Creek, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 Texas Administrative Code (“*TAC*”) § 307.10) for Classified Segment No. 1902 are primary contact recreation, high aquatic life use, and 5.0 mg/L dissolved oxygen. Classified Segment No. 1902 is currently listed on the 2020 Texas Integrated Report – Texas 303(d) List of impaired and threatened waters (the “*303(d) List*”). The listings are for bacteria in the water from the confluence with the San Antonio River in Karnes County to a point 100 meters (110 yards) downstream of IH 10 in Bexar/Guadalupe County.

The Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (“*NORI*”) was issued on October 30, 2020 and published on November 13, 2020. An amended *NORI* was issued on April 30, 2021 and published on May 12, 2021. The Notice of Application and Preliminary Decision (“*NAPD*”) was issued on June 17, 2021 and published on June 30, 2021. The original deadline to file public comments was July 30, 2021, but given the substantial degree of public interest in the Application, the Executive Director of the TCEQ has scheduled a public meeting, pursuant to 30 TAC § 55.154, in order to allow for further public input on the Application and Draft Permit. As such, the current deadline to file public comments regarding the Application and Draft Permit is September 14, 2021, at the close of the public meeting. To this end, presented below are the City’s timely filed public comments raising significant disputed issues of fact that are relevant and material to the TCEQ’s decision on the Application and are the basis for the City’s request for a contested case hearing, should the Application not be remanded back to technical review and/or denied outright.

The City requests that the TCEQ deny the Application and corresponding Draft Permit because GVSUD has not provided all of the information required in TCEQ application forms TCEQ-10053 (06/25/2018) Municipal Wastewater Application Administrative Report (“*Administrative Report*”) and TCEQ-10054 (06/01/2017) Domestic Wastewater Permit Application, Technical Reports (“*Technical Reports*”). In addition, the Application and Draft Permit fail to: (1) meet the state and TCEQ’s regionalization requirements; (2) demonstrate a need for the Final Phase of the Draft Permit; (3) satisfy water quality, antidegradation, and stream standard requirements; and (4) include other information and documentation required by TCEQ form TCEQ-10053ins (06/25/2018) Instructions for Completing the Domestic Wastewater Permit Application (“*Instructions*”). Further, the CCWWTP is to be located in the City’s extraterritorial jurisdiction (“*ETJ*”), but will serve none of its residents. In fact, rather than provide value to the citizens of the rural farming community, the proposed CCWWTP would instead have a negative effect, threatening the quality of water and rich agricultural soil upon which the City and its residents rely.

¹ As demonstrated by the screenshot from TCEQ’s Location Mapper tool, attached hereto and incorporated herein for all purposes as **Attachment A**, which shows, according to the *NAPD*, “the exact location” of the CCWWTP, the correct name of the proposed receiving water is Woman Hollering Creek, not Womans Hollow Creek, as referred to in the *NORI*, Amended *NORI*, *NAPD*, and Application.

II. PUBLIC COMMENTS

The City asserts that the Application and Draft Permit should be denied because the Application does not meet applicable statutory and regulatory requirements for a TPDES permit application; the Draft Permit fails to meet Texas Water Code (“*TWC*”), Chapter 26, and the TCEQ’s regionalization requirements for wastewater treatment plants (“*WWTPs*”); and GVSUD has not demonstrated a need for the CCWWTP. The City further maintains that the Application and Draft Permit should be denied because: (i) the Application is incomplete given that GVSUD asserts that it has an approved pretreatment program; (ii) fails to adequately protect against the CCWWTP’s negative impacts on water quality, antidegradation, and stream standards; (iii) GVSUD has not secured ownership/possession of the real property interests necessary to properly construct and operate the CCWWTP; and (iv) the Application fails to include other required elements, such as a sufficient Sewage Sludge Solids Management Plan, map of the proposed service area, and the requisite original photograph of the proposed location for the CCWWTP. In addition, the Application and Draft Permit should be denied due to nuisance odors that will result from the permitting of the CCWWTP, especially given GVSUD’s failure to satisfy all buffer zone requirements. Finally, the Draft Permit, if issued, threatens to degrade the quality of water and rich agricultural soil upon which the City and its residents rely without providing said residents, none of whom will be served by the proposed CCWWTP, with any benefits whatsoever.

A. The Application fails to comply with the State’s regionalization policy.

The TCEQ is required to implement the state’s policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.² In order to implement this regionalization policy, Section 1.B of the TCEQ’s TPDES permit application form Domestic Technical Report 1.1 contains three questions related to the potential for regionalization of WWTPs, each tailored to address the question of whether existing nearby wastewater treatment facilities and/or collection systems could provide service to the service area proposed in the TPDES permit application.³ All three regionalization questions in Section 1.B are relevant to GVSUD’s Application, and GVSUD has failed to complete the regionalization analysis and process in each instance. The TCEQ’s issuance of the Draft Permit also demonstrates that this issue was not taken into consideration when it processed the Application.

For Section 1.B.1, the Instructions require non-city applicants to “indicate if any portion of the proposed service area is located in an incorporated city,” and, if so, to “provide correspondence” demonstrating “consent to provide service or denial to provide service from the city.”⁴ If the nearby city consents to provide service, the applicant must provide a cost analysis justifying the need for the proposed facility.⁵ The Application, received August 31, 2020, indicates that “City responses are pending,”⁶ but GVSUD never supplemented the Application to include

² TWC § 26.081(a); *see also* TWC §§ 26.003, 26.0282; Instructions at 64.

³ Application Technical Reports at 21 – 22.

⁴ Instructions at 64.

⁵ *Id.*

⁶ Application Technical Reports at 21.

any responses received, including the response provided by the City on July 15, 2020—forty-seven (47) days prior to the date the Application was received by TCEQ. By failing to include the City’s response letter in the Application, GVSUD expressly withheld information essential to TCEQ’s required regionalization analysis. Consequently, the Application and Draft Permit should be denied.

Similarly, Section 1.B.2 requires applicants to “[i]ndicate if any portion of the proposed service area is inside another utility’s sewer Certificate of Convenience and Necessity [(“CCN”)] area.”⁷ Here too, if the answer is yes, then the applicant must “provide justification and a cost analysis of expenditures that shows the cost of connecting to the CCN facilities versus the cost of the proposed facility or expansion.”⁸ In the Application, GVSUD indicated that no portion of the proposed service area is located inside another utility’s CCN service area.⁹ The City believes that this denial is incorrect. While the boundaries of the proposed service area for the CCWWTP are unclear because they are not shown on the “Clearwater Creek WWTP Area” map (the “**CCWWTP Area Map**”) included in the Application, as required by Domestic Technical Report 1.0, the sewershed shown on that map very obviously extends into the sewer CCN service area held by the City of Schertz. For reference, see **Attachment B**, attached hereto and included herein for all purposes, which contains small and large scale maps of the City of Schertz’ sewer CCN No. 20271. As you can see, when compared with the “Water and Sewer CCN Viewer” map provided by the Public Utility Commission of Texas, it is clear that the sewershed depicted for the CCWWTP extends into the boundaries of the City of Schertz’ sewer CCN. Therefore, if GVSUD intends the CCWWTP to serve its entire sewershed, then GVSUD was required to justify the need for the CCWWTP based on a cost analysis included with the Application, which it did not. Therefore, because GVSUD also failed to include this additional regionalization information in the Application, TCEQ was prevented from considering and addressing the likely overlap, further inhibiting the requisite regionalization analysis. Consequently, the Application and Draft Permit should be denied.

Finally, Section 1.B.3, concerns the existence of permitted domestic WWTPs or sanitary sewer collection systems located within a three-mile radius of the proposed wastewater treatment facility.¹⁰ If such facilities exist, then the applicant is, again, required to indicate, and provide supporting documentation, regarding any such neighboring utilities’ responses to mandatory correspondence from the applicant regarding wastewater service for the proposed service area.¹¹ Just as with Sections 1.B.1 and 1.B.2, if any of the nearby utilities consent to provide service, the applicant must provide a justification for the proposed facility and a comparison of the costs to construct it against those to connect to the applicable existing facility.¹² While GVSUD properly disclosed the existence of nearby facilities, it indicated that no such facilities “have the capacity to accept or are willing to expand to accept the volume of wastewater proposed in [the Application].”¹³ As explained above, the City is unable to verify the accuracy of that assertion

⁷ *Id.* at 22.

⁸ *Id.*

⁹ *Id.*

¹⁰ Instructions at 65; Application Technical Reports at 22.

¹¹ *Id.*

¹² *Id.*

¹³ Application Technical Reports at 22.

because GVSUD failed to provide any responses to the letters sent to neighboring cities and utilities potentially capable of providing service. Further, given that the City's response to GVSUD's correspondence was not included in the Application, it is likely that other neighboring entities' responses may also have been withheld from TCEQ. For example, the City of Schertz is undertaking a large project to complete a sanitary sewer system that will collect and convey wastewater to the Cibolo Creek Municipal Authority water reclamation plant off of Trainer Hale Road, less than two miles from the proposed CCWWTP. In fact, that wastewater treatment plant, and its sewershed, are included in the sewershed depicted on GVSUD's CCWWTP Area Map. Therefore, these entities may have informed GVSUD of their willingness and/or ability to provide service to the proposed service area, but the TCEQ lacks the information to determine whether that is the case, further obstructing the regionalization analysis. Because this regionalization information was not available to TCEQ, and therefore never taken into consideration, the Application and Draft Permit should be denied.

B. The Application fails to sufficiently demonstrate need for the authorized discharge amount of 0.4 million gallons per day.

The City contends that the Application and Draft Permit should be denied because the Final Phase of the proposed CCWWTP is not needed. In conjunction with the TCEQ's regionalization policy, Section 1 of Domestic Technical Report 1.1 requires a TPDES permit applicant to "[p]rovide a detailed discussion regarding the need for any phase(s) not currently permitted."¹⁴ The Instructions further clarify this requirement, stating:

Provide justification for the proposed flows . . . Provide an anticipated construction start date and operation schedule for each phase being proposed. If construction is dependent upon housing/commercial development, provide information from the developer. Provide information such as the size of the development (number of lots), the date construction on the development is scheduled to begin, and the anticipated growth rate of the development (number of houses per month or year). . . . If additional space is needed, submit the justification information as an attachment.

Attach population estimates and/or projections used to derive the flow estimates and anticipated growth rates for developments. Provide the source and basis upon which population figures were derived (census and/or other methodology). Also, provide population projections at the end of the design life of the treatment facility (usually 50+ years) and the source and basis upon which population figures were derived.¹⁵

Per the Instructions, "[f]ailure to provide sufficient justification for the continued need for the permit and/or each proposed phase may result in a recommendation for denial of the application or proposed phases."¹⁶

¹⁴ *Id.* at 21.

¹⁵ Instructions at 64.

¹⁶ *Id.*

Here, instead of providing the requisite “detailed discussion” outlined above, the Application merely states:

This requested permit is proposed to support planned residential and commercial growth in GVSUD’s sewer CCN area. GVSUD holds sewer CCN for proposed service area. The current contract for service equates to 950 EDUs of service or 232,750 gpm.¹⁷

First, the City contends that 232,750 gallons per minute is not an accurate indication of the treated effluent likely to be generated by 950 EDUs (equivalent dwelling units). That amount of wastewater is equivalent to a wastewater discharge of 335.16 million gallons per day (“*MGD*”). Rather, the City asserts that GVSUD only intends to have a flow of 232,750 GPD (0.232750 MGD).

Second, with a total proposed discharge of 0.233 MGD, the Application seeks an excessive and unnecessary amount of treatment capacity. Thus, the Application does not demonstrate the need for the Draft Permit’s Final Phase authorization to discharge up to 0.4 MGD of treated effluent, and the Application and Draft Permit, as proposed, should be denied.

C. The Application raises concerns that the proposed discharge will not be in compliance with the TCEQ’s antidegradation policy.

As indicated above, the Application and Draft Permit authorize the discharge of treated domestic wastewater from the proposed CCWWTP to Womans Hollow Creek, thence to Martinez Creek, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 TAC § 307.10) for Classified Segment No. 1902 are primary contact recreation 1, high aquatic life use, and 5.0 mg/L dissolved oxygen. Segment No. 1902 is also currently listed on the 303(d) List for bacteria in the water. Thus, the City has concerns that the discharge into Segment No. 1902, as proposed by the Draft Permit, would impact water quality in that watercourse. Again, the City’s residents depend primarily on agriculture to make a living. The substantially agricultural character of the City is demonstrated by the fact that the City has projected that it will receive absolutely no income from occupancy certificates or subdivision platting fees during Fiscal Year 2021-2022. For reference, the proposed City budget for Fiscal Year 2021-2022 is attached hereto as Attachment C. As such, any degradation of water quality would adversely impact City residents’ ability to water livestock and crops and could also damage the area’s rich soils, which make the City a particularly productive agricultural area. Therefore, water quality impacts are likely to have substantial adverse impacts on the longstanding way of life in the City.

Specifically, the Application and Draft Permit raise concerns with the City that the proposed discharge will neither be in compliance with the TCEQ’s antidegradation policy nor maintain its current stream standard. Pursuant to 30 TAC § 307.5, the proposed discharge is subject to that antidegradation policy and implementation procedures under Tier 1 and Tier 2.

¹⁷ Application Technical Reports at 21.

Therefore, before approving the Application, the Commission must ensure that antidegradation will not occur as a result of the proposed discharge. Additionally, because Segment No. 1902 is an impaired water body on the TCEQ's 303(d) List, the proposed discharge may unnecessarily further downgrade the segment's water quality if statutory and regulatory requirements for antidegradation and stream standards are not met. Thus, due to these additional concerns, the Application and Draft Permit, as presented, should be denied.

Furthermore, the Application describes the unclassified Womans Hollow Creek as a "Wet Weather Creek,"¹⁸ despite containing information suggesting it may be intermittent or intermittent with perennial pools, stating that it is a "[s]low shallow running creek with perennial pools."¹⁹ The Application also indicates that no perennial streams join the receiving water within three miles downstream of the discharge point.²⁰ Martinez Creek, however, which is joined by Womans Hollow Creek less than three miles downstream of the discharge point, is included on the 303(d) List as Segment No. 1902A and described as a "[p]erennial stream."²¹ As such, the effluent set proposed in the Draft Permit may be based on an incorrect stream characterization and inconsistent with state and federal regulations.

D. GVSUD lacks sufficient legal title and/or rights to land to own and operate the proposed CCWWTP.

In addition to the foregoing bases for denying the Application, the City believes that the Application is deficient because it does not establish—and GVSUD cannot establish—that it holds sufficient legal rights to real property necessary to own and operate the CCWWTP. As evidenced by the Bexar Appraisal District reports attached hereto and incorporated herein for all purposes as **Attachment D**, GVSUD does not own the land at the address provided for the proposed CCWWTP. However, pursuant to the Instructions:

If the owner of the land is not the same as the applicant, a long-term lease agreement for the life of the facility must be provided. A lease agreement can only be submitted if the facility is not a fixture of the land (e.g., above-ground package plant). . . . If the facility is considered a fixture of the land (e.g., ponds, units half-way in the ground), there are two options. The owner of the land can apply for the permit as a co-applicant or a copy of an executed deed recorded easement must be provided. A long-term lease agreement is not sufficient if the facility is considered a fixture of the land.

Both the long-term lease agreement and the deed recorded easement must give the facility owner sufficient rights to the land for the operation of the facility."²²

¹⁸ *Id.* at 30.

¹⁹ *Id.* at 31.

²⁰ *Id.* at 30.

²¹ Tex. Comm'n on Env'tl. Quality, *2020 Texas Integrated Report - Texas 303(d) List 88* (2020), www.tceq.texas.gov/waterquality/assessment/20twqi/20txir.

²² Instructions at 33.

In its Application, GVSUD incorrectly indicated that it owns the land where the CCWWTP will be located,²³ and the third page of TCEQ's "Checklist for Admin Review of Municipal Application for Permit," attached hereto and incorporated herein for all purposes as Attachment E, demonstrates that TCEQ relied upon that assertion in reviewing the Application. However, GVSUD is not the owner of the land where the proposed CCWWTP will be located, and it has not provided the TCEQ with any document demonstrating ownership or a long-term lease agreement. As such, GVSUD has failed to demonstrate that it possesses sufficient rights to the land for the operation of the proposed CCWWTP.

E. The Application contains a number of additional deficiencies.

After a careful review of the Application, the City believes that the Application has the following additional deficiencies, and that due to these deficiencies, the Application and Draft Permit should be denied:

1. **Service Area Map.** The Application does not contain a map clearly identifying the proposed service area for the CCWWTP. As noted briefly above, TCEQ requires GVSUD to provide a map showing the "boundaries of the area served by the treatment facility."²⁴ However, it is uncertain whether GVSUD has provided such map. If the map provided by GVSUD in the Application to address this requirement is the CCWWTP Area Map, showing the CCWWTP's proposed sewershed, then GVSUD's proposed service area boundaries are unclear; otherwise, the Application is lacking this important, required piece of information. In either case, the CCWWTP Area Map does not indicate whether the CCWWTP is intended to serve the entire sewershed shown thereon, a portion of which extends into the City of Schertz' sewer CCN service area.
2. **Sewage Sludge Solids Management Plan.** In Domestic Technical Report 1.0, Section 9, the TCEQ requires the applicant to select the anticipated sludge disposal method and provide sludge disposal site information, including the disposal site name, permit or registration number, and disposal site's county.²⁵ Section 9 also requires the applicant to indicate the method of transportation, hauler name, and hauler registration number.²⁶ In response, GVSUD did not provide most of this information, instead stating that the information is to be determined and admitting that neither a sludge disposal site nor hauler has been selected.²⁷ GVSUD also has not complied with the TCEQ's requirement to provide a copy of the contractual agreements demonstrating that the receiving facility will accept the sludge.²⁸ GVSUD's failure to identify a method for sludge disposal creates another deficiency in the Application and indicates that GVSUD's operation of the CCWWTP will not comply with federal and state requirements.

²³ Application Administrative Report at 8.

²⁴ *Id.* at 11.

²⁵ Application Technical Reports at 12 – 13.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 13.

3. **Original Photographs.** The Application does not contain an original photograph of the proposed location for the CCWWTP, and thereby violates the Instructions, which indicate that applicants “must” submit “[a]t least one photograph of the new . . . treatment unit(s) location.”²⁹
4. **Pretreatment Program.** The Application is inconsistent as to whether GVSUD has an approved pretreatment program under 40 CFR Part 403. In Domestic Technical Report 1.0, GVSUD indicates it does not have such a program, but GVSUD’s answer to the first question in Section D of Domestic Worksheet 6.0 indicates otherwise. Without clarity as to whether GVSUD does have an approved pretreatment program, it is impossible to determine whether it should have completed Domestic Worksheets 4.0, 5.0, or some portion thereof, in addition to completing Domestic Worksheet 6.0.
5. **Buffer Zone.** Next, the City asserts that GVSUD’s Application fails to provide proof of a sufficient buffer zone compliance method. Section 3 of Domestic Administrative Report 1.1 requires a TPDES permit applicant to indicate how the buffer zone requirements of 30 TAC § 309.13(e) will be met.³⁰ The Instructions further specify that “[t]he buffer zone, either 150 or 500 feet from the treatment units . . . can be met by ownership, legal restrictions preventing residential structures within the buffer zone, an approved nuisance odor prevention plan, or a variance to the buffer zone.”³¹ GVSUD indicated it would satisfy the buffer zone requirements through ownership,³² but as explained in more detail above, GVSUD possesses no ownership interest, nor legal right sufficient to comply with the requirements of 30 TAC § 309.13(e). Specifically, the Instructions indicate that “[o]wnership means that the applicant owns all the land surrounding the treatment units that fall within the buffer zone,”³³ which GVSUD does not. Furthermore, 30 TAC § 309.13(e) provides that “wastewater treatment plant units may not be located closer than 150 feet to the nearest property line.” As shown on the maps included in the Application, GVSUD’s proposed 150-foot buffer zone is rectangular. That does not properly buffer a 150-foot radius around the proposed facility. In any case, the maps depict the buffer zone extending beyond the boundary of the CCWWTP property.
6. **Nuisance Odors.** In addition to the buffer zone issues described above, an additional, unneeded treatment and disposal facility, if not operated properly, may result in nuisance odors that will adversely affect the quality of life of nearby residents and the public. In accordance with 30 TAC § 309.13(e), the Applicant must demonstrate that sufficient measures to prevent nuisance odors will be undertaken. It is not in the public interest to issue a new discharge authorization that may result in nuisance odors when regionalized wastewater services are available, particularly when nearby schools are located within the three-mile radius of the proposed CCWWTP.

²⁹ Instructions at 43.

³⁰ Application Administrative Report at 14.

³¹ Instructions at 43.

³² Application Administrative Report at 14

³³ Instructions at 43.

For the above-cited reasons, the City recommends that the TCEQ deny the Application and Draft Permit.

III. REQUEST FOR CONTESTED CASE HEARING


The City requests a contested case hearing regarding the Application, Draft Permit, and each and every issue raised in the City's public comments, and any and all supplements and/or amendments thereto. For the reasons set forth herein, the City is an affected person, as defined by 30 TAC § 55.203. The City has a personal justiciable interest to a legal right, duty, privilege, power, or economic interest that is not common to the general public that would be adversely affected should the Draft Permit be granted. In determining whether a person is an affected person, the TCEQ may consider, among other factors, (1) "whether the interest claimed is one protected by the law under which the application will be considered; (2) distance restrictions or other limitations imposed by law on the affected interest; (3) whether a reasonable relationship exists between the interest claimed and the activity regulated; . . . (5) likely impact of the regulated activity on use of the impacted natural resource by the person; . . . and (7) *for governmental entities, their statutory authority over or interest in the issues relevant to the application.*"³⁴ The TCEQ may also consider "the merits of the underlying application and supporting documentation . . . , including whether the application meets the requirements for permit issuance."³⁵

IV. CONCLUSION

The City reserves its right to supplement these public comments and this request for a contested case hearing as it learns more about the Application—additional information may become apparent through the public meeting (and thereby-extended comment period) regarding this Application. The City appreciates your consideration of these public comments and request for a contested case hearing.

Thank you for your consideration of this important matter. If you or your staff have any questions regarding this matter, please contact me at your convenience.

Sincerely,



Maris M. Chambers

MMC/dsr
Enclosures

cc: Dee Grimm, Mayor, City of Saint Hedwig
Cynthia Trevino, Attorney, City of Saint Hedwig

³⁴ 30 TAC § 55.203(c) (emphasis added).

³⁵ *Id.* § 55.203(d).

Attachment A



Location Mapper

Version 4.1

User Guide



Find address or place



Starr

Abert Rd

Shay's Back B

Trainer Hyde Rd

Boyer Rd

Abert Rd

Reel Rock Rd

Stapper Rd



Stapper Rd

St Hedwig Estate

Miller Rd

Creekside Dr

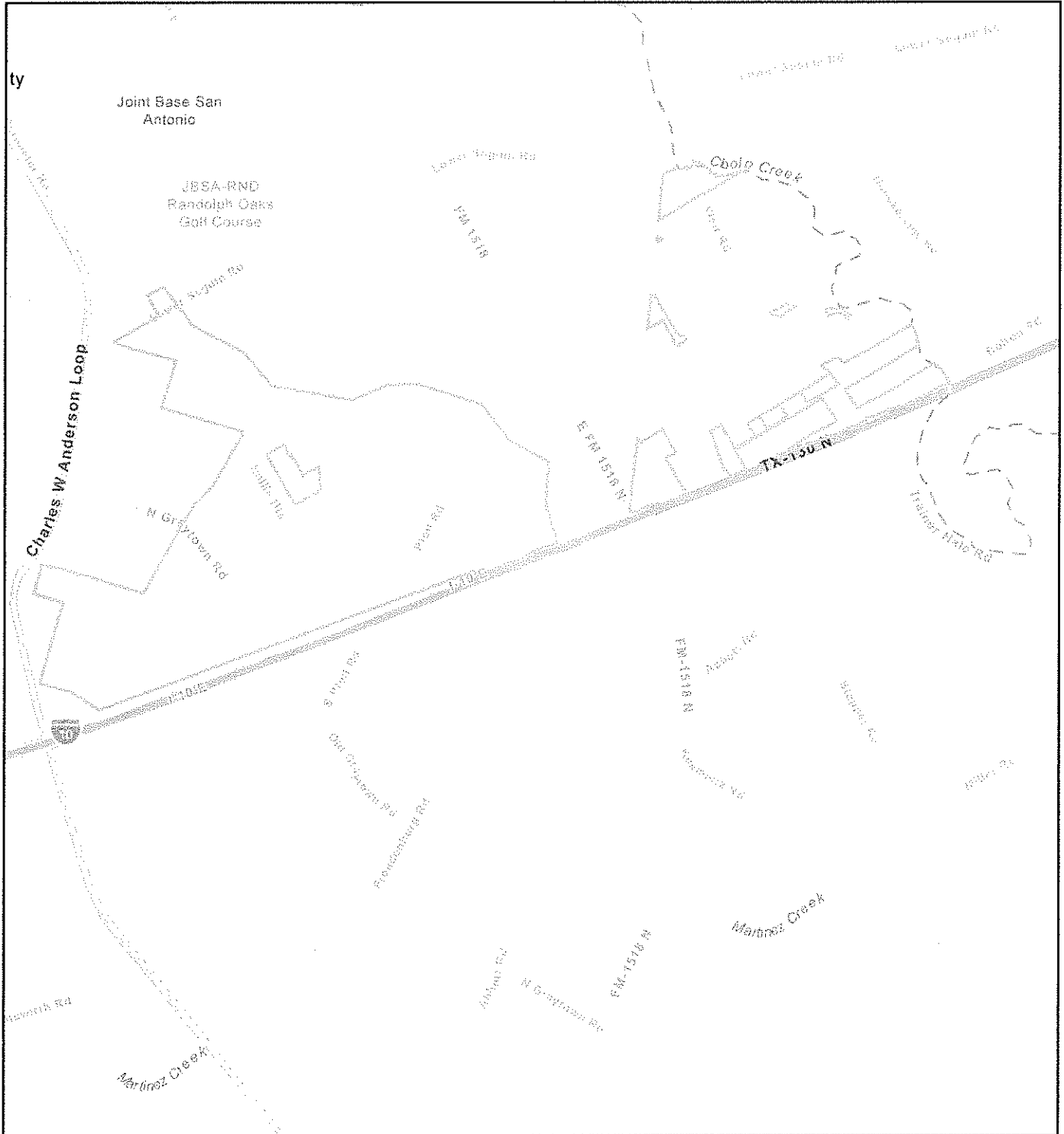
0 0.05 0.15 0.3mi

39° 50' 29.4825 Degrees

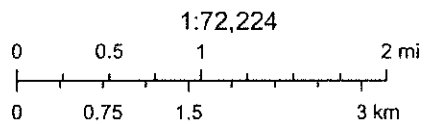


Attachment B

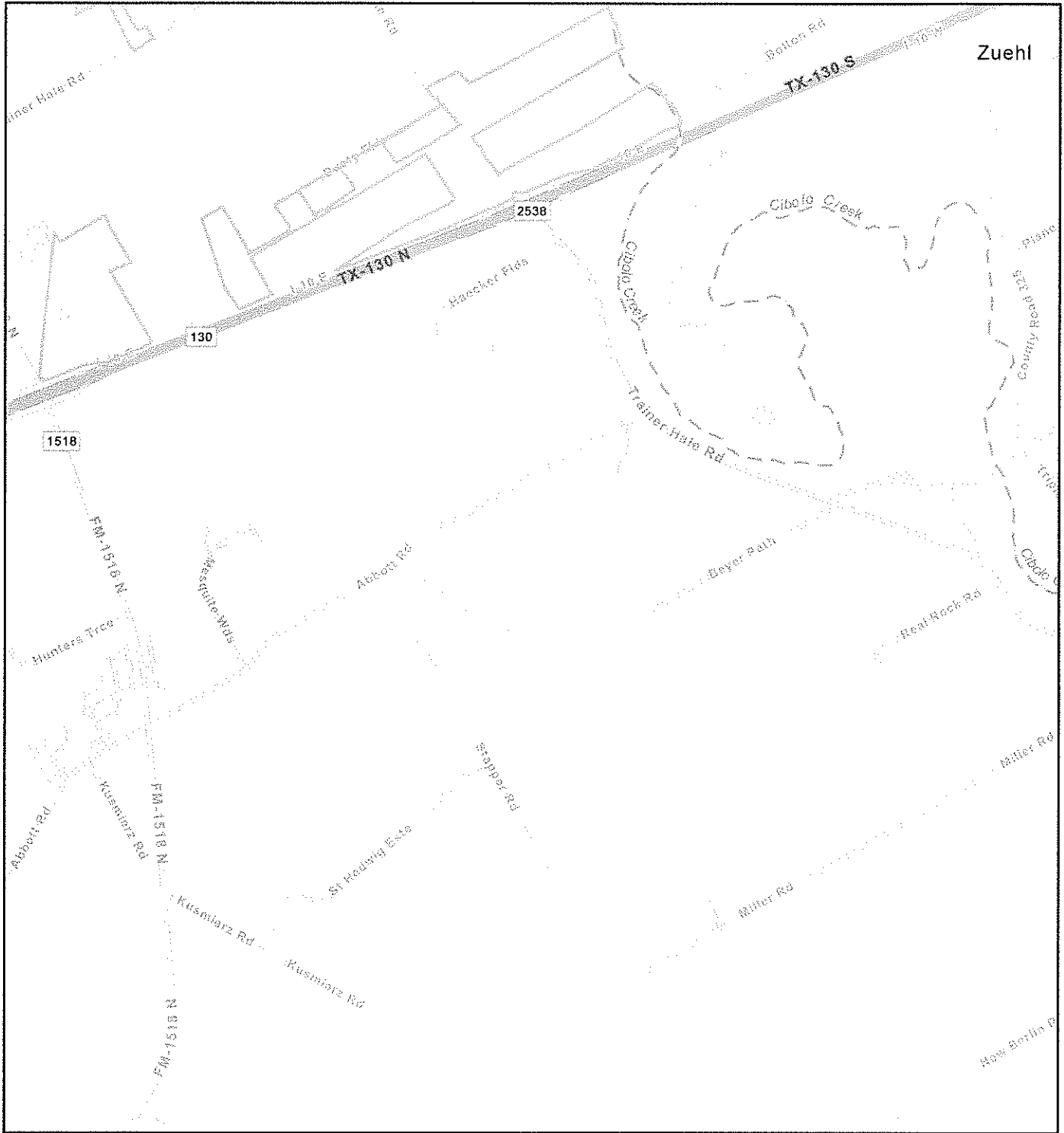
City of Schertz Sewer CCN No. 20271



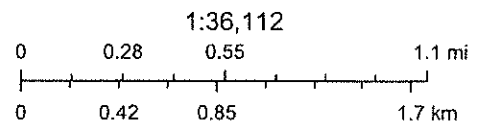
July 29, 2021



City of Schertz Sewer CCN No. 20271(Large Scale)



July 29, 2021



Attachment C



City of Saint Hedwig

**FISCAL YEAR 2021-2022
PROPOSED CITY BUDGET**

This budget will raise more total property taxes than last year's budget by \$27,818, which is a 3.61% increase from last year's budget, and of that amount \$20,284 is tax revenue to be raised from new property added to the tax roll this year.

**City of Saint Hedwig
FY 2021-2022 Proposed Budget**

	<u>Oct 1, 2020 - Sep 30, 2021</u> <u>Adopted Budget FY21</u>	<u>Oct 1, 2021 - Sep 30, 2022</u> <u>Proposed Budget FY22</u>
Ordinary Income/Expense		
Income		
Ad Valorem Taxes	650,000.00	797,971.00
Building Permits		
Board of Adj Fee	0.00	0.00
Building Permits Issued	7,000.00	7,000.00
Occupancy Certificate	0.00	0.00
Subdivision Platting Fees	0.00	0.00
Variance Fees	0.00	0.00
Building Permits - Other	0.00	0.00
Total Building Permits	<u>7,000.00</u>	<u>7,000.00</u>
Donations		
Park Benches	0.00	0.00
Total Donations	<u>0.00</u>	<u>0.00</u>
Franchise Fees		
Electric	90,000.00	90,000.00
Telephone	2,500.00	2,500.00
Total Franchise Fees	<u>92,500.00</u>	<u>92,500.00</u>
Interest		
Regular Savings	15,000.00	7,500.00
Total Interest	<u>15,000.00</u>	<u>7,500.00</u>
Miscellaneous Income		
Rebates	0.00	0.00
Printing Fee	0.00	0.00
Miscellaneous Income - Other	0.00	0.00
Total Miscellaneous Income	<u>0.00</u>	<u>0.00</u>
Sales Tax Collected	90,000.00	200,000.00
Alcoholic Beverage Tax Coll	0.00	0.00
School Crossing Guards	0.00	0.00
VIT Overages	0.00	0.00
Total Income	<u>854,500.00</u>	<u>1,104,971.00</u>
Expense		
Reconciliation Discrepancies	0.00	0.00
Capital Improvements		
6011 - Security System	0.00	0.00
6013 - Park		
6013 - Park - Other	0.00	0.00
6013a - Trees	0.00	0.00
6013c - Electric Poles	0.00	0.00
6013h - Benches	0.00	0.00
6013 - Park - Other	60,000.00	60,000.00
Total 6013 - Park	<u>60,000.00</u>	<u>60,000.00</u>
6014 - Irrigation System	0.00	0.00
6015 - Computer Equipment	750.00	750.00
6019 - Building Improvements		
6019 - Bldg Improvement	0.00	0.00
6019a - Air Conditioning	0.00	0.00
6019 - Building Improvements - Other	30,000.00	77,971.00
Total 6019 - Building Improvements	<u>30,000.00</u>	<u>77,971.00</u>
Total Capital Improvements	<u>90,750.00</u>	<u>138,721.00</u>
6023 - Lawn Mowing Equipment	0.00	95,000.00
Operational Costs		
5010 - Security	1,200.00	1,200.00
5011 - Budget Accountant	6,500.00	6,500.00
5335 - Computer Maintenance	1,000.00	1,000.00
5211 - Gas and Electric		
5211 - City Hall & Park	5,400.00	5,400.00
5211a - Street Lights	3,000.00	3,000.00
5211 - Gas and Electric -Other	0.00	0.00
Total 5211 - Gas and Electric	<u>8,400.00</u>	<u>8,400.00</u>
5212 - Water	3,500.00	3,500.00
5215 - Telephone	5,900.00	5,900.00
5216 - Internet Access	1,000.00	1,000.00
5219 - Domain - Website & Email	4,000.00	4,000.00
5220 - Alarm System Services	500.00	500.00
5221 - Port-A-Potty	2,000.00	2,000.00
5225 - Exterminator	350.00	350.00
5230 - Postage and Delivery	500.00	500.00
5235 - Printing/Copying	750.00	750.00
5240 - Public Notice	2,000.00	2,000.00
5270 - Insurance		
5271 - Building & Equipment	1,000.00	1,164.00
5272 - General Liability	1,150.00	999.00
5273 - Errors & Omissions	1,150.00	1,754.00
5274 - Automobile Liability	100.00	75.00
5275 - Workers' Compensation	2,000.00	1,177.00
5276 - Law Enforcement	700.00	943.00
5277 - Mobile Equipment	350.00	304.00
5278 - Insurance - Other	700.00	0.00
Total 5270 - Insurance	<u>7,150.00</u>	<u>6,416.00</u>

**City of Saint Hedwig
FY 2021-2022 Proposed Budget**

	<u>Oct 1, 2020 - Sep 30, 2021</u>	<u>Oct 1, 2021 - Sep 30, 2022</u>
	<u>Adopted Budget FY21</u>	<u>Proposed Budget FY22</u>
5280 - Bank Service Charges	1,000.00	1,000.00
5290 - Bond Principal Expense		
5291 - Municipal Bldg & Land	0.00	0.00
5292 - Road Improvements	0.00	0.00
Total 5290 - Bond Principal Expense	0.00	0.00
5295 - Bond Interest Expense		
5296 - Municipal Bldg & Land	0.00	0.00
5297 - Road Improvements	0.00	0.00
Total 5295 - Bond Interest Expense	0.00	0.00
5330 - Election Costs		
5330 - Election Costs-Other	5,000.00	4,500.00
5331 - Judges, Clerks	2,500.00	0.00
5332 - Ballots	500.00	0.00
5330 - Election Costs - Other	0.00	0.00
Total 5330 - Election Costs	8,000.00	4,500.00
5340 - Cleaning Service	1,500.00	1,500.00
5360 - City Attorney Services	25,000.00	25,000.00
5365 - Acctg & Audit Service	7,500.00	6,450.00
5368 - Master Planner	0.00	0.00
5370 - Appraisal District Serv	3,500.00	3,500.00
5375 - City Planning Commission	750.00	750.00
5380 - Membership Dues	1,000.00	1,000.00
5385 - Building Inspector	15,000.00	15,000.00
5400 - Engineering Services		
5410 - Road Engineer	93,330.00	80,000.00
Total 5400 - Engineering Services	93,330.00	80,000.00
Total Operational Costs	201,330.00	182,716.00
Personnel Services		
5005 - Salaries, Reg. Employee	24,918.00	39,936.00
5006 - Mayor's Stipend	0.00	0.00
5007 - Salaries, Other (Mayor)	14,400.00	19,200.00
5008 - Code Compliance Officer	10,686.00	33,280.00
5009 - Maintenance Man	30,000.00	30,000.00
5009 - Maintenance Man Add'l	0.00	17,160.00
5020 - Social Security Employer	5,974.00	8,653.71
5025 - Medicare Employer	1,472.00	2,023.85
50?? - Employee Health Insurance		9,600.00
Personnel Services - Other	0.00	0.00
Total Personnel Services	87,450.00	159,853.56
Town Marshall Expenses		
50?? - Vehicle		22,500.00
50?? - Vehicle Equipment		3,920.00
50?? - Office Equipment		11,120.00
50?? - Software		4,710.00
50?? - Operating Costs		6,048.00
50?? - Town Marshall Salary		26,000.00
50?? - Consulting Fees		8,000.00
Total Town Marshall Expenses		82,298.00
Municipal Court Expense		5,000.00
Total Municipal Court Expense		5,000.00
Supplies and Materials		
5601 - Office Supplies	3,500.00	3,500.00
5609 - ROW Trash Pickup	1,800.00	1,800.00
5610 - ROW Shredding	15,000.00	15,000.00
5611 - ROW Spraying	8,000.00	8,000.00
5612 - ROW Tree Trimming	20,000.00	20,000.00
5620 - Road Maint -Supplies	12,000.00	12,000.00
5621 - Road Maint-Contract	1,674,670.00	1,200,000.00
5630 - Drainage	180,000.00	30,000.00
5640 - Sign Maintenance		
5641 - Sign Purchase	5,500.00	5,500.00
Total 5640 - Sign Maintenance	5,500.00	5,500.00
5650 - Building Maintenance		
5650 - Building Maint. - Other	3,000.00	3,000.00
5651 - Maintenance Supplies	6,500.00	6,500.00
5650 - Building Maintenance - Other	0.00	0.00
Total 5650 - Building Maintenance	9,500.00	9,500.00
5660 - Repairs		
5661 - Tractor Repair & Mainten	10,000.00	3,500.00
5662 - Machinery Fuel	3,500.00	3,500.00
5660 - Repairs - Other	0.00	0.00
Total 5660 - Repairs	13,500.00	7,000.00
Total Supplies and Materials	1,943,470.00	1,312,300.00
Travel, Training, & Prof Dues		
5112 - Mileage	3,500.00	3,500.00
5120 - Training	1,000.00	1,000.00
5125 - Meetings	1,000.00	1,000.00
5140 - Professional Dues	1,000.00	1,000.00
Total Travel, Training, & Prof Dues	6,500.00	6,500.00

**City of Saint Hedwig
FY 2021-2022 Proposed Budget**

	<u>Oct 1, 2020 - Sep 30, 2021</u>	<u>Oct 1, 2021 - Sep 30, 2022</u>
	<u>Adopted Budget FY21</u>	<u>Proposed Budget FY22</u>
Total Expense	2,329,500.00	1,982,388.56
Net Ordinary Income	(1,475,000.00)	(877,417.56)
Other income/Expense		
Other Income		
Transfers from Reserve	1,475,000.00	877,417.56
Total Other Income	1,475,000.00	877,417.56
Net Other Income	1,475,000.00	877,417.56
Net Income	<u>0.00</u>	<u>(0.00)</u>

Attachment D

Property Search Results > 1 - 6 of 6 for Year 2021

Export Results

New Search

Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a single map.

Property Address Legal Description

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value	
<input type="checkbox"/> 1166658	80400-000-1880	Mobile Home	4060 STAPPER RD TX	DUNCAN CRAIG & JOANN		\$44,290	View Details View Map
<input type="checkbox"/> 1172641	04019-000-1882	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	DUNCAN HAZEL JOANN		\$5,390	View Details View Map
<input type="checkbox"/> 169912	04019-000-1880	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL W & SUTTON CAROLYN & DUNCAN HAZEL J		\$37,730	View Details View Map
<input type="checkbox"/> 1172711	04019-000-1883	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL WILLIAM		\$12,150	View Details View Map
<input type="checkbox"/> 169348	04019-000-0191	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL WILLIAM		\$114,590	View Details View Map
<input type="checkbox"/> 169913	04019-000-1881	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SUTTON DONALD J & CAROLYN R		\$176,210	View Details View Map

Page: 1

**Protest status and date information current as of Jul 28 2021 1:22AM.
2021 and prior year appraisal data current as of Jul 2 2021 6:19AM
For property information, contact (210) 242-2432 or (210) 224-8511 or
email.
For website information, contact (210) 242-2500.**

Attachment E

~~print N&T packet for review~~

~~print pre-approval + N&T email~~

CHECK LIST FOR ADMIN REVIEW OF MUNICIPAL APPLICATION FOR PERMIT		
Permit No. WQoo <u>15917001</u>	TX <u>014054v</u>	MGD <u>0.4</u>
CN <u>600684294</u>	RN <u>111093126</u>	County: <u>Bexar</u> Region No. <u>13</u>
Facility: () Major (<input checked="" type="checkbox"/>) Minor	App Revd Date: <u>8/31/2020</u>	Permit Expiration Date: <u>NEW</u>
(<input checked="" type="checkbox"/>) Inactive () Active	Segment No. <u>1902</u>	

Note: A minor facility is generally one in which the final flow is less than 1.0 MGD.

Application Review Date: 10/16/2020

A copy of the pre-tech review was provided by the Municipal Permits Team (for new, major amendments and major facilities).

A copy of the groundwater review was provided (for TLAP new, major amendment, SADD minor amendment, and all applications with (or proposing) Class B sludge provisions).

For new and major amendment applications that propose surface water discharge, the standards review for RWA comments is included.

Coastal Zone sheet is included. Yes No

Fees or Penalties Owed: No [] Yes Amount Owed: _____

SECTION 1 APPLICATION FEES

Application Fees: The appropriate item checked and payment verified in receipt rpt or boexi rpt. Note: copies of checks should be removed and shredded.

Municipal Fees

Proposed/Final Phase Flow	New/Major Amend.	Renewals	Minor Amendment or Modification <u>without</u> Renewal [] \$150.00 (for any flow)
< .05 MGD	[] \$350.00	[] \$315.00	
≥ .05 but < .10 MGD	[] \$550.00	[] \$515.00	
≥ .10 but < .25 MGD	[] \$850.00	[] \$815.00	
≥ .25 but < .50 MGD	<input checked="" type="checkbox"/> \$1,250.00	[] 1,215.00	
≥ .50 but < 1.0 MGD	[] \$1,650.00	[] 1,615.00	
≥ 1.0 MGD	[] \$2,050.00	[] 2,015.00	

SECTION 2 TYPE OF APPLICATION

The Type of application is marked

Reason for amendment or modification (if applicable). Also, check Tech. Report 1.1 Section 4 on page 3 (Unbuilt Phases) and Section 1.A on page 20 (Justification of permit need).

SECTION 3 FACILITY OWNER (APPLICANT) AND CO-APPLICANT

Legal name of applicant is listed (*the owner of the facility must apply for the permit*)

Legal name of co-applicant is listed (*if required to apply with facility owner*)

Core Data Form (CDF) is provided. A separate CDF is required for each customer.

Section I – General Information

Reason for submittal is marked.

Customer (CN) and Regulated Entity (RN) Reference Nos. provided – verify with Central Registry

Section II – Customer Information

Customer legal name is provided and it matches name on admin report

Texas SOS/Filing number is provided – verify with SOS

Texas State Tax ID is provided – verify with Texas Comptroller

Type of customer is marked – refer to information below

Corporation: Check with Secretary of State (SOS) at: <https://direct.sos.state.tx.us/acct/acct-login.asp> verify the entity status and charter number – print page. Verify correct legal spelling of applicant's name. Check spelling with SOS against the name listed in the application. (Permit must be issued in name as filed with SOS.) The applicant must be **"In existence and active"** before the application can be processed further.

Those entities subject to state franchise taxes: If applicable, check with Comptroller (website at: <http://ecpa.cpa.state.tx.us/coa/coaStart.html>). Verify the tax identification number is correct. Note: Non-profit organizations and partnerships are not subject to the state franchise tax.

Individual: Complete Attachment 1 of Admin. Report 1.0 The complete legal name, including the middle name; and all other information is required. This info is required by Chapter 26.027C of the Texas Water Code. A separate form is required for each individual.

Utility District: Check IWUD to verify that district is not dissolved (inactive is O.K. to process)

Trust: A copy of an executed trust agreement is provided. Verify that applicant's name is the same as the name in the trust agreement. NOTE: Executed trust must show signatures of trustees or beneficiaries forming the trust and which county it is recorded in.

Partnership: Verify with Secretary of State (SOS) that partnership is registered, active, and has a filing number. Check spelling with SOS against the name submitted in Item 1; Check that SOS # is correct; Print page from SOS website. OR if the partnership is not listed with the SOS, a copy of the partnership agreement is provided by the applicant. The agreement must: give the name of the partnership as provided on the application for permit; list names of partners; bear signatures of the partners; state the terms of the partnership; and must be recorded in the county where the facility (plant) is located.

Municipality/Governmental Agencies/School Districts: City, County, ISD, Fed, etc. – applicable info is listed.

Other _____

Number of employees is marked

Customer role is marked

Mailing address for the applicant is provided - verify on USPS website. This address is used on the permit.

Email address is provided *using GMail in app*

Telephone number is provided

Section III – Regulated Entity Information

Regulated Entity Name is provided and it matches name on admin report

Street address or location description of facility is adequately described. If different from current permit, new permit may be required. Use USPS website/GIS mapping to confirm street address

The county where the facility is located is provided

The name of the nearest city is provided

The zip code is provided

The longitude and latitude of the facility is provided – check mapit

Primary SIC Code is provided

Permit No. listed under appropriate programs- if not listed, add it

Section IV – Preparer Information

Name, title, telephone number, and email address is provided

Section V – Authorized Signature

Company name, title, printed name, phone number, signature, and date provided

SECTION 4 APPLICATION CONTACT INFORMATION

Administrative and Technical contact name, address, electronic information provided

SECTION 5 PERMIT CONTACT INFORMATION

Permit (2) contact names, addresses, electronic information provided

SECTION 6 BILLING INFORMATION

Billing contact name, address, electronic information provided

SECTION 7 REPORTING INFORMATION

DMR/MER contact name, address, electronic information provided

SECTION 8 NOTICE INFORMATION

Minor Amendment without Renewal – NORI not required. Skip review of notice information.

Name, address and phone number of one person responsible for publishing NORI is provided

Method of sending NORI package is provided

Name and phone number of contact to be in NORI is provided

Location where application will be available is provided and is in the county where the facility is located - the location must be a building supported by taxpayer funds. Note: If discharge is directly into water body that borders two counties, application must be placed in a public facility in both counties and the notice must be published in both counties

Bilingual Items 1 – 5 are completed. If “Yes” to question 1 and “Yes” to either question 2, 3 or 4, then e.5 must be completed **N**

SECTION 9 REGULATED ENTITY and PERMITTED SITE INFORMATION

Permit No. and Expiration date is listed, if not, verify with permit or PARIS

Name of project or site is provided. Should correspond to Item 22 on CDF.

Owner of the facility identified in the application is the same as the name given in Section 3.A

NOTE: THE OWNER OF THE FACILITY IS REQUIRED TO APPLY FOR THE PERMIT
(Refer to legal policy memo for complete definition and discussion of facility.)

Marked whether ownership of the facility is public, private or both

Owner of the land where permitted facility is or will be located is the **SAME** as the applicant.

The owner of the land on which the facility is located is **DIFFERENT FROM** the owner of the facility: A copy of a lease agreement or easement, with a term for the duration of the permit, between applicant and landowner, has been provided. See Lease Agreement/Easement Memo dated 2/14/06, that states that a lease is sufficient for pond systems, and that details the provisions that a lease agreement or easement must contain. OR, landowner can apply as a co-permittee. Lease must identify property by legal description or map.

Effluent Disposal Site Owner:

N/A - (no effluent disposal proposed)

If land disposal is authorized in permit or proposed, the applicant **OWNS** land on which site is located

If applicant **DOES NOT OWN** land where site is located, a long-term lease agreement is provided which includes: a term of at least 5 years; is current or it includes an option to renew the term; is between the current applicant and the landowner; and includes description of property by legal description or map.

(For new TLAP permits only: A copy of an executed option to purchase agreement may be provided to show that applicant will have ownership of the land upon permit approval.)

Sewage Sludge Disposal Site Owner:

N/A - (no sludge disposal proposed)

If sludge is authorized in permit or proposed, the applicant **OWNS** land on which disposal site is located, otherwise lease is needed unless Class B sludge is land applied. Check the permit under Sludge Provisions to determine if sludge is authorized. Note: For BLU sludge application – lease is not needed; Landowner just needs to sign sludge affidavit (if different from applicant)

If sludge disposal is proposed or authorized in the permit, the applicant must also submit the applicable sludge forms.

SECTION 10 DISCHARGE INFORMATION

- Checked if treatment facility location in permit is correct.
- Checked if discharge info in permit is correct. If applicable, the discharge route description is adequately described and describes the discharge route to the nearest major watercourse. Changing the point of discharge and route from the current permit description requires a major amendment
- The name of the city (or nearest city) where the outfall(s) is/will be located has been provided
- The county where the outfall is located is provided
- The longitude and latitude of the outfall is provided
- Marked item regarding authorization for discharge into a city, county, or state ditch. If applicable, correspondence is provided. Email TXDOT if discharge is to a state highway right-of-way or roadside ditch.
- For a daily average flow of 5 MGD or more: the names of all counties located within 100 miles downstream from the point of discharge. These counties will be listed on contact sheet.

SECTION 11 DISPOSAL (TLAP) INFORMATION

- The written location description of the disposal site is adequately described. (NOTE: A CHANGE IN LOCATION OR INCREASE IN ACREAGE REQUIRES A MAJOR AMENDMENT. A decrease in acreage may also be a major amendment (due to flow rate) - check with permit writer)
- The name of the city (or nearest city) has been provided
- The county where the disposal site is located is provided
- The longitude and latitude of the disposal site is provided
- The written flow of effluent from the facility to the effluent disposal site is adequately described
- The nearest watercourse to the disposal site is listed

SECTION 12 MISCELLANEOUS INFORMATION

- Identified whether or not facility or discharge are on Indian land (If yes, we do not have permit authority.)
- For permits that allow sewage disposal the location description is adequately described. For an already-existing permit, check to see that the location has not changed
- Must indicate whether any former TCEQ employees who were paid for services regarding this application
- Fees or Penalties Owed: No Yes - See page 1 of checklist

SECTION 13 ATTACHMENTS

- Lease agreement or deed recorded easement, if the land where the treatment facility is located or the effluent disposal site are not owned by the applicant or co-applicant
- An ORIGINAL or equivalent FULL-SIZED USGS 7.5 minute topographic map (8 1/2 x 11 acceptable for amendment and renewal applications) is provided and labeled showing: applicant's property boundary treatment facility boundaries point of discharge highlighted discharge route for three miles downstream or until it reaches a classified segment scale, effluent disposal site(s) pond(s) sludge disposal/land application site an area of not less than one mile in all directions of the site

Need full size

- All original or equivalent full sized maps must show:
- Color map Clear contour lines Upper left corner must identify map as USGS Department of the Interior Geological Survey Lower left corner, datum & project information Bottom, magnetic declination Bottom, must show scale Bottom, identify contour intervals Bottom, national map accuracy std. statement Bottom, show State of TX and quad location Around map, lat and long coordinates Bottom, quadrangle name Bottom, must identify map date

SECTION 14 SIGNATURE PAGE

Note: The signature information below lists the proper signatories for the various entities and the current version of the application contains a paragraph referencing 30 TAC 305.44. The person signing the application verifies that he or she is authorized, under this rule, to sign the application. We must verify that the title meets the requirements or signatory authority has been delegated.

- Original Signature Page is required.
- Signature must be properly notarized – check that signature date and notarized date are the same.

Owner Co-Permittee

- City - Elected official or principle executive officer of the city may be public works director.
- Individual: only the individual signs for himself/herself.
- Partnership: General Partner or exec officer
- Corporation: at least level of VP (CEO, Chairman of Board, Secretary can be equiv. to V.P., Member or General Manager for LLC, Manager of one or more manufacturing, production, or operating facilities employing more than 250 persons - refer to 30 TAC 305.44)
- Utility District: at least the level of vice president, on Board of Directors or District Manager
- Water Authority: Regional managers.
- Independent School Districts: at least level of the Assistant Superintendent or board members.
- Governmental Agencies: Division Directors or Regional Directors.
- Trust: The trustee that has been identified in the trust agreement.
- Other: _____

ADMIN REPORT 1.1 For All New or Major Amendment Applications

SECTION 1 Affected Landowner Information -

Landowner Map:

- The applicant's complete property boundaries are delineated which includes boundaries of contiguous property owned by the applicant
- For domestic facilities, show the buffer zone and identify all of the landowners whose property is located within the buffer zone - *tech address*
- The property boundaries of the landowners surrounding the applicant's property have been clearly delineated on the map
- The location of the facility within applicant's property is shown.

For TPDES applications:

- The point(s) of discharge is clearly identified on the map and the discharge route(s) is highlighted.
- The scale of map is provided to measure one mile downstream or if discharge is into a lake, bay estuary, or affected by tides, 1/2 mile up & down stream is measured.
- The property boundaries of landowners adjacent to the discharge route(s) for one mile downstream from the point of discharge have been clearly delineated and the route is clearly delineated. **OR** If discharge is into a lake, bay estuary, or affected by tides, the property boundaries of landowners 1/2 mile up & downstream and those property owners across the lake along the shore line that fall within a 1/2 mile radius of the point of discharge are clearly delineated on the map.

For TLAP applications (i.e., irrigation, evaporation, etc.):

- The boundaries of the disposal site is clearly identified on the map.
- The boundaries of all landowners surrounding the disposal site.
- Cross-referenced list of landowners is provided.
- Disk or four sets of labels were provided
- Source of landowners' info was provided.
- Provided response regarding permanent school fund land. If information filled out on General Land Office, then indicate so on the contact sheet.

SECTION 2 Original Photographs

- The original (color) ground level photos of treatment unit area, disposal or discharge areas (2 photos - one upstream, one downstream) have been provided
- Plot plan or map showing location and direction of each photo

SECTION 3 Buffer Zone Map *tech address*

Buffer zone map (8 1/2 by 11): The permit writer will review this during the pre-tech review. Any deficiencies will be addressed by them.

SUPPLEMENTAL PERMIT INFORMATION FORM (SPIF)

SPIF is provided - TPDES only

TECHNICAL REPORT – MUNICIPAL/DOMESTIC APPLICATIONS

Minor Amendment *without* Renewal. Review not required. Just make sure report is provided.

THE FOLLOWING ITEMS APPLY TO ALL APPLICATIONS:

The existing permitted design flow (including all permit phases) is indicated

If flow indicated is greater than permitted, a major amendment is required.

If flow amount is less than permitted amount, confirm with applicant that they are requesting to reduce the flow.

For facilities that have not been constructed the anticipated construction and operation dates are provided for all phases.

Site Drawing must be submitted (*see email from Lana 1/10/2019*).

The permit authorizes irrigation/evaporation/subsurface disposal method and the information has been addressed in the technical report. Verify the acreage. If the acreage has changed from what is currently permitted, a major amendment is required.

The applicable worksheets must be completed:

Worksheet 3.0 - required for land disposal of effluent

Worksheet 3.1 - required for land disposal (new and major amendment only)

Worksheet 3.2 - required for subsurface land disposal (new and major amendment only)

Worksheet 3.3 - required for subsurface area drip dispersal systems (SADDS) (new and major amendment); may be required for renewal on a case-by-case basis.

SADDS Applications: Compliance history items must be completed for SADDS disposal. When the application is administratively complete, a copy of the application and a transmittal letter must be sent to the State Department of Health Services. See the folder titled "SADDS" (under the Individual Permit Review folder) for a template of the letter.

Worksheet 7.0 – required for SADD applications (new and major amendment only) - We do not review the form; we just make sure that it is submitted. If it is not submitted, request it in a NOD.

Sludge disposal and/or land application is authorized in the permit on property owned or under applicant's control. If facility is beneficially applying class B sludge on the same site as the facility, the applicant must submit the Beneficial Land Use of Sewage Sludge (Class B) Permit Application - Form No. 10451 (See Class B Sludge Permit checklist). The applicant must also submit the appropriate sludge application fee.

If authorization is for sludge processing, storage, disposal, composting, marketing and distribution of sludge, sludge surface disposal, or sludge monofill or for temporary storage in sludge lagoons, the applicant must submit the Domestic Wastewater Permit Application: Sewage Sludge Technical Report – Form No. 10056.
Check for:

required signatures (if applicable)

site acreage acreage application area site boundaries shown on USGS map

Notes: If the applicant is disposing or land applying sludge on land owned or under their control, but it is not authorized in their permit or by any other TCEQ authorization, a major amendment is required.

If the application is for a new permit or major amendment, then you need to check for the appropriate affected landowner requirements.

[] Worksheet 6.0 must be addressed if a domestic facility is labeled as public or both, (not required for federal agencies or water treatment plants)

THE FOLLOWING ITEMS ONLY APPLY TO MINOR RENEWAL APPLICATIONS:

- [] The type of treatment plant has been indicated.
- [] The list of units and their dimensions have been provided
- [] The flow diagram has been provided.
- [] The required grab sample test results have been provided for all constituents - *not required if plant not operational.*
- [] Sludge disposal is authorized off site, and the ultimate sludge disposal method has been identified.
- [] Worksheet 2.0 - For TPDES permits - the stream data has been addressed.
- [] Worksheet 4.0 - For discharge permits: If the applicant has a permitted phase equal to or greater than 1 MGD or more than one phase, and interim or final phase(s) that have not been constructed has a flow equal to or greater than 1 MGD, the applicant must perform the all of the required effluent testing to renew that phase.

WHEN APPLICATION IS NOT ADMINISTRATIVELY COMPLETE:

Complete NOD. See NOD SOP

WHEN APPLICATION IS ADMINISTRATIVELY COMPLETE:

Complete NORI package. See NORI SOP
NORI not required for minor amendment. Complete the Routing and Contact (list "n/a" for item regarding person responsible for publication of the notice) Blue sheets only.

Prepare SPIF forms (only for TPDES permits)

checked application type

entered county name

entered administrative completeness date

ensured permit number is on form

*check agency receiving SPIF

Minor amendments - ALL agencies BUT Texas Historical Commission and Army Corps of Engineers

Renewals - All agencies BUT Texas Historical Commission

New and Major Amendments - All agencies

check that the segment number (if known) is entered in receiving water body information.

On the accompanying map, delineate the discharge route in such a way that copies will reflect the highlighted discharge route.

***NOTE:** Copy of SPIFs not required for Houston - US Fish and Wildlife and Galveston-US Army Corps of Engineers

Admin Complete PARIS Entry and Other Reminders

WQ Folder - Application Search

Application Summary Tab--verify application info

Admin Review Tab

- Admin Review Begin Date
- Admin Complete Date
- SPIF
- NORI

Public Participation Tab – No longer required to enter public notice details. See Katherine’s email dated 3/30/2017.

CR Folder – RE Search

AI Detail Screen--verify facility info

Enter Contact Info – Contact List

- Owner
- Applicant
- Technical
- Billing (To edit existing info – select Billing Maintenance)
- MER (TLAP only)
- Remove CN affiliation for MER contact (TLAP and TPDES)

OTHER

- Copy of notice, contact sheet, and labels to I/Drive
- SADDS – Application to Dept. of Health Services
- Email TXDOT if discharge is to a state highway right-of-way or roadside ditch.
- Email NORI
- Update facility name (if needed in PARIS)
- Update coordinates (if needed in PARIS), make sure correct link in Notice
- EPA ID CN, location address, facility name (if needed in PARIS)

Attachment B

The "*Appraisal District Reports*"

Bexar CAD

[Property Search](#) [Map Search](#)

Property Search Results > 1 - 2 of 2 for Year 2022

[Export Results](#) [New Search](#)

Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a single map.

Property Address Legal Description

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value	
<input type="checkbox"/> 991095	05193-000-1028	Real	14394 INTERSTATE 10 E CONVERSE, TX 78109	GREEN VALLEY SPECIAL UTILITY		N/A	View Details View Map
<input type="checkbox"/> 1056538	05193-000-1561	Real	E IH 10 CONVERSE, TX 78109	GREEN VALLEY SPECIAL UTILITY		N/A	View Details View Map

Page: 1

2022 data current as of Dec 16 2021 1:19AM.
2021 and prior year data current as of Dec 3 2021 6:20AM
For property information, contact (210) 242-2432 or (210) 224-8511 or email.
For website information, contact (210) 242-2500.

This year is not certified and ALL values will be represented with "N/A".

Website version: 1.2.2.33

Database last updated on: 12/16/2021 1:19 AM

© N. Harris Computer Corporation

Bexar CAD

[Property Search](#) [Map Search](#)

Property Search Results > 1 - 6 of 6 for Year 2022

[Export Results](#) [New Search](#)

Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a single map.

Property Address Legal Description

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value	
<input type="checkbox"/> 1166658	80400-000-1880	Mobile Home	4060 STAPPER RD TX	DUNCAN CRAIG & JOANN		N/A	View Details View Map
<input type="checkbox"/> 1172641	04019-000-1882	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map
<input type="checkbox"/> 1172711	04019-000-1883	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map
<input type="checkbox"/> 169913	04019-000-1881	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map
<input type="checkbox"/> 169348	04019-000-0191	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map
<input type="checkbox"/> 169912	04019-000-1880	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SA EISELE LLC		N/A	View Details View Map

Page: 1

2022 data current as of Dec 16 2021 1:19AM.
2021 and prior year data current as of Dec 3 2021 6:20AM
For property information, contact (210) 242-2432 or (210) 224-8511 or email.

For website information, contact (210) 242-2500.

This year is not certified and ALL values will be represented with "N/A".

Website version: 1.2.2.33

Database last updated on: 12/16/2021 1:19 AM

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Lori Rowe

From: PUBCOMMENT-OCC
Sent: Monday, December 20, 2021 10:58 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0015917001
Attachments: 2021.12.17 Wilks Hearing Request.pdf

H
RFR

From: gwyneth@txenvirolaw.com <gwyneth@txenvirolaw.com>
Sent: Friday, December 17, 2021 4:36 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0015917001

REGULATED ENTY NAME CLEARWATER CREEK WWTP

RN NUMBER: RN111093126

PERMIT NUMBER: WQ0015917001

DOCKET NUMBER:

COUNTY: BEXAR

PRINCIPAL NAME: GREEN VALLEY SPECIAL UTILITY DISTRICT

CN NUMBER: CN600684294

FROM

NAME: Lauren Ice

E-MAIL: gwyneth@txenvirolaw.com

COMPANY: Perales, Allmon & Ice, P.C.

ADDRESS: 1206 SAN ANTONIO ST
AUSTIN TX 78701-1834

PHONE: 5124696000

FAX: 5124829346

COMMENTS: Please see the attached request for a contested case hearing.

PERALES, ALLMON & ICE, P.C.

ATTORNEYS AT LAW

1206 San Antonio Street

Austin, Texas 78701

(512) 469-6000 · (512) 482-9346 (facsimile)

info@txenvirolaw.com

Of Counsel:

David Frederick

Richard Lowerre

Brad Rockwell

December 17, 2021

Ms. Laurie Gharis
Office of the Chief Clerk
Texas Commission on Environmental Quality
MC-105
P.O. Box 13087
Austin, Texas 78711-3087

via: TCEQ Comments Online

**Re: Request for a Contested Case Hearing and Request for Reconsideration
Regarding the Application of Green Valley Special Utility District for TPDES
Permit No. WQ0015917001.**

Dear Ms. Gharis:

On behalf of Patrick and Alicia Wilks, I am submitting this request for a contested case hearing regarding the application by Green Valley Special Utility District for Permit No. WQ0015917001 (the "Application") that would authorize the discharge of treated domestic wastewater at a daily average flow of up to 400,000 gallons per day to Womans Hollow Creek (also known as Woman Hollering Creek) in Bexar County, Texas.

The Wilks also request reconsideration of the ED's decision. The Application does not meet the requirements of the applicable laws, for all the reasons explained more fully below. In addition to those reasons, the Commission should reconsider the ED's decision because the Application is incomplete in several key areas regarding the TCEQ's regionalization policy. This is not the first time this particular Applicant has failed to provide this information with its application.¹ In this case, the Applicant failed to consider capacity at a plant within three miles, failed to include information on whether the Cibolo Creek Municipal Authority has capacity at its South Regional Water Reclamation Plant, despite this information being readily available, and despite the permitted capacity being as much as 3.0 MGD, failed to provide correspondence with CCMA, and failed to provide a cost analysis supporting it building its own facility. The ED's RTC, Response 46 wholly

¹ Order, TCEQ Docket No. 2016-1876-MWD (July 20, 2018).

fails to address the missing information. Because this Applicant has repeatedly violated the TCEQ's regionalization policy and has failed to show that the South Regional Water Reclamation does not have capacity, the Commission should reconsider the ED's decision.

I. Patrick and Alicia Wilks are "Affected Persons."

Patrick and Alicia Wilks own two contiguous tracts totaling nearly 32 acres at 4046 Stapper Road, Saint Hedwig, Texas, 78152, which is less than one-quarter stream mile downstream of the proposed discharge point. Womans Hollow Creek runs through the Wilks' backyard for approximately 500 feet, bisecting their property. Attachment F of the Application, the "Affected Landowners Information," identifies one of the Wilks' properties as Map ID number 4.

Mr. and Mrs. Wilks use this property as their primary residence, where they have lived for the last three years. They chose to move to Saint Hedwig and this particular area to enjoy a rural lifestyle. Their three young children routinely play in and along Womans Hollow Creek, particularly near the perennial pools located on their property. Their children enjoy exploring the area to observe plant and animal life in the creek and along the creek banks with them, their family, and friends. The Wilks have observed fish, frogs, turtles, and snakes in and around the creek, as well as deer, turkey, and coyotes among the wildlife that rely on the creek. The Wilks keep a small herd of cattle on their property, and the cattle also drink from the creek.

The Wilks have built a treehouse near the bank of the creek, where the family regularly has lunch together to enjoy observing the scenic beauty and wildlife of the creek. Their family and friends regularly gather for campfires, birthday parties, and other activities along the creek, because they enjoy watching the wildlife and observing the natural beauty of the creek as it crosses their property. The Wilks also enjoy observing the creek from the back porch of their home.

The Wilks have grave concerns about the facility and discharge being proposed—the facility itself would be approximately one thousand feet from their backyard. They are concerned about the impacts to the natural environment, the wildlife, and to the health of themselves, their friends, family, and livestock. Specifically, because parts of the creek are often dry, the Wilks believe the wastewater effluent will stagnate in areas of the creek bed and cause algae to grow, and otherwise make up a predominant proportion of any flow in the creek. Given their proximity, the Wilks will be adversely impacted by noise, light, and odor from the facility itself, as well as foul odors and adverse aesthetic impacts from algae growing and decaying in the creek that will prevent them and their children from enjoying the creek and will adversely impact their enjoyment of their property. In addition, the creek's floodplain is significant, and the Wilks are concerned that the discharge will increase the base flow and flooding risk, and adversely impact their ability to access the

back portion of their property. Thus, the Wilks will be adversely affected in a manner not similar to the general public.

II. The ED did not sufficiently address issues raised in the Wilks' comments.

Patrick Wilks expressed his concern for these and other issues in his timely public comments filed on behalf of himself and his family, none of which have been withdrawn. Mr. Wilks submitted written comments on May 11, 2021 and oral comments at the Public Meeting on September 14, 2021. The ED's responses to these comments are not satisfactory and all issues raised in Mr. Wilks's comments remain in dispute. Without waiving any issues raised with more particularity, the following are relevant and material issues raised during the public comment period by Mr. Wilks that are the basis of this request and remain in dispute, with reference to the specific response. Also specified below are those responses in which the ED failed to consider comments from Mr. Wilks.²

The following issues remain in dispute:

1. Whether the proposed facility and discharge will adversely impact his and his family's ability to use and enjoy his property (Comment 17)

The Wilks disagree with Response 17. The proposed facility will degrade water quality such that the negative effects will adversely impact his and his family's ability to use and enjoy their property.

2. Whether the proposed discharge will negatively impact downstream water quality (Comment 22)

In his written comments, Mr. Wilks expressed concern that the WWTF would "make the water untouchable" and raised issues related to "contaminated water" and "water pollutants." In the RTC, the ED listed persons in Attachment I who commented that the discharge from the WWTF will negatively impact water quality. Attachment I wrongly fails to include Mr. Wilks, and Response 22 fails to address the concerns Mr. Wilks raised in his comments. Nevertheless, the Wilks disagree with Response 22. The proposed discharge will degrade downstream water quality and not maintain and protect the existing uses.

² The ED's Response to Comments, Attachment A, listing all commenters, spells Mr. Wilks's name incorrectly.

3. Whether chemicals used at the proposed facility and the fumes will negatively impact human health (Comment 23)

In his written comments, Mr. Wilks expressed concern over chemicals used in the facility causing harm to his health and his family's health, particularly because he suffers from asthma. In Response 23, the ED failed to acknowledge that Mr. Wilks made these comments regarding chemicals. Nevertheless, the Wilks disagree with Response 23. The Applicant has not demonstrated that the WWTF will not generate harmful fumes nor that the use of chemicals, including chlorine, will not negatively impact the health of people who live near the proposed WWTF.

4. Whether the proposed discharge will negatively impact livestock and wildlife (Comment 25)

In his written comments, Mr. Wilks stated that his livestock "use the water in the creek for drinking" and that he is "concerned they will suffer from drinking the contaminated water." In the RTC, the ED listed people in Attachment J who expressed concern that the discharge will negatively impact animals, including cattle. Attachment J wrongly fails to include Mr. Wilks. Nevertheless, the Wilks disagree with Response 25. The proposed discharge will not be protective of animals, including wildlife and livestock that rely on the creek.

5. Whether the proposed facility will negatively impact human health (Comment 33)

In his written comments, Mr. Wilks expressed concern that the WWTF would negatively impact he and his wife's safety, their health, and the health of their children, specifically that it will "make the water untouchable" and will cause "great harm to our bodies." In the RTC, the ED listed people in Attachment L who expressed concern that the WWTF will negatively impact human health. Attachment L wrongly fails to include Mr. Wilks. Nevertheless, the Wilks disagree with Response 33. The proposed facility will not be protective of human health and the environment.

6. Whether the proposed facility and discharge will create odors (Comment 49)

In his written comments, Mr. Wilks expressed concern that the WWTF would fill the air with "rank odors" and "air pollutants." In the RTC, the ED listed people in Attachment K who expressed concern over odors from the WWTF. Attachment K wrongly fails to include Mr. Wilks. Nevertheless, the Wilks disagree with Response 49. The proposed facility will cause nuisance odors that will impair their health and their enjoyment of their property.

7. Whether the proposed facility will negatively impact air quality (Comment 50)

The Wilks disagree with Response 50. The proposed facility will cause foul odors, nuisance conditions, and air pollution.

8. Whether the Applicant provided sufficient notice of the application (Comment 63)

In his oral comments, Mr. Wilks stated that he did not receive notice of the Application, except from his neighbor. According to the Bexar County Appraisal District, the Wilks' mailing address associated with Applicant's "Affected Landowners" property number 4, is P.O. Box 394, Saint Hedwig, TX 78152. Yet, Applicant listed the Wilks' address as 3418 Ridge Ash, San Antonio, TX 78247. In the response to Comment 63, the ED acknowledges that it mailed both the NORI and the NAPD "to the landowners named on the application map." Because the Application map was incorrect, the Wilks did not receive notice of the NORI and the NAPD.

III. The ED failed to account for many of Mr. Wilks's other comments, which also remain in dispute, further supporting reconsideration and necessitating the reopening of the public comment period.

Finally, in addition to those already previously raised, the ED failed to include in the RTC the Wilks in reference to several other comments. Mr. Wilks raised concerns about the creek often being dry for long periods and the proposed discharge interrupting the natural flow of the creek, even taking into account flood events, but he was not referenced as having commented on the issue of flooding in the ED's response to Comment 9; Mr. Wilks raised concerns about the WWTF negatively impacting his quality of life and his family's, but we was not referenced in the ED's response to Comment 11; Mr. Wilks also raised the issues of noise and truck traffic, but was not referenced in the ED's response to Comment 12. Based on a review of the RTC, it seems likely that Mr. Wilks's written comments were overlooked entirely. This raises the concern that other public comments may have been overlooked. Thus, the Commission should reconsider the ED's decision and consider reopening the public comment period to ensure all public comments are considered.

For all these reasons, the Wilks ask that the Commission reconsider the ED's decision and deny the Application. Alternatively, they request a contested case hearing regarding the Application.

Patrick and Alicia Wilks may be contacted through us at the address and telephone number provided above.

Respectfully submitted,

/s/ Lauren Ice

Lauren Ice

John Bedecarre

PERALES, ALLMON & ICE, P.C.

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REVIEWED

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Mr. Klein's Direct Line: (512) 322-5818
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By GCW H

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CHIEF CLERKS OFFICE

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

July 30, 2021

Ms. Laurie Gharis, MC-105
Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

VIA ELECTRONIC FILING AND
FIRST CLASS MAIL

Re: Public Comments, Request for Public Meeting, and Hearing Request
Application for Proposed TPDES Permit No. WQ0015917001
(EPA I.D. No. TX0140546)
Applicant: Green Valley Special Utility District (CN600684294)
Site Name: Clearwater Creek Wastewater Treatment Plant (RN111093126)

Dear Ms. Gharis:

The City of Schertz, Texas ("*City*"), my client, hereby submits this letter to the Texas Commission on Environmental Quality ("*TCEQ*"), providing formal public comments and requesting a public meeting and contested case hearing regarding the above-referenced application ("*Application*") of Green Valley Special Utility District ("*GVSUD*") for a new Texas Pollutant Discharge Elimination System ("*TPDES*") permit, and the proposed draft permit for such Application ("*Draft Permit*"). These comments are timely filed.

I represent the City regarding the Application and Draft Permit. Please include me on the TCEQ's mailing list for all filings in the above-referenced Application. My mailing/contact information is as follows:

Mr. David J. Klein
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
dklein@lglawfirm.com
Phone: (512) 322-5818
Fax: (512) 472-0532

I. BACKGROUND

In its Application, GVSUD requests authorization from the TCEQ to discharge treated domestic wastewater at a daily average flow not to exceed 400,000 gallons per day (“*GPD*”) at the proposed Clearwater Creek Wastewater Treatment Plant (the “*CCWWTP*”). The *CCWWTP* is to be located in Bexar County, Texas, and the proposed discharge route for the treated wastewater is from the plant site to Womans Hollow Creek,¹ thence to Martinez Creek, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 Texas Administrative Code (“*TAC*”) § 307.10) for Classified Segment No. 1902 are primary contact recreation, high aquatic life use, and 5.0 mg/L dissolved oxygen. Classified Segment No. 1902 is currently listed on the 2020 Texas Integrated Report – Texas 303(d) List of impaired and threatened waters (the “*303(d) List*”). The listings are for bacteria in the water from the confluence with the San Antonio River in Karnes County to a point 100 meters (110 yards) downstream of IH 10 in Bexar/Guadalupe County.

The Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (“*NORI*”) was issued on October 30, 2020 and published on November 13, 2020. An amended *NORI* was issued on April 30, 2021 and published on May 12, 2021. The Notice of Application and Preliminary Decision (“*NAPD*”) was issued on June 17, 2021 and published on June 30, 2021. Pursuant to 30 TAC § 55.152(a), the current deadline to file public comments regarding the Application and Draft Permit is July 30, 2021. To this end, presented below are the City’s timely filed public comments raising significant disputed issues of fact that are relevant and material to the TCEQ’s decision on the Application and are the basis for the City’s request for a public meeting and contested case hearing, should the Application not be remanded back to technical review and/or denied outright.

The City requests that the TCEQ deny the Application and corresponding Draft Permit because GVSUD has not provided all of the information required in TCEQ application forms TCEQ-10053 (06/25/2018) Municipal Wastewater Application Administrative Report (“*Administrative Report*”) and TCEQ-10054 (06/01/2017) Domestic Wastewater Permit Application, Technical Reports (“*Technical Reports*”). In addition, the Application and Draft Permit fail to: (1) meet the state and TCEQ’s regionalization requirements; (2) demonstrate a need for the Final Phase of the Draft Permit; (3) satisfy water quality, antidegradation, and stream standard requirements; and (4) include other information and documentation required by TCEQ form TCEQ-10053ins (06/25/2018) Instructions for Completing the Domestic Wastewater Permit Application (“*Instructions*”).

II. PUBLIC COMMENTS

The City asserts that the Application and Draft Permit should be denied because the Application does not meet applicable statutory and regulatory requirements for a TPDES permit

¹ As demonstrated by the screenshot from TCEQ’s Location Mapper tool, attached hereto and incorporated herein for all purposes as Attachment A, which shows, according to the *NAPD*, “the exact location” of the *CCWWTP*, the correct name of the proposed receiving water is Woman Hollering Creek, not Womans Hollow Creek, as referred to in the *NORI*, Amended *NORI*, *NAPD*, and Application.

application, the Draft Permit fails to meet Texas Water Code (“*TWC*”), Chapter 26, and the TCEQ’s regionalization requirements for wastewater treatment plants (“*WWTPs*”), and GVSUD has not demonstrated a need for the CCWWTP. The City further maintains that the Application and Draft Permit should be denied because (i) they do not adequately protect against the CCWWTP’s negative impacts on water quality, antidegradation, and stream standards; (ii) GVSUD has not secured ownership/possession of the real property interests necessary to properly construct and operate the CCWWTP; and (iii) the Application fails to include other required elements, such as a sufficient Sewage Sludge Solids Management Plan, map of the proposed service area, and the requisite original photograph of the proposed location for the CCWWTP. In addition, the Application and Draft Permit should be denied due to nuisance odors that will result from the permitting of the CCWWTP, especially given GVSUD’s failure to satisfy all buffer zone requirements. Finally, the Application is incomplete given that GVSUD asserts that it has an approved pretreatment program.

A. The Application fails to comply with the State’s regionalization policy.

The TCEQ is required to implement the State’s policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.² In order to implement this regionalization policy, Section 1.B of the TCEQ’s TPDES permit application form Domestic Technical Report 1.1 contains three questions related to the potential for regionalization of WWTPs, each tailored to address the question of whether existing nearby wastewater treatment facilities and/or collection systems could provide service to the service area proposed in the TPDES permit application.³ All three regionalization questions in Section 1.B are relevant to GVSUD’s Application, and GVSUD has failed to complete the regionalization analysis and process in each instance. The TCEQ’s issuance of the Draft Permit also demonstrates that this issue was not taken into consideration when it processed the Application.

For Section 1.B.1, the Instructions require non-city applicants to “indicate if any portion of the proposed service area is located in an incorporated city,” and, if so, to “provide correspondence” demonstrating “consent to provide service or denial to provide service from the city.”⁴ If the nearby city consents to provide service, the applicant must provide a cost analysis justifying the need for the proposed facility.⁵ The Application, received August 31, 2020, indicates that “City responses are pending,”⁶ but GVSUD never supplemented the Application to include the City’s responses to numerous follow-up communications between the City and GVSUD—communications that the TCEQ should have been aware of and taken into consideration. In its communications with GVSUD, the City requested that GVSUD clarify the location of the proposed service area so that it could develop a response to the regionalization request. GVSUD never provided such information. Based upon the Application, the processing of the Application, and the Draft Permit, this potential overlap and applicable regionalization analysis was never

² TWC § 26.081(a); *see also* TWC §§ 26.003, 26.0282; Instructions at 64.

³ Application Technical Reports at 21 – 22.

⁴ Instructions at 64.

⁵ *Id.*

⁶ Application Technical Reports at 21.

completed by GVSUD or taken into consideration by the TCEQ. Consequently, the Application and Draft Permit should be denied.

Similarly, Section 1.B.2 requires applicants to “[i]ndicate if any portion of the proposed service area is inside another utility’s sewer Certificate of Convenience and Necessity [(“CCN”)] area.”⁷ Here too, if the answer is yes, then the applicant must “provide justification and a cost analysis of expenditures that shows the cost of connecting to the CCN facilities versus the cost of the proposed facility or expansion.”⁸ While GVSUD correctly indicated that a portion of the proposed service area is located within the City’s corporate limits, it denies that said portion falls inside the City’s sewer CCN service area.⁹ The City believes that this denial is incorrect. Again, GVSUD failed to include the boundaries of the service area proposed to be served by the CCWWTP, as required by Domestic Technical Report 1.0. Rather, in its Application, GVSUD has only provided the “Clearwater Creek WWTP Area Map,” included in Attachment I, depicting the “Clearwater Creek Sewershed” (the “*Sewershed Map*”). To the extent it is relevant to the proposed service area of the CCWWTP, attached hereto and incorporated herein for all purposes is **Attachment B**, which contains small and large scale maps of the City’s sewer CCN No. 20271. When compared to GVSUD’s Sewershed Map, it is clear that the sewershed depicted for the CCWWTP extends into the boundaries of the City’s sewer CCN. Therefore, if GVSUD intends the CCWWTP to serve its entire sewershed, then GVSUD was required to justify the need for the CCWWTP based on a cost analysis included with the Application, which it did not. Based upon the Application, the processing of the Application, and the Draft Permit, the potential overlap and applicable regionalization analysis was never taken into consideration by GVSUD or the TCEQ. Consequently, the Application and Draft Permit should be denied.

Finally, Section 1.B.3, concerns the existence of permitted domestic WWTPs or sanitary sewer collection systems located within a three-mile radius of the proposed wastewater treatment facility.¹⁰ If such facilities exist, then the applicant is, again, required to indicate, and provide supporting documentation, regarding any such neighboring utilities’ responses to mandatory correspondence from the applicant regarding wastewater service for the proposed service area.¹¹ Just as with Sections 1.B.1 and 1.B.2, if any of the nearby utilities consent to provide service, the applicant must provide a justification for the proposed facility and a comparison of the costs to construct it against those to connect to the applicable existing facility.¹² While GVSUD properly disclosed the existence of nearby facilities, it indicated that no such facilities “have the capacity to accept or are willing to expand to accept the volume of wastewater proposed in [the Application].”¹³ As explained above, that is not accurate given the nature of the City’s communications with GVSUD. The City asked GVSUD to provide the location of the proposed service area, and it never received a thorough answer, obstructing the regionalization analysis. Based upon the Application, the processing of the Application, and the Draft Permit, this

⁷ *Id.* at 22.

⁸ *Id.*

⁹ *Id.*

¹⁰ Instructions at 65; Application Technical Reports at 22.

¹¹ *Id.*

¹² *Id.*

¹³ Application Technical Reports at 22.

applicable regionalization analysis was never taken into consideration. Consequently, the Application and Draft Permit should be denied.

B. The Application fails to sufficiently demonstrate need for the authorized discharge amount of 0.4 million gallons per day.

The City contends that the Application and Draft Permit should be denied because the Final Phase of the proposed CCWWTP is not needed. In conjunction with the TCEQ's regionalization policy, Section 1 of Domestic Technical Report 1.1 requires a TPDES permit applicant to "[p]rovide a detailed discussion regarding the need for any phase(s) not currently permitted."¹⁴ The Instructions further clarify this requirement, stating:

Provide justification for the proposed flows . . . Provide an anticipated construction start date and operation schedule for each phase being proposed. If construction is dependent upon housing/commercial development, provide information from the developer. Provide information such as the size of the development (number of lots), the date construction on the development is scheduled to begin, and the anticipated growth rate of the development (number of houses per month or year). . . . If additional space is needed, submit the justification information as an attachment.

Attach population estimates and/or projections used to derive the flow estimates and anticipated growth rates for developments. Provide the source and basis upon which population figures were derived (census and/or other methodology). Also, provide population projections at the end of the design life of the treatment facility (usually 50+ years) and the source and basis upon which population figures were derived.¹⁵

Per the Instructions, "[f]ailure to provide sufficient justification for the continued need for the permit and/or each proposed phase may result in a recommendation for denial of the application or proposed phases."¹⁶

Here, instead of providing the requisite "detailed discussion" outlined above, the Application merely states:

This requested permit is proposed to support planned residential and commercial growth in GVSUD's sewer CCN area. GVSUD holds sewer CCN for proposed service area. The current contract for service equates to 950 EDUs of service or 232,750 gpm.¹⁷

First, the City contends that 232,750 gallons per minute is not an accurate indication of the treated effluent likely to be generated by 950 EDUs. That amount of wastewater is equivalent to

¹⁴ *Id.* at 21.

¹⁵ Instructions at 64.

¹⁶ *Id.*

¹⁷ Application Technical Reports at 21.

a wastewater discharge of 335.16 million gallons per day (“*MGD*”). Rather, the City asserts that GVSUD only intends to have a flow of 232,750 GPD (0.232750 MGD).

Second, with a total proposed discharge of 0.233 MGD, the Application seeks an excessive and unnecessary amount of treatment capacity. Thus, the Application does not demonstrate the need for the Draft Permit’s Final Phase authorization to discharge up to 0.4 MGD of treated effluent, and the Application and Draft Permit, as proposed, should be denied.

C. The Application raises concerns that the proposed discharge will not be in compliance with the TCEQ’s antidegradation policy.

As indicated above, the Application and Draft Permit authorize the discharge of treated domestic wastewater from the proposed CCWWTP to Womans Hollow Creek, thence to Martinez Creek, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 TAC § 307.10) for Classified Segment No. 1902 are primary contact recreation 1, high aquatic life use, and 5.0 mg/L dissolved oxygen. Segment No. 1902 is also currently listed on the 303(d) List for bacteria in the water. Thus, the City has concerns that the discharge into Segment No. 1902, as proposed by the Draft Permit, would impact water quality in that watercourse.

Specifically, the Application and Draft Permit raise concerns with the City that the proposed discharge will neither be in compliance with the TCEQ’s antidegradation policy nor maintain its current stream standard. Pursuant to 30 TAC § 307.5, the proposed discharge is subject to that antidegradation policy and implementation procedures under Tier 1 and Tier 2. Therefore, before approving the Application, the Commission must ensure that antidegradation will not occur as a result of the proposed discharge. Additionally, because Segment No. 1902 is an impaired water body on the TCEQ’s 303(d) List, the proposed discharge may unnecessarily further downgrade the segment’s water quality if statutory and regulatory requirements for antidegradation and stream standards are not met. Thus, due to these additional concerns, the Application and Draft Permit, as presented, should be denied.

Furthermore, the Application describes the unclassified Womans Hollow Creek as a “Wet Weather Creek,”¹⁸ despite containing information suggesting it may be intermittent or intermittent with perennial pools, stating that it is a “[s]low shallow running creek with perennial pools.”¹⁹ The Application also indicates that no perennial streams join the receiving water within three miles downstream of the discharge point.²⁰ Martinez Creek, however, which is joined by Womans Hollow Creek less than three miles downstream of the discharge point, is included on the 303(d) List as Segment No. 1902A and described as a “[p]erennial stream.”²¹ As such, the effluent set proposed in the Draft Permit may be based on an incorrect stream characterization and inconsistent with state and federal regulations.

¹⁸ *Id.* at 30.

¹⁹ *Id.* at 31.

²⁰ *Id.* at 30.

²¹ Tex. Comm’n on Env’tl. Quality, *2020 Texas Integrated Report - Texas 303(d) List 88* (2020), www.tceq.texas.gov/waterquality/assessment/20twqi/20txir.

D. GVSUD lacks sufficient legal title and/or rights to land to own and operate the proposed CCWWTP.

In addition to the foregoing bases for denying the Application, the City believes that the Application is deficient because it does not establish—and GVSUD cannot establish—that it holds sufficient legal rights to real property necessary to own and operate the CCWWTP. As evidenced by the Bexar Appraisal District reports attached hereto and incorporated herein for all purposes as **Attachment C**, GVSUD does not own the land at the address provided for the proposed CCWWTP. However, pursuant to the Instructions:

If the owner of the land is not the same as the applicant, a long-term lease agreement for the life of the facility must be provided. A lease agreement can only be submitted if the facility is not a fixture of the land (e.g., above-ground package plant). . . . If the facility is considered a fixture of the land (e.g., ponds, units half-way in the ground), there are two options. The owner of the land can apply for the permit as a co-applicant or a copy of an executed deed recorded easement must be provided. A long-term lease agreement is not sufficient if the facility is considered a fixture of the land.

Both the long-term lease agreement and the deed recorded easement must give the facility owner sufficient rights to the land for the operation of the facility.”²²

In its Application, GVSUD incorrectly indicated that it owns the land where the CCWWTP will be located,²³ and the third page of TCEQ’s “Checklist for Admin Review of Municipal Application for Permit,” attached hereto and incorporated herein for all purposes as **Attachment D**, demonstrates that TCEQ relied upon that assertion in reviewing the Application. However, GVSUD is not the owner of the land where the proposed CCWWTP will be located, and it has not provided the TCEQ with any document demonstrating ownership or a long-term lease agreement. As such, GVSUD has failed to demonstrate that it possesses sufficient rights to the land for the operation of the proposed CCWWTP.

E. The Application contains a number of additional deficiencies.

After a careful review of the Application, the City believes that the Application has the following additional deficiencies, and that due to these deficiencies, the Application and Draft Permit should be denied:

1. **Service Area Map.** The Application does not contain a map clearly identifying the proposed service area for the CCWWTP. As noted briefly above, TCEQ requires GVSUD to provide a map showing the “boundaries of the area served by the treatment facility.”²⁴ However, it is uncertain whether GVSUD has provided such map. If the map provided by GVSUD in the Application to address this requirement is the Sewershed Map, showing the

²² Instructions at 33.

²³ Application Administrative Report at 8.

²⁴ *Id.* at 11.

CCWWTP's proposed sewershed, then GVSUD's proposed service area boundaries are unclear; otherwise, the Application is lacking this important, required piece of information. In either case, the Sewershed Map does not indicate whether the CCWWTP is intended to serve the entire sewershed shown thereon, a portion of which extends into the City's sewer CCN service area.

2. **Sewage Sludge Solids Management Plan.** In Domestic Technical Report 1.0, Section 9, the TCEQ requires the applicant to select the anticipated sludge disposal method and provide sludge disposal site information, including the disposal site name, permit or registration number, and disposal site's county.²⁵ Section 9 also requires the applicant to indicate the method of transportation, hauler name, and hauler registration number.²⁶ In response, GVSUD did not provide most of this information, instead stating that the information is to be determined and admitting that neither a sludge disposal site nor hauler has been selected.²⁷ GVSUD also has not complied with the TCEQ's requirement to provide a copy of the contractual agreements demonstrating that the receiving facility will accept the sludge.²⁸ GVSUD's failure to identify a method for sludge disposal creates another deficiency in the Application and indicates that GVSUD's operation of the CCWWTP will not comply with federal and state requirements.
3. **Original Photographs.** The Application does not contain an original photograph of the proposed location for the CCWWTP, and thereby violates the Instructions, which indicate that applicants "must" submit "[a]t least one photograph of the new . . . treatment unit(s) location."²⁹
4. **Pretreatment Program.** The Application is inconsistent as to whether GVSUD has an approved pretreatment program under 40 CFR Part 403. In Domestic Technical Report 1.0, GVSUD indicates it does not have such a program, but GVSUD's answer to the first question in Section D of Domestic Worksheet 6.0 indicates otherwise. Without clarity as to whether GVSUD does have an approved pretreatment program, it is impossible to determine whether it should have completed Domestic Worksheets 4.0, 5.0, or some portion thereof, in addition to completing Domestic Worksheet 6.0.
5. **Buffer Zone.** Next, the City asserts that GVSUD's Application fails to provide proof of a sufficient buffer zone compliance method. Section 3 of Domestic Administrative Report 1.1 requires a TPDES permit applicant to indicate how the buffer zone requirements of 30 TAC § 309.13(e) will be met.³⁰ The Instructions further specify that "[t]he buffer zone, either 150 or 500 feet from the treatment units . . . can be met by ownership, legal restrictions preventing residential structures within the buffer zone, an approved nuisance odor prevention plan, or a variance to the buffer zone."³¹ GVSUD indicated it would

²⁵ Application Technical Reports at 12 – 13.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 13.

²⁹ Instructions at 43.

³⁰ Application Administrative Report at 14.

³¹ Instructions at 43.

satisfy the buffer zone requirements through ownership,³² but as explained in more detail above, GVSUD possesses no ownership interest, nor legal right sufficient to comply with the requirements of 30 TAC § 309.13(e). Specifically, the Instructions indicate that “[o]wnership means that the applicant owns all the land surrounding the treatment units that fall within the buffer zone,”³³ which GVSUD does not. Furthermore, 30 TAC § 309.13(e) provides that “wastewater treatment plant units may not be located closer than 150 feet to the nearest property line.” As shown on the maps included in the Application, GVSUD’s proposed 150-foot buffer zone is rectangular. That does not properly buffer a 150-foot radius around the proposed facility. In any case, the maps depict the buffer zone extending beyond the boundary of the CCWWTP property.

6. **Nuisance Odors.** In addition to the buffer zone issues described above, an additional, unneeded treatment and disposal facility, if not operated properly, may result in nuisance odors that will adversely affect the quality of life of nearby residents and the public. In accordance with 30 TAC § 309.13(e), the Applicant must demonstrate that sufficient measures to prevent nuisance odors will be undertaken. It is not in the public interest to issue a new discharge authorization that may result in nuisance odors when regionalized wastewater services are available, particularly when nearby schools are located within the three-mile radius of the proposed CCWWTP.

For the above-cited reasons, the City recommends that the TCEQ deny the Application and Draft Permit.

III. REQUEST FOR PUBLIC MEETING

The City requests a public meeting regarding the Application in light of the issues raised in this letter. The TCEQ’s regulations in 30 TAC § 55.154(c) provide that “[a]t any time, the executive director or the Office of the Chief Clerk may hold public meetings,” and that “[t]he executive director or the Office of the Chief Clerk shall hold a public meeting if: (1) the executive director determines that there is a substantial or significant degree of public interest in an application.” Pursuant to 30 TAC § 55.150, this opportunity to request a public meeting under 30 TAC § 55.154(c) applies to applications for a new TPDES permit, such as the Application. Accordingly, the City, for the benefit of its citizens, has a substantial and significant degree of public interest in the Application. The City is willing to work with the TCEQ and GVSUD to determine a location for such a public meeting.

IV. REQUEST FOR CONTESTED CASE HEARING

The City also requests a contested case hearing regarding the Application, Draft Permit, and each and every issue raised in the City’s public comments, and any and all supplements and/or amendments thereto. For the reasons set forth herein, the City is an affected person, as defined by 30 TAC § 55.203. The City has a personal justiciable interest to a legal right, duty, privilege, power, or economic interest that is not common to the general public that would be adversely

³² Application Administrative Report at 14

³³ Instructions at 43.

July 30, 2021

Page 10

affected should the Draft Permit be granted. In determining whether a person is an affected person, the TCEQ may consider, among other factors, (1) “whether the interest claimed is one protected by the law under which the application will be considered; (2) distance restrictions or other limitations imposed by law on the affected interest; (3) whether a reasonable relationship exists between the interest claimed and the activity regulated; . . . and (7) *for governmental entities, their statutory authority over or interest in the issues relevant to the application.*”³⁴ The TCEQ may also consider “the merits of the underlying application and supporting documentation . . . , including whether the application meets the requirements for permit issuance.”³⁵ All such considerations are applicable to the City, and, as noted in its public comments in Section II, above, the City has a particular interest in the issues relevant to the Application because the Application indicates that the proposed service area for the CCWWTP is located within its corporate boundaries and possibly its sewer CCN service area.

V. CONCLUSION

The City reserves its right to supplement these public comments and this request for a contested case hearing as it learns more about the Application—additional information may become apparent through a public meeting (and thereby-extended comment period) regarding this Application. The City appreciates your consideration of these public comments and requests for a public meeting and contested case hearing.

Thank you for your consideration of this important matter. If you or your staff have any questions regarding this matter, please contact me at your convenience.

Sincerely,



David J. Klein

DJK/dsr
Enclosures

cc: Mark Browne, City Manager, City of Schertz
Brian James, Assistant City Manager, City of Schertz
Charles Kelm, Assistant City Manager, City of Schertz

³⁴ 30 TAC § 55.203(c) (emphasis added).

³⁵ *Id.* § 55.203(d).

Attachment A



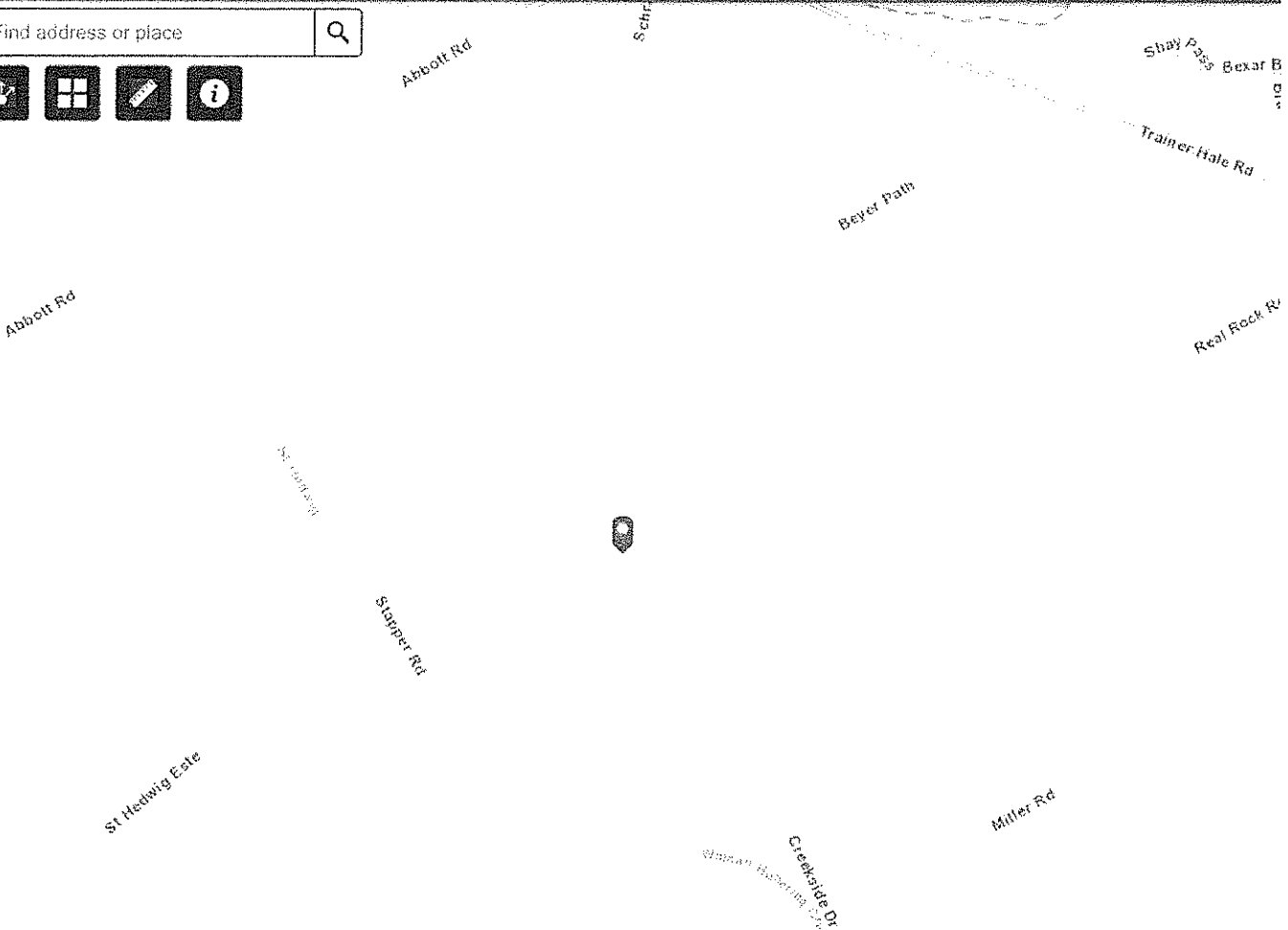
Location Mapper

Version 4.1

User Guide

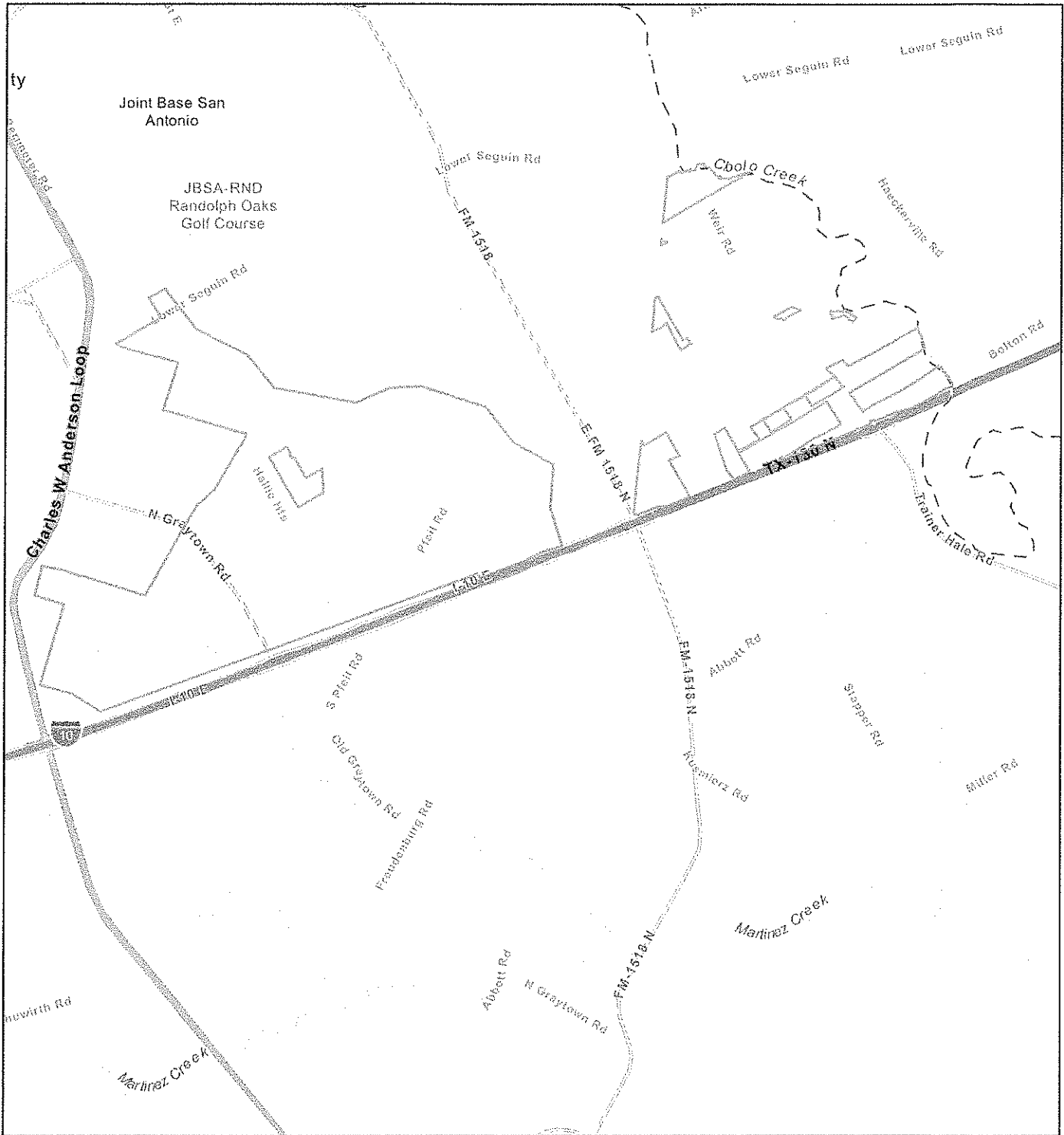


Find address or place

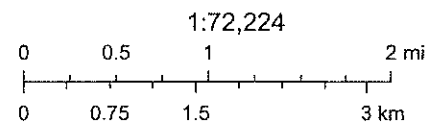


Attachment B

City of Schertz Sewer CCN No. 20271

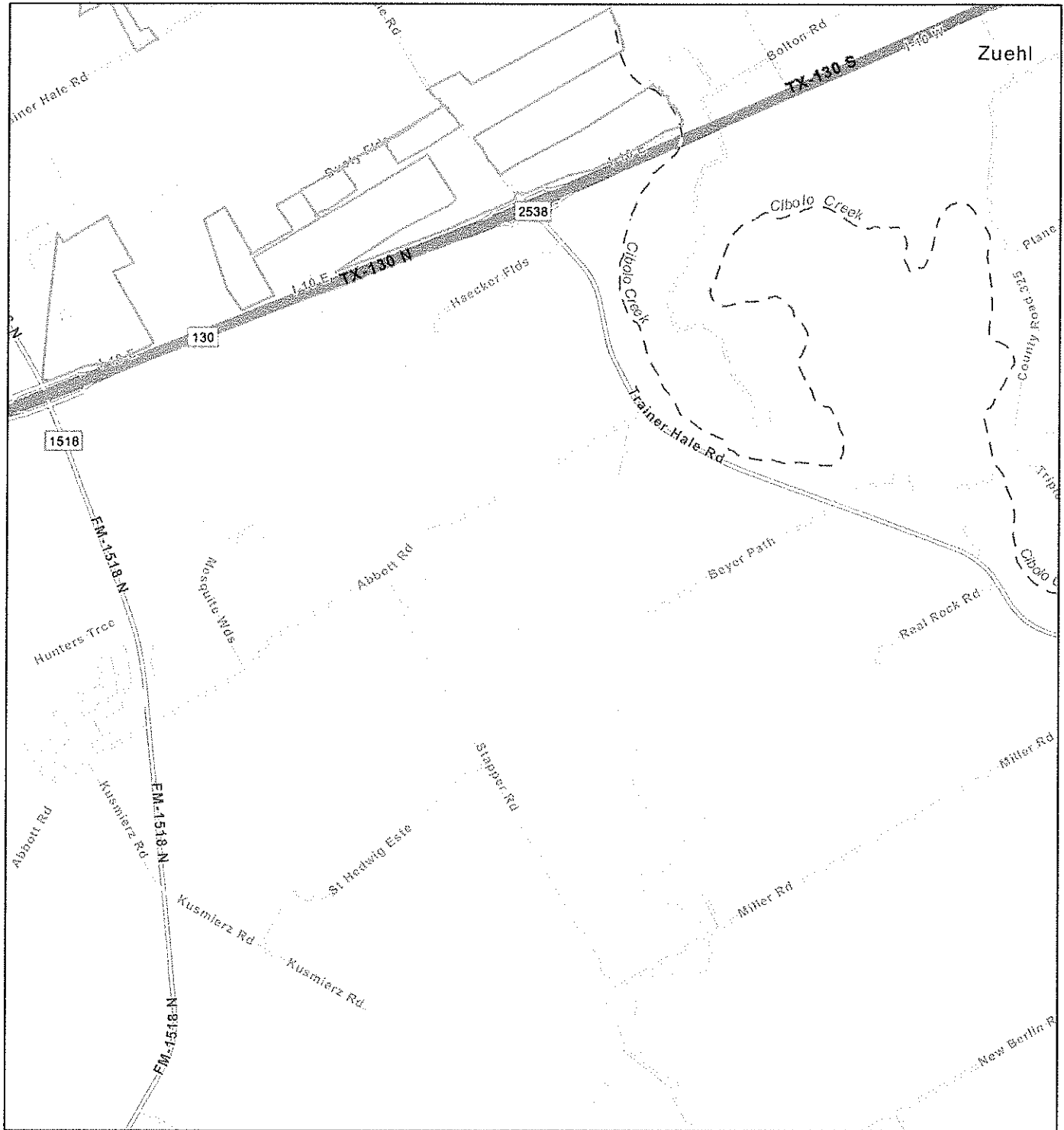


July 29, 2021

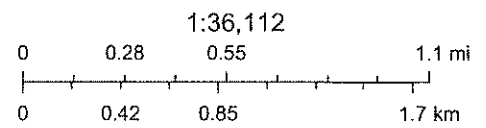


Texas Parks & Wildlife, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA

City of Schertz Sewer CCN No. 20271(Large Scale)



July 29, 2021



Texas Parks & Wildlife, Esri, HERE, Garmin, SafeGraph, INCREMENT P, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA

Attachment C

Property Search Results > 1 - 6 of 6 for Year 2021

[Export Results](#)

[New Search](#)

Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a single map.

Property Address Legal Description

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value	
<input type="checkbox"/> 1166658	80400-000-1880	Mobile Home	4060 STAPPER RD TX	DUNCAN CRAIG & JOANN		\$44,290	View Details View Map
<input type="checkbox"/> 1172641	04019-000-1882	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	DUNCAN HAZEL JOANN		\$5,390	View Details View Map
<input type="checkbox"/> 169912	04019-000-1880	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL W & SUTTON CAROLYN & DUNCAN HAZEL J		\$37,730	View Details View Map
<input type="checkbox"/> 1172711	04019-000-1883	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL WILLIAM		\$12,150	View Details View Map
<input type="checkbox"/> 169348	04019-000-0191	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL WILLIAM		\$114,590	View Details View Map
<input type="checkbox"/> 169913	04019-000-1881	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SUTTON DONALD J & CAROLYN R		\$176,210	View Details View Map

**Protest status and date information current as of Jul 28 2021 1:22AM.
 2021 and prior year appraisal data current as of Jul 2 2021 6:19AM
 For property information, contact (210) 242-2432 or (210) 224-8511 or email.
 For website information, contact (210) 242-2500.**

Attachment D

~~print N&T packet for review~~

~~groundwater permit verification & N&T email~~

CHECK LIST FOR ADMIN REVIEW OF MUNICIPAL APPLICATION FOR PERMIT		
Permit No. WQ00 <u>15917001</u>	TX <u>0140546</u>	MGD <u>0.4</u>
CN <u>600684294</u>	RN <u>111093126</u>	County: <u>Bexar</u> Region No. <u>13</u>
Facility: () Major (✓) Minor	App Revd Date: <u>8/31/2020</u>	Permit Expiration Date: <u>NEW</u>
(✓) Inactive () Active	Segment No. <u>1902</u>	

Note: A minor facility is generally one in which the final flow is less than 1.0 MGD.

Application Review Date: 10/16/2020

A copy of the pre-tech review was provided by the Municipal Permits Team (for new, major amendments and major facilities).

A copy of the groundwater review was provided (for TLAP new, major amendment, SADD minor amendment, and all applications with (or proposing) Class B sludge provisions).

For new and major amendment applications that propose surface water discharge, the standards review for RWA comments is included.

Coastal Zone sheet is included. Yes No

Fees or Penalties Owed: No Yes Amount Owed: _____

SECTION 1 APPLICATION FEES

Application Fees: The appropriate item checked and payment verified in receipt rpt or boexi rpt. Note: copies of checks should be removed and shredded.

Municipal Fees

Proposed/Final Phase Flow	New/Major Amend.	Renewals	Minor Amendment or Modification <i>without</i> Renewal
< .05 MGD	<input type="checkbox"/> \$350.00	<input type="checkbox"/> \$315.00	[] \$150.00 (for any flow)
≥ .05 but < .10 MGD	<input type="checkbox"/> \$550.00	<input type="checkbox"/> \$515.00	
≥ .10 but < .25 MGD	<input type="checkbox"/> \$850.00	<input type="checkbox"/> \$815.00	
≥ .25 but < .50 MGD	<input checked="" type="checkbox"/> \$1,250.00	<input type="checkbox"/> 1,215.00	
≥ .50 but < 1.0 MGD	<input type="checkbox"/> \$1,650.00	<input type="checkbox"/> 1,615.00	
≥ 1.0 MGD	<input type="checkbox"/> \$2,050.00	<input type="checkbox"/> 2,015.00	

SECTION 2 TYPE OF APPLICATION

The Type of application is marked

Reason for amendment or modification (if applicable). Also, check Tech. Report 1.1 Section 4 on page 3 (Unbuilt Phases) and Section 1.A on page 20 (Justification of permit need).

SECTION 3 FACILITY OWNER (APPLICANT) AND CO-APPLICANT

Legal name of applicant is listed (*the owner of the facility must apply for the permit*)

Legal name of co-applicant is listed (*if required to apply with facility owner*)

Core Data Form (CDF) is provided. A separate CDF is required for each customer.

Section I – General Information

Reason for submittal is marked.

Customer (CN) and Regulated Entity (RN) Reference Nos. provided – verify with Central Registry

Section II – Customer Information

Customer legal name is provided and it matches name on admin report

Texas SOS/Filing number is provided – verify with SOS

Texas State Tax ID is provided – verify with Texas Comptroller

Type of customer is marked – refer to information below

Corporation: Check with Secretary of State (SOS) at: <https://direct.sos.state.tx.us/acct/acct-login.asp> verify the entity status and charter number – print page. Verify correct legal spelling of applicant's name. Check spelling with SOS against the name listed in the application. (Permit must be issued in name as filed with SOS.) The applicant must be "In existence and active" before the application can be processed further.

Those entities subject to state franchise taxes: If applicable, check with Comptroller (website at: <http://ecpa.cpa.state.tx.us/coa/coaStart.html>. Verify the tax identification number is correct. Note: Non-profit organizations and partnerships are not subject to the state franchise tax.

Individual: Complete Attachment 1 of Admin. Report 1.0 The complete legal name, including the middle name; and all other information is required. This info is required by Chapter 26.027C of the Texas Water Code. A separate form is required for each individual.

Utility District: Check IWUD to verify that district is not dissolved (inactive is O.K. to process)

Trust: A copy of an executed trust agreement is provided. Verify that applicant's name is the same as the name in the trust agreement. NOTE: Executed trust must show signatures of trustees or beneficiaries forming the trust and which county it is recorded in.

Partnership: Verify with Secretary of State (SOS) that partnership is registered, active, and has a filing number. Check spelling with SOS against the name submitted in Item 1; Check that SOS # is correct; Print page from SOS website. OR if the partnership is not listed with the SOS, a copy of the partnership agreement is provided by the applicant. The agreement must: give the name of the partnership as provided on the application for permit; list names of partners; bear signatures of the partners; state the terms of the partnership; and must be recorded in the county where the facility (plant) is located.

Municipality/Governmental Agencies/School Districts: City, County, ISD, Fed, etc. – applicable info is listed.

Other _____

Number of employees is marked

Customer role is marked

Mailing address for the applicant is provided - verify on USPS website. This address is used on the permit.

Email address is provided *using GM email in app*

Telephone number is provided

Section III – Regulated Entity Information

Regulated Entity Name is provided and it matches name on admin report

Street address or location description of facility is adequately described. If different from current permit, new permit may be required. Use USPS website/GIS mapping to confirm street address

The county where the facility is located is provided

The name of the nearest city is provided

The zip code is provided

The longitude and latitude of the facility is provided – check mapit

Primary SIC Code is provided

Permit No. listed under appropriate programs- if not listed, add it

Section IV – Preparer Information

Name, title, telephone number, and email address is provided

Section V – Authorized Signature

Company name, title, printed name, phone number, signature, and date provided

SECTION 4 APPLICATION CONTACT INFORMATION

Administrative and Technical contact name, address, electronic information provided

SECTION 5 PERMIT CONTACT INFORMATION

Permit (2) contact names, addresses, electronic information provided

SECTION 6 BILLING INFORMATION

Billing contact name, address, electronic information provided

SECTION 7 REPORTING INFORMATION

DMR/MER contact name, address, electronic information provided

SECTION 8 NOTICE INFORMATION

Minor Amendment *without* Renewal – NORI not required. Skip review of notice information.

Name, address and phone number of one person responsible for publishing NORI is provided

Method of sending NORI package is provided

Name and phone number of contact to be in NORI is provided

Location where application will be available is provided and is in the county where the facility is located - the location must be a building supported by taxpayer funds. Note: If discharge is directly into water body that borders two counties, application must be placed in a public facility in both counties and the notice must be published in both counties

Bilingual Items 1 – 5 are completed. If "Yes" to question 1 and "Yes" to either question 2, 3 or 4, then e.5 must be completed

SECTION 9 REGULATED ENTITY and PERMITTED SITE INFORMATION

Permit No. and Expiration date is listed, if not, verify with permit or PARIS

Name of project or site is provided. Should correspond to Item 22 on CDF.

Owner of the facility identified in the application is the same as the name given in Section 3.A

NOTE: THE OWNER OF THE FACILITY IS REQUIRED TO APPLY FOR THE PERMIT

(Refer to legal policy memo for complete definition and discussion of facility.)

Marked whether ownership of the facility is public, private or both

Owner of the land where permitted facility is or will be located is the **SAME** as the applicant.

The owner of the land on which the facility is located is **DIFFERENT FROM** the owner of the facility: A copy of a lease agreement or easement, with a term for the duration of the permit, between applicant and landowner, has been provided. See Lease Agreement/Easement Memo dated 2/14/06, that states that a lease is sufficient for pond systems, and that details the provisions that a lease agreement or easement must contain. OR, landowner can apply as a co-permittee. Lease must identify property by legal description or map.

Effluent Disposal Site Owner:

N/A - (no effluent disposal proposed)

If land disposal is authorized in permit or proposed, the applicant **OWNS** land on which site is located

If applicant **DOES NOT OWN** land where site is located, a long-term lease agreement is provided which includes: a term of at least 5 years; is current or it includes an option to renew the term; is between the current applicant and the landowner; and includes description of property by legal description or map.

(For new TLAP permits only: A copy of an executed option to purchase agreement may be provided to show that applicant will have ownership of the land upon permit approval.)

Sewage Sludge Disposal Site Owner:

N/A - (no sludge disposal proposed)

If sludge is authorized in permit or proposed, the applicant **OWNS** land on which disposal site is located, otherwise lease is needed unless Class B sludge is land applied. Check the permit under Sludge Provisions to determine if sludge is authorized. Note: For BLU sludge application – lease is not needed; Landowner just needs to sign sludge affidavit (if different from applicant)

If sludge disposal is proposed or authorized in the permit, the applicant must also submit the applicable sludge forms.

SECTION 10 DISCHARGE INFORMATION

- Checked if treatment facility location in permit is correct.
- Checked if discharge info in permit is correct. If applicable, the discharge route description is adequately described and describes the discharge route to the nearest major watercourse. Changing the point of discharge and route from the current permit description requires a major amendment
- The name of the city (or nearest city) where the outfall(s) is/will be located has been provided
- The county where the outfall is located is provided
- The longitude and latitude of the outfall is provided
- Marked item regarding authorization for discharge into a city, county, or state ditch. If applicable, correspondence is provided. Email TXDOT if discharge is to a state highway right-of-way or roadside ditch.
- For a daily average flow of 5 MGD or more: the names of all counties located within 100 miles downstream from the point of discharge. These counties will be listed on contact sheet.

SECTION 11 DISPOSAL (TLAP) INFORMATION

- The written location description of the disposal site is adequately described. (NOTE: A CHANGE IN LOCATION OR INCREASE IN ACREAGE REQUIRES A MAJOR AMENDMENT. A decrease in acreage may also be a major amendment (due to flow rate) - check with permit writer)
- The name of the city (or nearest city) has been provided
- The county where the disposal site is located is provided
- The longitude and latitude of the disposal site is provided
- The written flow of effluent from the facility to the effluent disposal site is adequately described
- The nearest watercourse to the disposal site is listed

SECTION 12 MISCELLANEOUS INFORMATION

- Identified whether or not facility or discharge are on Indian land (If yes, we do not have permit authority.)
- For permits that allow sewage disposal the location description is adequately described. For an already-existing permit, check to see that the location has not changed
- Must indicate whether any former TCEQ employees who were paid for services regarding this application
- Fees or Penalties Owed: No Yes - See page 1 of checklist

SECTION 13 ATTACHMENTS

- Lease agreement or deed recorded easement, if the land where the treatment facility is located or the effluent disposal site are not owned by the applicant or co-applicant
- An ORIGINAL or equivalent FULL-SIZED USGS 7.5 minute topographic map (8 1/2 x 11 acceptable for amendment and renewal applications) is provided and labeled showing: applicant's property boundary treatment facility boundaries point of discharge highlighted discharge route for three miles downstream or until it reaches a classified segment scale, effluent disposal site(s) pond(s) sludge disposal/land application site an area of not less than one mile in all directions of the site

Need full size

- All original or equivalent full sized maps must show:
- Color map Clear contour lines Upper left corner must identify map as USGS Department of the Interior Geological Survey Lower left corner, datum & project information Bottom, magnetic declination Bottom, must show scale Bottom, identify contour intervals Bottom, national map accuracy std. statement Bottom, show State of TX and quad location Around map, lat and long coordinates Bottom, quadrangle name Bottom, must identify map date

SECTION 14 SIGNATURE PAGE

Note: The signature information below lists the proper signatories for the various entities and the current version of the application contains a paragraph referencing 30 TAC 305.44. The person signing the application verifies that he or she is authorized, under this rule, to sign the application. We must verify that the title meets the requirements or signatory authority has been delegated.

- Original Signature Page is required.
- Signature must be properly notarized – check that signature date and notarized date are the same.

Owner Co-Permittee

- City - Elected official or principle executive officer of the city may be public works director.
- Individual: only the individual signs for himself/herself.
- Partnership: General Partner or exec officer
- Corporation: at least level of VP (CEO, Chairman of Board, Secretary can be equiv. to V.P., Member or General Manager for LLC, Manager of one or more manufacturing, production, or operating facilities employing more than 250 persons - refer to 30 TAC 305.44)
- Utility District: at least the level of vice president, on Board of Directors or District Manager
- Water Authority: Regional managers.
- Independent School Districts: at least level of the Assistant Superintendent or board members.
- Governmental Agencies: Division Directors or Regional Directors.
- Trust: The trustee that has been identified in the trust agreement.
- Other: _____

ADMIN REPORT 1.1 For All New or Major Amendment Applications

SECTION 1 Affected Landowner Information -

Landowner Map:

- The applicant's complete property boundaries are delineated which includes boundaries of contiguous property owned by the applicant
- For domestic facilities, show the buffer zone and identify all of the landowners whose property is located within the buffer zone - *tech address*
- The property boundaries of the landowners surrounding the applicant's property have been clearly delineated on the map
- The location of the facility within applicant's property is shown.

For TPDES applications:

- The point(s) of discharge is clearly identified on the map and the discharge route(s) is highlighted.
- The scale of map is provided to measure one mile downstream or if discharge is into a lake, bay estuary, or affected by tides, 1/2 mile up & down stream is measured.
- The property boundaries of landowners adjacent to the discharge route(s) for one mile downstream from the point of discharge have been clearly delineated and the route is clearly delineated. OR If discharge is into a lake, bay estuary, or affected by tides, the property boundaries of landowners 1/2 mile up & downstream and those property owners across the lake along the shore line that fall within a 1/2 mile radius of the point of discharge are clearly delineated on the map.

For TLAP applications (i.e., irrigation, evaporation, etc.):

- The boundaries of the disposal site is clearly identified on the map.
- The boundaries of all landowners surrounding the disposal site.
- Cross-referenced list of landowners is provided.
- Disk or four sets of labels were provided
- Source of landowners' info was provided.
- Provided response regarding permanent school fund land. If information filled out on General Land Office, then indicate so on the contact sheet.

SECTION 2 Original Photographs

- The original (color) ground level photos of treatment unit area, disposal or discharge areas (2 photos – one upstream, one downstream) have been provided
- Plot plan or map showing location and direction of each photo

SECTION 3 Buffer Zone Map *tech address*

Buffer zone map (8 1/2 by 11): The permit writer will review this during the pre-tech review. Any deficiencies will be addressed by them.

SUPPLEMENTAL PERMIT INFORMATION FORM (SPIF)

SPIF is provided - TPDES only

TECHNICAL REPORT – MUNICIPAL/DOMESTIC APPLICATIONS

Minor Amendment *without* Renewal. Review not required. Just make sure report is provided.

THE FOLLOWING ITEMS APPLY TO ALL APPLICATIONS:

The existing permitted design flow (including all permit phases) is indicated

If flow indicated is greater than permitted, a major amendment is required.

If flow amount is less than permitted amount, confirm with applicant that they are requesting to reduce the flow.

For facilities that have not been constructed the anticipated construction and operation dates are provided for all phases.

Site Drawing must be submitted (*see email from Lana 1/10/2019*).

The permit authorizes irrigation/evaporation/subsurface disposal method and the information has been addressed in the technical report. Verify the acreage. If the acreage has changed from what is currently permitted, a major amendment is required.

The applicable worksheets must be completed:

Worksheet 3.0 - required for land disposal of effluent

Worksheet 3.1 - required for land disposal (new and major amendment only)

Worksheet 3.2 - required for subsurface land disposal (new and major amendment only)

Worksheet 3.3 - required for subsurface area drip dispersal systems (SADDS) (new and major amendment); may be required for renewal on a case-by-case basis.

SADDS Applications: Compliance history items must be completed for SADDS disposal. When the application is administratively complete, a copy of the application and a transmittal letter must be sent to the State Department of Health Services. See the folder titled "SADDS" (under the Individual Permit Review folder) for a template of the letter.

Worksheet 7.0 – required for SADD applications (new and major amendment only) - We do not review the form; we just make sure that it is submitted. If it is not submitted, request it in a NOD.

Sludge disposal and/or land application is authorized in the permit on property owned or under applicant's control.

If facility is beneficially applying class B sludge on the same site as the facility, the applicant must submit the Beneficial Land Use of Sewage Sludge (Class B) Permit Application - Form No. 10451 (See Class B Sludge Permit checklist). The applicant must also submit the appropriate sludge application fee.

If authorization is for sludge processing, storage, disposal, composting, marketing and distribution of sludge, sludge surface disposal, or sludge monofill or for temporary storage in sludge lagoons, the applicant must submit the Domestic Wastewater Permit Application: Sewage Sludge Technical Report – Form No. 10056.

Check for:

required signatures (if applicable)

site acreage acreage application area site boundaries shown on USGS map

Notes: If the applicant is disposing or land applying sludge on land owned or under their control, but it is not authorized in their permit or by any other TCEQ authorization, a major amendment is required.

If the application is for a new permit or major amendment, then you need to check for the appropriate affected landowner requirements.

[] Worksheet 6.0 must be addressed if a domestic facility is labeled as public or both, (not required for federal agencies or water treatment plants)

THE FOLLOWING ITEMS ONLY APPLY TO MINOR RENEWAL APPLICATIONS:

- [] The type of treatment plant has been indicated.
- [] The list of units and their dimensions have been provided
- [] The flow diagram has been provided.
- [] The required grab sample test results have been provided for all constituents - *not required if plant not operational.*
- [] Sludge disposal is authorized off site, and the ultimate sludge disposal method has been identified.
- [] Worksheet 2.0 - For TPDES permits - the stream data has been addressed.
- [] Worksheet 4.0 - For discharge permits: If the applicant has a permitted phase equal to or greater than 1 MGD or more than one phase, and interim or final phase(s) that have not been constructed has a flow equal to or greater than 1 MGD, the applicant must perform the all of the required effluent testing to renew that phase.

WHEN APPLICATION IS NOT ADMINISTRATIVELY COMPLETE:

Complete NOD. See NOD SOP

WHEN APPLICATION IS ADMINISTRATIVELY COMPLETE:

Complete NORI package. See NORI SOP
NORI not required for minor amendment. Complete the Routing and Contact (list "n/a" for item regarding person responsible for publication of the notice) Blue sheets only.

Prepare SPIF forms (only for TPDES permits)

- checked application type
- entered county name
- entered administrative completeness date
- ensured permit number is on form
- *check agency receiving SPIF

Minor amendments - ALL agencies BUT Texas Historical Commission and Army Corps of Engineers

Renewals - All agencies BUT Texas Historical Commission

New and Major Amendments - All agencies

- check that the segment number (if known) is entered in receiving water body information.
- On the accompanying map, delineate the discharge route in such a way that copies will reflect the highlighted discharge route.

***NOTE: Copy of SPIFs not required for Houston - US Fish and Wildlife and Galveston-US Army Corps of Engineers**

Admin Complete PARIS Entry and Other Reminders

WO Folder - Application Search

Application Summary Tab—verify application info

Admin Review Tab

- Admin Review Begin Date
- Admin Complete Date
- SPIF
- NORI

Public Participation Tab – No longer required to enter public notice details. See Katherine's email dated 3/30/2017.

CR Folder – RE Search

AI Detail Screen—verify facility info

Enter Contact Info – Contact List

- Owner
- Applicant
- Technical
- Billing (To edit existing info – select Billing Maintenance)
- MER (TLAP only)
- Remove CN affiliation for MER contact (TLAP and TPDES)

OTHER

- Copy of notice, contact sheet, and labels to I/Drive
- SADDs – Application to Dept. of Health Services
- Email TXDOT if discharge is to a state highway right-of-way or roadside ditch.
- Email NORI
- Update facility name (if needed in PARIS)
- Update coordinates (if needed in PARIS), make sure correct link in Notice
- EPA ID CN, location address, facility name (if needed in PARIS)

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2021 AUG -2 AM 11: 49


CHIEF CLERKS OFFICE

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First Class Mail

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041M:1263318

b7E / asc 3520-02

 Lloyd Gosselink ATTORNEYS AT LAW	To: Ms. Laurie Charis, MC-105 Chief Clerk Texas Commission on Environmental Quality P.O. Box 13087 Austin, TX 78711-3087
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Melissa Schmidt

From: PUBCOMMENT-OCC
Sent: Monday, August 2, 2021 9:05 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0015917001
Attachments: 2021.07.30 CCWWTP Public Comments and Request for CCH and Public Meeting (Schertz) (with Attachments)1.pdf

MWD
121716

PM
H

From: drachal@lglawfirm.com <drachal@lglawfirm.com>
Sent: Friday, July 30, 2021 4:40 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0015917001

REGULATED ENTY NAME CLEARWATER CREEK WWTP

RN NUMBER: RN111093126

PERMIT NUMBER: WQ0015917001

DOCKET NUMBER:

COUNTY: BEXAR

PRINCIPAL NAME: GREEN VALLEY SPECIAL UTILITY DISTRICT

CN NUMBER: CN600684294

FROM

NAME: MS Dana Rachal

E-MAIL: drachal@lglawfirm.com

COMPANY: Lloyd Gosselink Rochelle & Townsend, P.C.

ADDRESS: 816 CONGRESS AVE Suite 1900
AUSTIN TX 78701-2442

PHONE: 5123225897

FAX:

COMMENTS: Please find attached the Public Comments, Request for Public Meeting, and Hearing Request filed on behalf of the City of Schertz, Texas, in regards to the proposed Clearwater Creek Wastewater Treatment Plant.

Mr. Klein's Direct Line: (512) 322-5818
Email: dklein@lglawfirm.com

July 30, 2021

Ms. Laurie Gharis, MC-105
Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

**VIA ELECTRONIC FILING AND
FIRST CLASS MAIL**

Re: Public Comments, Request for Public Meeting, and Hearing Request
Application for Proposed TPDES Permit No. WQ0015917001
(EPA I.D. No. TX0140546)
Applicant: Green Valley Special Utility District (CN600684294)
Site Name: Clearwater Creek Wastewater Treatment Plant (RN111093126)

Dear Ms. Gharis:

The City of Schertz, Texas ("*City*"), my client, hereby submits this letter to the Texas Commission on Environmental Quality ("*TCEQ*"), providing formal public comments and requesting a public meeting and contested case hearing regarding the above-referenced application ("*Application*") of Green Valley Special Utility District ("*GVSUD*") for a new Texas Pollutant Discharge Elimination System ("*TPDES*") permit, and the proposed draft permit for such Application ("*Draft Permit*"). These comments are timely filed.

I represent the City regarding the Application and Draft Permit. Please include me on the TCEQ's mailing list for all filings in the above-referenced Application. My mailing/contact information is as follows:

Mr. David J. Klein
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
dklein@lglawfirm.com
Phone: (512) 322-5818
Fax: (512) 472-0532

I. BACKGROUND

In its Application, GVSUD requests authorization from the TCEQ to discharge treated domestic wastewater at a daily average flow not to exceed 400,000 gallons per day (“*GPD*”) at the proposed Clearwater Creek Wastewater Treatment Plant (the “*CCWWTP*”). The *CCWWTP* is to be located in Bexar County, Texas, and the proposed discharge route for the treated wastewater is from the plant site to Womans Hollow Creek,¹ thence to Martinez Creek, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 Texas Administrative Code (“*TAC*”) § 307.10) for Classified Segment No. 1902 are primary contact recreation, high aquatic life use, and 5.0 mg/L dissolved oxygen. Classified Segment No. 1902 is currently listed on the 2020 Texas Integrated Report – Texas 303(d) List of impaired and threatened waters (the “*303(d) List*”). The listings are for bacteria in the water from the confluence with the San Antonio River in Kames County to a point 100 meters (110 yards) downstream of IH 10 in Bexar/Guadalupe County.

The Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (“*NORI*”) was issued on October 30, 2020 and published on November 13, 2020. An amended *NORI* was issued on April 30, 2021 and published on May 12, 2021. The Notice of Application and Preliminary Decision (“*NAPD*”) was issued on June 17, 2021 and published on June 30, 2021. Pursuant to 30 TAC § 55.152(a), the current deadline to file public comments regarding the Application and Draft Permit is July 30, 2021. To this end, presented below are the City’s timely filed public comments raising significant disputed issues of fact that are relevant and material to the TCEQ’s decision on the Application and are the basis for the City’s request for a public meeting and contested case hearing, should the Application not be remanded back to technical review and/or denied outright.

The City requests that the TCEQ deny the Application and corresponding Draft Permit because GVSUD has not provided all of the information required in TCEQ application forms TCEQ-10053 (06/25/2018) Municipal Wastewater Application Administrative Report (“*Administrative Report*”) and TCEQ-10054 (06/01/2017) Domestic Wastewater Permit Application, Technical Reports (“*Technical Reports*”). In addition, the Application and Draft Permit fail to: (1) meet the state and TCEQ’s regionalization requirements; (2) demonstrate a need for the Final Phase of the Draft Permit; (3) satisfy water quality, antidegradation, and stream standard requirements; and (4) include other information and documentation required by TCEQ form TCEQ-10053ins (06/25/2018) Instructions for Completing the Domestic Wastewater Permit Application (“*Instructions*”).

II. PUBLIC COMMENTS

The City asserts that the Application and Draft Permit should be denied because the Application does not meet applicable statutory and regulatory requirements for a TPDES permit

¹ As demonstrated by the screenshot from TCEQ’s Location Mapper tool, attached hereto and incorporated herein for all purposes as Attachment A, which shows, according to the *NAPD*, “the exact location” of the *CCWWTP*, the correct name of the proposed receiving water is Woman Hollering Creek, not Womans Hollow Creek, as referred to in the *NORI*, Amended *NORI*, *NAPD*, and Application.

application, the Draft Permit fails to meet Texas Water Code (“*TWC*”), Chapter 26, and the TCEQ’s regionalization requirements for wastewater treatment plants (“*WWTPs*”), and GVSUD has not demonstrated a need for the CCWWTP. The City further maintains that the Application and Draft Permit should be denied because (i) they do not adequately protect against the CCWWTP’s negative impacts on water quality, antidegradation, and stream standards; (ii) GVSUD has not secured ownership/possession of the real property interests necessary to properly construct and operate the CCWWTP; and (iii) the Application fails to include other required elements, such as a sufficient Sewage Sludge Solids Management Plan, map of the proposed service area, and the requisite original photograph of the proposed location for the CCWWTP. In addition, the Application and Draft Permit should be denied due to nuisance odors that will result from the permitting of the CCWWTP, especially given GVSUD’s failure to satisfy all buffer zone requirements. Finally, the Application is incomplete given that GVSUD asserts that it has an approved pretreatment program.

A. The Application fails to comply with the State’s regionalization policy.

The TCEQ is required to implement the State’s policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.² In order to implement this regionalization policy, Section 1.B of the TCEQ’s TPDES permit application form Domestic Technical Report 1.1 contains three questions related to the potential for regionalization of WWTPs, each tailored to address the question of whether existing nearby wastewater treatment facilities and/or collection systems could provide service to the service area proposed in the TPDES permit application.³ All three regionalization questions in Section 1.B are relevant to GVSUD’s Application, and GVSUD has failed to complete the regionalization analysis and process in each instance. The TCEQ’s issuance of the Draft Permit also demonstrates that this issue was not taken into consideration when it processed the Application.

For Section 1.B.1, the Instructions require non-city applicants to “indicate if any portion of the proposed service area is located in an incorporated city,” and, if so, to “provide correspondence” demonstrating “consent to provide service or denial to provide service from the city.”⁴ If the nearby city consents to provide service, the applicant must provide a cost analysis justifying the need for the proposed facility.⁵ The Application, received August 31, 2020, indicates that “City responses are pending,”⁶ but GVSUD never supplemented the Application to include the City’s responses to numerous follow-up communications between the City and GVSUD—communications that the TCEQ should have been aware of and taken into consideration. In its communications with GVSUD, the City requested that GVSUD clarify the location of the proposed service area so that it could develop a response to the regionalization request. GVSUD never provided such information. Based upon the Application, the processing of the Application, and the Draft Permit, this potential overlap and applicable regionalization analysis was never

² TWC § 26.081(a); *see also* TWC §§ 26.003, 26.0282; Instructions at 64.

³ Application Technical Reports at 21 – 22.

⁴ Instructions at 64.

⁵ *Id.*

⁶ Application Technical Reports at 21.

completed by GVSUD or taken into consideration by the TCEQ. Consequently, the Application and Draft Permit should be denied.

Similarly, Section 1.B.2 requires applicants to “[i]ndicate if any portion of the proposed service area is inside another utility’s sewer Certificate of Convenience and Necessity [(“CCN”)] area.”⁷ Here too, if the answer is yes, then the applicant must “provide justification and a cost analysis of expenditures that shows the cost of connecting to the CCN facilities versus the cost of the proposed facility or expansion.”⁸ While GVSUD correctly indicated that a portion of the proposed service area is located within the City’s corporate limits, it denies that said portion falls inside the City’s sewer CCN service area.⁹ The City believes that this denial is incorrect. Again, GVSUD failed to include the boundaries of the service area proposed to be served by the CCWWTP, as required by Domestic Technical Report 1.0. Rather, in its Application, GVSUD has only provided the “Clearwater Creek WWTP Area Map,” included in Attachment I, depicting the “Clearwater Creek Sewershed” (the “*Sewershed Map*”). To the extent it is relevant to the proposed service area of the CCWWTP, attached hereto and incorporated herein for all purposes is **Attachment B**, which contains small and large scale maps of the City’s sewer CCN No. 20271. When compared to GVSUD’s Sewershed Map, it is clear that the sewershed depicted for the CCWWTP extends into the boundaries of the City’s sewer CCN. Therefore, if GVSUD intends the CCWWTP to serve its entire sewershed, then GVSUD was required to justify the need for the CCWWTP based on a cost analysis included with the Application, which it did not. Based upon the Application, the processing of the Application, and the Draft Permit, the potential overlap and applicable regionalization analysis was never taken into consideration by GVSUD or the TCEQ. Consequently, the Application and Draft Permit should be denied.

Finally, Section 1.B.3, concerns the existence of permitted domestic WWTPs or sanitary sewer collection systems located within a three-mile radius of the proposed wastewater treatment facility.¹⁰ If such facilities exist, then the applicant is, again, required to indicate, and provide supporting documentation, regarding any such neighboring utilities’ responses to mandatory correspondence from the applicant regarding wastewater service for the proposed service area.¹¹ Just as with Sections 1.B.1 and 1.B.2, if any of the nearby utilities consent to provide service, the applicant must provide a justification for the proposed facility and a comparison of the costs to construct it against those to connect to the applicable existing facility.¹² While GVSUD properly disclosed the existence of nearby facilities, it indicated that no such facilities “have the capacity to accept or are willing to expand to accept the volume of wastewater proposed in [the Application].”¹³ As explained above, that is not accurate given the nature of the City’s communications with GVSUD. The City asked GVSUD to provide the location of the proposed service area, and it never received a thorough answer, obstructing the regionalization analysis. Based upon the Application, the processing of the Application, and the Draft Permit, this

⁷ *Id.* at 22.

⁸ *Id.*

⁹ *Id.*

¹⁰ Instructions at 65; Application Technical Reports at 22.

¹¹ *Id.*

¹² *Id.*

¹³ Application Technical Reports at 22.

applicable regionalization analysis was never taken into consideration. Consequently, the Application and Draft Permit should be denied.

B. The Application fails to sufficiently demonstrate need for the authorized discharge amount of 0.4 million gallons per day.

The City contends that the Application and Draft Permit should be denied because the Final Phase of the proposed CCWWTP is not needed. In conjunction with the TCEQ's regionalization policy, Section 1 of Domestic Technical Report 1.1 requires a TPDES permit applicant to "[p]rovide a detailed discussion regarding the need for any phase(s) not currently permitted."¹⁴ The Instructions further clarify this requirement, stating:

Provide justification for the proposed flows . . . Provide an anticipated construction start date and operation schedule for each phase being proposed. If construction is dependent upon housing/commercial development, provide information from the developer. Provide information such as the size of the development (number of lots), the date construction on the development is scheduled to begin, and the anticipated growth rate of the development (number of houses per month or year). . . . If additional space is needed, submit the justification information as an attachment.

Attach population estimates and/or projections used to derive the flow estimates and anticipated growth rates for developments. Provide the source and basis upon which population figures were derived (census and/or other methodology). Also, provide population projections at the end of the design life of the treatment facility (usually 50+ years) and the source and basis upon which population figures were derived.¹⁵

Per the Instructions, "[f]ailure to provide sufficient justification for the continued need for the permit and/or each proposed phase may result in a recommendation for denial of the application or proposed phases."¹⁶

Here, instead of providing the requisite "detailed discussion" outlined above, the Application merely states:

This requested permit is proposed to support planned residential and commercial growth in GVSUD's sewer CCN area. GVSUD holds sewer CCN for proposed service area. The current contract for service equates to 950 EDUs of service or 232,750 gpm.¹⁷

First, the City contends that 232,750 gallons per minute is not an accurate indication of the treated effluent likely to be generated by 950 EDUs. That amount of wastewater is equivalent to

¹⁴ *Id.* at 21.

¹⁵ Instructions at 64.

¹⁶ *Id.*

¹⁷ Application Technical Reports at 21.

a wastewater discharge of 335.16 million gallons per day (“*MGD*”). Rather, the City asserts that GVSUD only intends to have a flow of 232,750 GPD (0.232750 MGD).

Second, with a total proposed discharge of 0.233 MGD, the Application seeks an excessive and unnecessary amount of treatment capacity. Thus, the Application does not demonstrate the need for the Draft Permit’s Final Phase authorization to discharge up to 0.4 MGD of treated effluent, and the Application and Draft Permit, as proposed, should be denied.

C. The Application raises concerns that the proposed discharge will not be in compliance with the TCEQ’s antidegradation policy.

As indicated above, the Application and Draft Permit authorize the discharge of treated domestic wastewater from the proposed CCWWTP to Womans Hollow Creek, thence to Martinez Creek, thence to the Lower Cibolo Creek in Segment No. 1902 of the San Antonio River Basin. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 TAC § 307.10) for Classified Segment No. 1902 are primary contact recreation I, high aquatic life use, and 5.0 mg/L dissolved oxygen. Segment No. 1902 is also currently listed on the 303(d) List for bacteria in the water. Thus, the City has concerns that the discharge into Segment No. 1902, as proposed by the Draft Permit, would impact water quality in that watercourse.

Specifically, the Application and Draft Permit raise concerns with the City that the proposed discharge will neither be in compliance with the TCEQ’s antidegradation policy nor maintain its current stream standard. Pursuant to 30 TAC § 307.5, the proposed discharge is subject to that antidegradation policy and implementation procedures under Tier 1 and Tier 2. Therefore, before approving the Application, the Commission must ensure that antidegradation will not occur as a result of the proposed discharge. Additionally, because Segment No. 1902 is an impaired water body on the TCEQ’s 303(d) List, the proposed discharge may unnecessarily further downgrade the segment’s water quality if statutory and regulatory requirements for antidegradation and stream standards are not met. Thus, due to these additional concerns, the Application and Draft Permit, as presented, should be denied.

Furthermore, the Application describes the unclassified Womans Hollow Creek as a “Wet Weather Creek,”¹⁸ despite containing information suggesting it may be intermittent or intermittent with perennial pools, stating that it is a “[s]low shallow running creek with perennial pools.”¹⁹ The Application also indicates that no perennial streams join the receiving water within three miles downstream of the discharge point.²⁰ Martinez Creek, however, which is joined by Womans Hollow Creek less than three miles downstream of the discharge point, is included on the 303(d) List as Segment No. 1902A and described as a “[p]erennial stream.”²¹ As such, the effluent set proposed in the Draft Permit may be based on an incorrect stream characterization and inconsistent with state and federal regulations.

¹⁸ *Id.* at 30.

¹⁹ *Id.* at 31.

²⁰ *Id.* at 30.

²¹ Tex. Comm’n on Env’tl. Quality, *2020 Texas Integrated Report - Texas 303(d) List 88* (2020), www.tceq.texas.gov/waterquality/assessment/20twqi/20txir.

D. GVSUD lacks sufficient legal title and/or rights to land to own and operate the proposed CCWWTP.

In addition to the foregoing bases for denying the Application, the City believes that the Application is deficient because it does not establish—and GVSUD cannot establish—that it holds sufficient legal rights to real property necessary to own and operate the CCWWTP. As evidenced by the Bexar Appraisal District reports attached hereto and incorporated herein for all purposes as **Attachment C**, GVSUD does not own the land at the address provided for the proposed CCWWTP. However, pursuant to the Instructions:

If the owner of the land is not the same as the applicant, a long-term lease agreement for the life of the facility must be provided. A lease agreement can only be submitted if the facility is not a fixture of the land (e.g., above-ground package plant). . . . If the facility is considered a fixture of the land (e.g., ponds, units half-way in the ground), there are two options. The owner of the land can apply for the permit as a co-applicant or a copy of an executed deed recorded easement must be provided. A long-term lease agreement is not sufficient if the facility is considered a fixture of the land.

Both the long-term lease agreement and the deed recorded easement must give the facility owner sufficient rights to the land for the operation of the facility.”²²

In its Application, GVSUD incorrectly indicated that it owns the land where the CCWWTP will be located,²³ and the third page of TCEQ’s “Checklist for Admin Review of Municipal Application for Permit,” attached hereto and incorporated herein for all purposes as **Attachment D**, demonstrates that TCEQ relied upon that assertion in reviewing the Application. However, GVSUD is not the owner of the land where the proposed CCWWTP will be located, and it has not provided the TCEQ with any document demonstrating ownership or a long-term lease agreement. As such, GVSUD has failed to demonstrate that it possesses sufficient rights to the land for the operation of the proposed CCWWTP.

E. The Application contains a number of additional deficiencies.

After a careful review of the Application, the City believes that the Application has the following additional deficiencies, and that due to these deficiencies, the Application and Draft Permit should be denied:

1. **Service Area Map.** The Application does not contain a map clearly identifying the proposed service area for the CCWWTP. As noted briefly above, TCEQ requires GVSUD to provide a map showing the “boundaries of the area served by the treatment facility.”²⁴ However, it is uncertain whether GVSUD has provided such map. If the map provided by GVSUD in the Application to address this requirement is the Sewershed Map, showing the

²² Instructions at 33.

²³ Application Administrative Report at 8.

²⁴ *Id.* at 11.

CCWWTP's proposed sewershed, then GVSUD's proposed service area boundaries are unclear; otherwise, the Application is lacking this important, required piece of information. In either case, the Sewershed Map does not indicate whether the CCWWTP is intended to serve the entire sewershed shown thereon, a portion of which extends into the City's sewer CCN service area.

2. **Sewage Sludge Solids Management Plan.** In Domestic Technical Report 1.0, Section 9, the TCEQ requires the applicant to select the anticipated sludge disposal method and provide sludge disposal site information, including the disposal site name, permit or registration number, and disposal site's county.²⁵ Section 9 also requires the applicant to indicate the method of transportation, hauler name, and hauler registration number.²⁶ In response, GVSUD did not provide most of this information, instead stating that the information is to be determined and admitting that neither a sludge disposal site nor hauler has been selected.²⁷ GVSUD also has not complied with the TCEQ's requirement to provide a copy of the contractual agreements demonstrating that the receiving facility will accept the sludge.²⁸ GVSUD's failure to identify a method for sludge disposal creates another deficiency in the Application and indicates that GVSUD's operation of the CCWWTP will not comply with federal and state requirements.
3. **Original Photographs.** The Application does not contain an original photograph of the proposed location for the CCWWTP, and thereby violates the Instructions, which indicate that applicants "must" submit "[a]t least one photograph of the new . . . treatment unit(s) location."²⁹
4. **Pretreatment Program.** The Application is inconsistent as to whether GVSUD has an approved pretreatment program under 40 CFR Part 403. In Domestic Technical Report 1.0, GVSUD indicates it does not have such a program, but GVSUD's answer to the first question in Section D of Domestic Worksheet 6.0 indicates otherwise. Without clarity as to whether GVSUD does have an approved pretreatment program, it is impossible to determine whether it should have completed Domestic Worksheets 4.0, 5.0, or some portion thereof, in addition to completing Domestic Worksheet 6.0.
5. **Buffer Zone.** Next, the City asserts that GVSUD's Application fails to provide proof of a sufficient buffer zone compliance method. Section 3 of Domestic Administrative Report 1.1 requires a TPDES permit applicant to indicate how the buffer zone requirements of 30 TAC § 309.13(e) will be met.³⁰ The Instructions further specify that "[t]he buffer zone, either 150 or 500 feet from the treatment units . . . can be met by ownership, legal restrictions preventing residential structures within the buffer zone, an approved nuisance odor prevention plan, or a variance to the buffer zone."³¹ GVSUD indicated it would

²⁵ Application Technical Reports at 12 – 13.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 13.

²⁹ Instructions at 43.

³⁰ Application Administrative Report at 14.

³¹ Instructions at 43.

satisfy the buffer zone requirements through ownership,³² but as explained in more detail above, GVSUD possesses no ownership interest, nor legal right sufficient to comply with the requirements of 30 TAC § 309.13(e). Specifically, the Instructions indicate that “[o]wnership means that the applicant owns all the land surrounding the treatment units that fall within the buffer zone,”³³ which GVSUD does not. Furthermore, 30 TAC § 309.13(e) provides that “wastewater treatment plant units may not be located closer than 150 feet to the nearest property line.” As shown on the maps included in the Application, GVSUD’s proposed 150-foot buffer zone is rectangular. That does not properly buffer a 150-foot radius around the proposed facility. In any case, the maps depict the buffer zone extending beyond the boundary of the CCWWTP property.

6. **Nuisance Odors.** In addition to the buffer zone issues described above, an additional, unneeded treatment and disposal facility, if not operated properly, may result in nuisance odors that will adversely affect the quality of life of nearby residents and the public. In accordance with 30 TAC § 309.13(e), the Applicant must demonstrate that sufficient measures to prevent nuisance odors will be undertaken. It is not in the public interest to issue a new discharge authorization that may result in nuisance odors when regionalized wastewater services are available, particularly when nearby schools are located within the three-mile radius of the proposed CCWWTP.

For the above-cited reasons, the City recommends that the TCEQ deny the Application and Draft Permit.

III. REQUEST FOR PUBLIC MEETING

The City requests a public meeting regarding the Application in light of the issues raised in this letter. The TCEQ’s regulations in 30 TAC § 55.154(c) provide that “[a]t any time, the executive director or the Office of the Chief Clerk may hold public meetings,” and that “[t]he executive director or the Office of the Chief Clerk shall hold a public meeting if: (1) the executive director determines that there is a substantial or significant degree of public interest in an application.” Pursuant to 30 TAC § 55.150, this opportunity to request a public meeting under 30 TAC § 55.154(c) applies to applications for a new TPDES permit, such as the Application. Accordingly, the City, for the benefit of its citizens, has a substantial and significant degree of public interest in the Application. The City is willing to work with the TCEQ and GVSUD to determine a location for such a public meeting.

IV. REQUEST FOR CONTESTED CASE HEARING

The City also requests a contested case hearing regarding the Application, Draft Permit, and each and every issue raised in the City’s public comments, and any and all supplements and/or amendments thereto. For the reasons set forth herein, the City is an affected person, as defined by 30 TAC § 55.203. The City has a personal justiciable interest to a legal right, duty, privilege, power, or economic interest that is not common to the general public that would be adversely

³² Application Administrative Report at 14

³³ Instructions at 43.

affected should the Draft Permit be granted. In determining whether a person is an affected person, the TCEQ may consider, among other factors, (1) “whether the interest claimed is one protected by the law under which the application will be considered; (2) distance restrictions or other limitations imposed by law on the affected interest; (3) whether a reasonable relationship exists between the interest claimed and the activity regulated; . . . and (7) *for governmental entities, their statutory authority over or interest in the issues relevant to the application.*”³⁴ The TCEQ may also consider “the merits of the underlying application and supporting documentation . . . , including whether the application meets the requirements for permit issuance.”³⁵ All such considerations are applicable to the City, and, as noted in its public comments in Section II, above, the City has a particular interest in the issues relevant to the Application because the Application indicates that the proposed service area for the CCWWTP is located within its corporate boundaries and possibly its sewer CCN service area.

V. CONCLUSION

The City reserves its right to supplement these public comments and this request for a contested case hearing as it learns more about the Application—additional information may become apparent through a public meeting (and thereby-extended comment period) regarding this Application. The City appreciates your consideration of these public comments and requests for a public meeting and contested case hearing.

Thank you for your consideration of this important matter. If you or your staff have any questions regarding this matter, please contact me at your convenience.

Sincerely,



David J. Klein

DJK/dsr
Enclosures

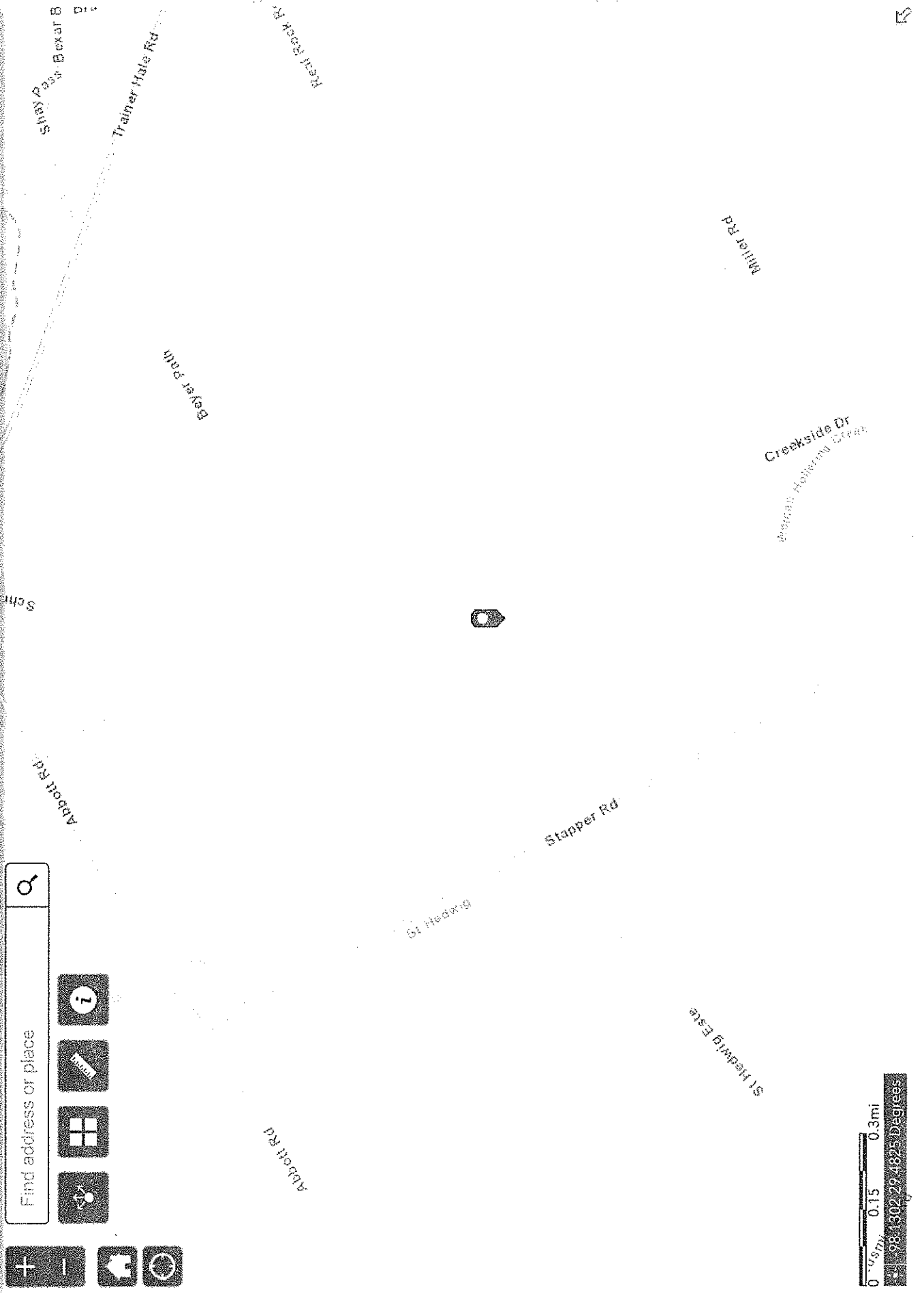
cc: Mark Browne, City Manager, City of Schertz
Brian James, Assistant City Manager, City of Schertz
Charles Kelm, Assistant City Manager, City of Schertz

³⁴ 30 TAC § 55.203(c) (emphasis added).

³⁵ *Id.* § 55.203(d).

Attachment A

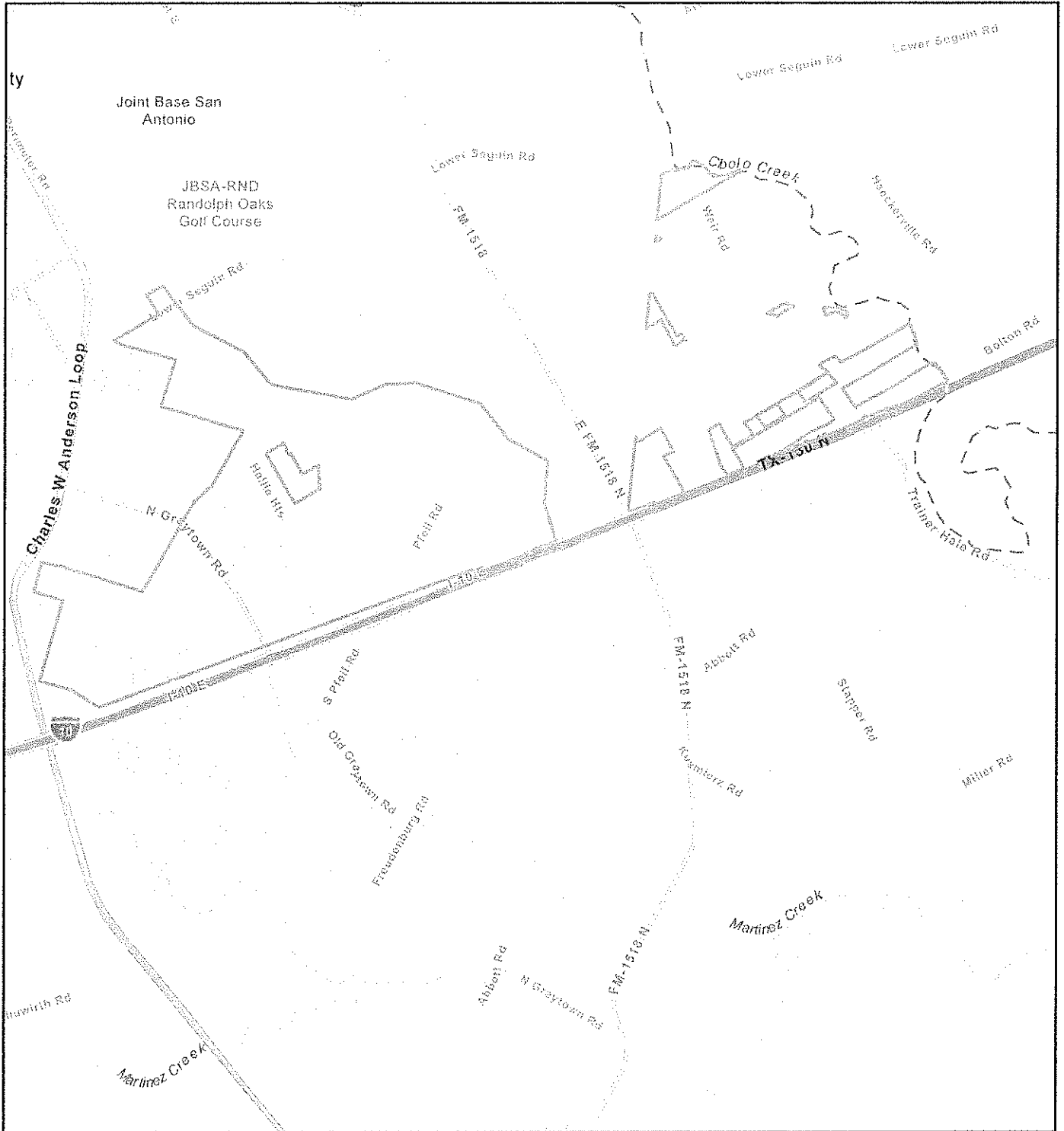
Find address or place



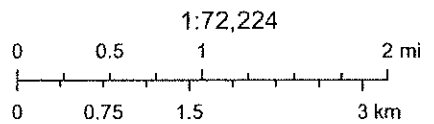
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39° 30' 29.4825 Degrees

Attachment B

City of Schertz Sewer CCN No. 20271

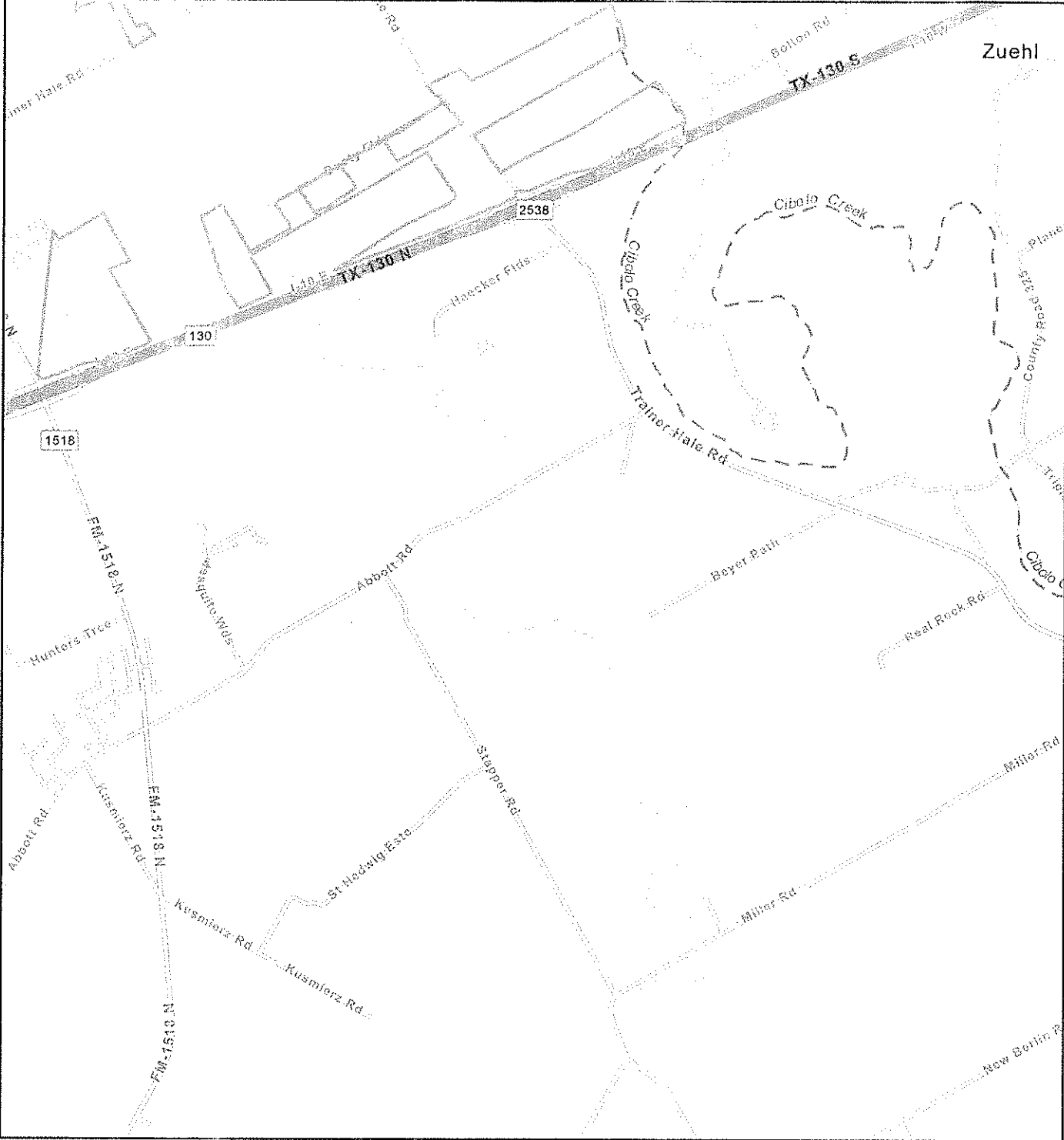


July 29, 2021

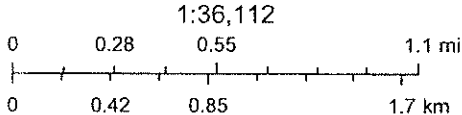


Texas Parks & Wildlife, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA

City of Schertz Sewer CCN No. 20271(Large Scale)



July 29, 2021



Texas Parks & Wildlife, Esri, HERE, Garmin, SafeGraph, INCREMENT P, MET/NASA, USGS, EPA, NPS, US Census Bureau, USDA

Attachment C

Bexar CAD Property Search [Map Search](#)

Property Search Results > 1 - 6 of 6 for Year 2021 Export Results [New Search](#)

Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a single map.

Property Address Legal Description

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value	
<input type="checkbox"/> 1166658	80400-000-1880	Mobile Home	4060 STAPPER RD TX	DUNCAN CRAIG & JOANN		\$44,290	View Details View Map
<input type="checkbox"/> 1172641	04019-000-1882	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	DUNCAN HAZEL JOANN		\$5,390	View Details View Map
<input type="checkbox"/> 169912	04019-000-1880	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL W & SUTTON CAROLYN & DUNCAN HAZEL J		\$37,730	View Details View Map
<input type="checkbox"/> 1172711	04019-000-1883	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL WILLIAM		\$12,150	View Details View Map
<input type="checkbox"/> 169348	04019-000-0191	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	ELLIOTT MICHAEL WILLIAM		\$114,590	View Details View Map
<input type="checkbox"/> 169913	04019-000-1881	Real	4060 STAPPER RD SAINT HEDWIG, TX 78152	SUTTON DONALD J & CAROLYN R		\$176,210	View Details View Map

**Protest status and date information current as of Jul 28 2021 1:22AM.
 2021 and prior year appraisal data current as of Jul 2 2021 6:19AM
 For property information, contact (210) 242-2432 or (210) 224-8511 or
[email](#)
 For website information, contact (210) 242-2500.**

Attachment D

~~Print N&T packet for review~~

~~copy report
print verifications & No. email~~

CHECK LIST FOR ADMIN REVIEW OF MUNICIPAL APPLICATION FOR PERMIT		
Permit No. WQ00 <u>15917001</u>	TX <u>0140540</u>	MGD <u>0.4</u>
CN <u>600684294</u>	RN <u>111093126</u>	County: <u>Bexar</u> Region No. <u>13</u>
Facility: () Major (<input checked="" type="checkbox"/>) Minor	App Revd Date: <u>8/31/2020</u>	Permit Expiration Date: <u>NEW</u>
(<input checked="" type="checkbox"/>) Inactive () Active	Segment No. <u>1902</u>	

Note: A minor facility is generally one in which the final flow is less than 1.0 MGD.

Application Review Date: 10/16/2020

A copy of the pre-tech review was provided by the Municipal Permits Team (for new, major amendments and major facilities).

A copy of the groundwater review was provided (for TLAP new, major amendment, SADD minor amendment, and all applications with (or proposing) Class B sludge provisions).

For new and major amendment applications that propose surface water discharge, the standards review for RWA comments is included.

Coastal Zone sheet is included. Yes No

Fees or Penalties Owed: No [] Yes Amount Owed: _____

SECTION 1 APPLICATION FEES

Application Fees: The appropriate item checked and payment verified in receipt rpt or boexi rpt. Note: copies of checks should be removed and shredded.

Municipal Fees

Proposed/Final Phase Flow	New/Major Amend.	Renewals	Minor Amendment or Modification <u>without</u> Renewal [] \$150.00 (for any flow)
< .05 MGD	[] \$350.00	[] \$315.00	
≥ .05 but < .10 MGD	[] \$550.00	[] \$515.00	
≥ .10 but < .25 MGD	[] \$850.00	[] \$815.00	
≥ .25 but < .50 MGD	<input checked="" type="checkbox"/> \$1,250.00	[] 1,215.00	
≥ .50 but < 1.0 MGD	[] \$1,650.00	[] 1,615.00	
≥ 1.0 MGD	[] \$2,050.00	[] 2,015.00	

SECTION 2 TYPE OF APPLICATION

The Type of application is marked

Reason for amendment or modification (if applicable). Also, check Tech. Report 1.1 Section 4 on page 3 (Unbuilt Phases) and Section 1.A on page 20 (Justification of permit need).

SECTION 3 FACILITY OWNER (APPLICANT) AND CO-APPLICANT

Legal name of applicant is listed (*the owner of the facility must apply for the permit*)

Legal name of co-applicant is listed (*if required to apply with facility owner*)

Core Data Form (CDF) is provided. A separate CDF is required for each customer.

Section I – General Information

Reason for submittal is marked.

Customer (CN) and Regulated Entity (RN) Reference Nos. provided – verify with Central Registry

Section II – Customer Information

Customer legal name is provided and it matches name on admin report

Texas SOS/Filing number is provided – verify with SOS

Texas State Tax ID is provided – verify with Texas Comptroller

Type of customer is marked – refer to information below

Corporation: Check with Secretary of State (SOS) at: <https://direct.sos.state.tx.us/acct/acct-login.asp> verify the entity status and charter number – print page. Verify correct legal spelling of applicant's name. Check spelling with SOS against the name listed in the application. (Permit must be issued in name as filed with SOS.) The applicant must be "In existence and active" before the application can be processed further.

Those entities subject to state franchise taxes: If applicable, check with Comptroller (website at: <http://ecpa.cpa.state.tx.us/coa/coaStart.html>. Verify the tax identification number is correct. Note: Non-profit organizations and partnerships are not subject to the state franchise tax.

Individual: Complete Attachment 1 of Admin. Report 1.0 The complete legal name, including the middle name; and all other information is required. This info is required by Chapter 26.027C of the Texas Water Code. A separate form is required for each individual.

Utility District: Check IWUD to verify that district is not dissolved (inactive is O.K. to process)

Trust: A copy of an executed trust agreement is provided. Verify that applicant's name is the same as the name in the trust agreement. NOTE: Executed trust must show signatures of trustees or beneficiaries forming the trust and which county it is recorded in.

Partnership: Verify with Secretary of State (SOS) that partnership is registered, active, and has a filing number. Check spelling with SOS against the name submitted in Item 1; Check that SOS # is correct; Print page from SOS website. OR if the partnership is not listed with the SOS, a copy of the partnership agreement is provided by the applicant. The agreement must: give the name of the partnership as provided on the application for permit; list names of partners; bear signatures of the partners; state the terms of the partnership; and must be recorded in the county where the facility (plant) is located.

Municipality/Governmental Agencies/School Districts: City, County, ISD, Fed, etc. – applicable info is listed.

Other _____

Number of employees is marked

Customer role is marked

Mailing address for the applicant is provided - verify on USPS website. This address is used on the permit.

Email address is provided - using GM email in app

Telephone number is provided

Section III – Regulated Entity Information

Regulated Entity Name is provided and it matches name on admin report

Street address or location description of facility is adequately described. If different from current permit, new permit may be required. Use USPS website/GIS mapping to confirm street address

The county where the facility is located is provided

The name of the nearest city is provided

The zip code is provided

The longitude and latitude of the facility is provided – check mapit

Primary SIC Code is provided

Permit No. listed under appropriate programs- if not listed, add it

Section IV – Preparer Information

Name, title, telephone number, and email address is provided

Section V – Authorized Signature

Company name, title, printed name, phone number, signature, and date provided

SECTION 4 APPLICATION CONTACT INFORMATION

Administrative and Technical contact name, address, electronic information provided

SECTION 5 PERMIT CONTACT INFORMATION

Permit (2) contact names, addresses, electronic information provided

SECTION 6 BILLING INFORMATION

Billing contact name, address, electronic information provided

SECTION 7 REPORTING INFORMATION

DMR/MER contact name, address, electronic information provided

SECTION 8 NOTICE INFORMATION

Minor Amendment without Renewal – NORI not required. Skip review of notice information.

Name, address and phone number of one person responsible for publishing NORI is provided

Method of sending NORI package is provided

Name and phone number of contact to be in NORI is provided

Location where application will be available is provided and is in the county where the facility is located - the location must be a building supported by taxpayer funds. Note: If discharge is directly into water body that borders two counties, application must be placed in a public facility in both counties and the notice must be published in both counties

Bilingual Items 1 - 5 are completed. If "Yes" to question 1 and "Yes" to either question 2, 3 or 4, then e.5 must be completed

SECTION 9 REGULATED ENTITY and PERMITTED SITE INFORMATION

Permit No. and Expiration date is listed, if not, verify with permit or PARIS

Name of project or site is provided. Should correspond to Item 22 on CDF.

Owner of the facility identified in the application is the same as the name given in Section 3.A

NOTE: THE OWNER OF THE FACILITY IS REQUIRED TO APPLY FOR THE PERMIT

(Refer to legal policy memo for complete definition and discussion of facility.)

Marked whether ownership of the facility is public, private or both

Owner of the land where permitted facility is or will be located is the **SAME** as the applicant.

The owner of the land on which the facility is located is **DIFFERENT FROM** the owner of the facility: A copy of a lease agreement or easement, with a term for the duration of the permit, between applicant and landowner, has been provided. See Lease Agreement/Easement Memo dated 2/14/06, that states that a lease is sufficient for pond systems, and that details the provisions that a lease agreement or easement must contain. OR, landowner can apply as a co-permittee. Lease must identify property by legal description or map.

Effluent Disposal Site Owner:

N/A - (no effluent disposal proposed)

If land disposal is authorized in permit or proposed, the applicant **OWNS** land on which site is located

If applicant **DOES NOT OWN** land where site is located, a long-term lease agreement is provided which includes: a term of at least 5 years; is current or it includes an option to renew the term; is between the current applicant and the landowner; and includes description of property by legal description or map.

(For new TLAP permits only: A copy of an executed option to purchase agreement may be provided to show that applicant will have ownership of the land upon permit approval.)

Sewage Sludge Disposal Site Owner:

N/A - (no sludge disposal proposed)

If sludge is authorized in permit or proposed, the applicant **OWNS** land on which disposal site is located, otherwise lease is needed unless Class B sludge is land applied. Check the permit under Sludge Provisions to determine if sludge is authorized. Note: For BLU sludge application – lease is not needed; Landowner just needs to sign sludge affidavit (if different from applicant)

If sludge disposal is proposed or authorized in the permit, the applicant must also submit the applicable sludge forms.

SECTION 10 DISCHARGE INFORMATION

- Checked if treatment facility location in permit is correct.
- Checked if discharge info in permit is correct. If applicable, the discharge route description is adequately described and describes the discharge route to the nearest major watercourse. Changing the point of discharge and route from the current permit description requires a major amendment
- The name of the city (or nearest city) where the outfall(s) is/will be located has been provided
- The county where the outfall is located is provided
- The longitude and latitude of the outfall is provided
- Marked item regarding authorization for discharge into a city, county, or state ditch. If applicable, correspondence is provided. Email TXDOT if discharge is to a state highway right-of-way or roadside ditch.
- For a daily average flow of 5 MGD or more: the names of all counties located within 100 miles downstream from the point of discharge. These counties will be listed on contact sheet.

SECTION 11 DISPOSAL (TLAP) INFORMATION

- The written location description of the disposal site is adequately described. (NOTE: A CHANGE IN LOCATION OR INCREASE IN ACREAGE REQUIRES A MAJOR AMENDMENT. A decrease in acreage may also be a major amendment (due to flow rate) - check with permit writer)
- The name of the city (or nearest city) has been provided
- The county where the disposal site is located is provided
- The longitude and latitude of the disposal site is provided
- The written flow of effluent from the facility to the effluent disposal site is adequately described
- The nearest watercourse to the disposal site is listed

SECTION 12 MISCELLANEOUS INFORMATION

- Identified whether or not facility or discharge are on Indian land (If yes, we do not have permit authority.)
- For permits that allow sewage disposal the location description is adequately described. For an already-existing permit, check to see that the location has not changed
- Must indicate whether any former TCEQ employees who were paid for services regarding this application
- Fees or Penalties Owed: No Yes - See page 1 of checklist

SECTION 13 ATTACHMENTS

- Lease agreement or deed recorded easement, if the land where the treatment facility is located or the effluent disposal site are not owned by the applicant or co-applicant
- An ORIGINAL or equivalent FULL-SIZED USGS 7.5 minute topographic map (8 1/2 x 11 acceptable for amendment and renewal applications) is provided and labeled showing: applicant's property boundary treatment facility boundaries point of discharge highlighted discharge route for three miles downstream or until it reaches a classified segment scale, effluent disposal site(s) pond(s) sludge disposal/land application site an area of not less than one mile in all directions of the site

Need full size

All original or equivalent full sized maps must show:

- Color map Clear contour lines Upper left corner must identify map as USGS Department of the Interior Geological Survey Lower left corner, datum & project information Bottom, magnetic declination Bottom, must show scale Bottom, identify contour intervals Bottom, national map accuracy std. statement Bottom, show State of TX and quad location Around map, lat and long coordinates Bottom, quadrangle name Bottom, must identify map date

SECTION 14 SIGNATURE PAGE

Note: The signature information below lists the proper signatories for the various entities and the current version of the application contains a paragraph referencing 30 TAC 305.44. The person signing the application verifies that he or she is authorized, under this rule, to sign the application. We must verify that the title meets the requirements or signatory authority has been delegated.

- Original Signature Page is required.
- Signature must be properly notarized – check that signature date and notarized date are the same.

Owner Co-Permittee

- City - Elected official or principle executive officer of the city may be public works director.
- Individual: only the individual signs for himself/herself.
- Partnership: General Partner or exec officer
- Corporation: at least level of VP (CEO, Chairman of Board, Secretary can be equiv. to V.P., Member or General Manager for LLC, Manager of one or more manufacturing, production, or operating facilities employing more than 250 persons - refer to 30 TAC 305.44)
- Utility District: at least the level of vice president, on Board of Directors or District Manager
- Water Authority: Regional managers.
- Independent School Districts: at least level of the Assistant Superintendent or board members.
- Governmental Agencies: Division Directors or Regional Directors.
- Trust: The trustee that has been identified in the trust agreement.
- Other: _____

ADMIN REPORT 1.1 For All New or Major Amendment Applications

SECTION 1 Affected Landowner Information -

Landowner Map:

- The applicant's complete property boundaries are delineated which includes boundaries of contiguous property owned by the applicant
- For domestic facilities, show the buffer zone and identify all of the landowners whose property is located within the buffer zone - *tech address*
- The property boundaries of the landowners surrounding the applicant's property have been clearly delineated on the map
- The location of the facility within applicant's property is shown.

For TPDES applications:

- The point(s) of discharge is clearly identified on the map and the discharge route(s) is highlighted.
- The scale of map is provided to measure one mile downstream **or** if discharge is into a lake, bay estuary, or affected by tides, 1/2 mile up & down stream is measured.
- The property boundaries of landowners adjacent to the discharge route(s) for one mile downstream from the point of discharge have been clearly delineated and the route is clearly delineated. **OR** If discharge is into a lake, bay estuary, or affected by tides, the property boundaries of landowners 1/2 mile up & downstream and those property owners across the lake along the shore line that fall within a 1/2 mile radius of the point of discharge are clearly delineated on the map.

For TLAP applications (i.e., irrigation, evaporation, etc.):

- The boundaries of the disposal site is clearly identified on the map.
- The boundaries of all landowners surrounding the disposal site.
- Cross-referenced list of landowners is provided.
- Disk or four sets of labels were provided
- Source of landowners' info was provided.
- Provided response regarding permanent school fund land. If information filled out on General Land Office, then indicate so on the contact sheet.

SECTION 2 Original Photographs

- The original (color) ground level photos of treatment unit area, disposal or discharge areas (2 photos - one upstream, one downstream) have been provided
- Plot plan or map showing location and direction of each photo

SECTION 3 Buffer Zone Map *tech address*

Buffer zone map (8 1/2 by 11): The permit writer will review this during the pre-tech review. Any deficiencies will be addressed by them.

SUPPLEMENTAL PERMIT INFORMATION FORM (SPIF)

SPIF is provided - TPDES only

TECHNICAL REPORT – MUNICIPAL/DOMESTIC APPLICATIONS

Minor Amendment *without* Renewal. Review not required. Just make sure report is provided.

THE FOLLOWING ITEMS APPLY TO ALL APPLICATIONS:

- The existing permitted design flow (including all permit phases) is indicated
 - If flow indicated is greater than permitted, a major amendment is required.
 - If flow amount is less than permitted amount, confirm with applicant that they are requesting to reduce the flow.

For facilities that have not been constructed the anticipated construction and operation dates are provided for all phases.

Site Drawing must be submitted (*see email from Lana 1/10/2019*).

The permit authorizes irrigation/evaporation/subsurface disposal method and the information has been addressed in the technical report. Verify the acreage. If the acreage has changed from what is currently permitted, a major amendment is required.

The applicable worksheets must be completed:

- Worksheet 3.0 - required for land disposal of effluent
- Worksheet 3.1 - required for land disposal (new and major amendment only)
- Worksheet 3.2 - required for subsurface land disposal (new and major amendment only)
- Worksheet 3.3 - required for subsurface area drip dispersal systems (SADDS) (new and major amendment); may be required for renewal on a case-by-case basis.

SADDS Applications: Compliance history items must be completed for SADDS disposal. When the application is administratively complete, a copy of the application and a transmittal letter must be sent to the State Department of Health Services. See the folder titled "SADDS" (under the Individual Permit Review folder) for a template of the letter.

Worksheet 7.0 – required for SADD applications (new and major amendment only) - We do not review the form; we just make sure that it is submitted. If it is not submitted, request it in a NOD.

Sludge disposal and/or land application is authorized in the permit on property owned or under applicant's control. If facility is beneficially applying class B sludge on the same site as the facility, the applicant must submit the Beneficial Land Use of Sewage Sludge (Class B) Permit Application - Form No. 10451 (See Class B Sludge Permit checklist). The applicant must also submit the appropriate sludge application fee.

If authorization is for sludge processing, storage, disposal, composting, marketing and distribution of sludge, sludge surface disposal, or sludge monofill or for temporary storage in sludge lagoons, the applicant must submit the Domestic Wastewater Permit Application: Sewage Sludge Technical Report – Form No. 10056.
Check for:

- required signatures (if applicable)
- site acreage acreage application area site boundaries shown on USGS map

Notes: If the applicant is disposing or land applying sludge on land owned or under their control, but it is not authorized in their permit or by any other TCEQ authorization, a major amendment is required.

If the application is for a new permit or major amendment, then you need to check for the appropriate affected landowner requirements.

Worksheet 6.0 must be addressed if a domestic facility is labeled as public or both, (not required for federal agencies or water treatment plants)

THE FOLLOWING ITEMS ONLY APPLY TO MINOR RENEWAL APPLICATIONS:

- The type of treatment plant has been indicated.
- The list of units and their dimensions have been provided
- The flow diagram has been provided.
- The required grab sample test results have been provided for all constituents - *not required if plant not operational.*
- Sludge disposal is authorized off site, and the ultimate sludge disposal method has been identified.
- Worksheet 2.0 - For TPDES permits - the stream data has been addressed.
- Worksheet 4.0 - For discharge permits: If the applicant has a permitted phase equal to or greater than 1 MGD or more than one phase, and interim or final phase(s) that have not been constructed has a flow equal to or greater than 1 MGD, the applicant must perform the all of the required effluent testing to renew that phase.

WHEN APPLICATION IS NOT ADMINISTRATIVELY COMPLETE:

Complete NOD. See NOD SOP

WHEN APPLICATION IS ADMINISTRATIVELY COMPLETE:

Complete NORI package. See NORI SOP
NORI not required for minor amendment. Complete the Routing and Contact (list "n/a" for item regarding person responsible for publication of the notice) Blue sheets only.

Prepare SPIF forms (only for TPDES permits)

- checked application type
- entered county name
- entered administrative completeness date
- ensured permit number is on form
- *check agency receiving SPIF

Minor amendments - ALL agencies BUT Texas Historical Commission and Army Corps of Engineers

Renewals - All agencies BUT Texas Historical Commission

New and Major Amendments - All agencies

- check that the segment number (if known) is entered in receiving water body information.
- On the accompanying map, delineate the discharge route in such a way that copies will reflect the highlighted discharge route.

***NOTE: Copy of SPIFs not required for Houston - US Fish and Wildlife and Galveston-US Army Corps of Engineers**

Admin Complete PARIS Entry and Other Reminders

WQ Folder - Application Search

Application Summary Tab--verify application info

Admin Review Tab

- Admin Review Begin Date
- Admin Complete Date
- SPIF
- NORI

Public Participation Tab -- No longer required to enter public notice details. See Katherine's email dated 3/30/2017.

CR Folder -- RE Search

AI Detail Screen--verify facility info

Enter Contact Info -- Contact List

- Owner
- Applicant
- Technical
- Billing (To edit existing info -- select Billing Maintenance)
- MER (TLAP only)
- Remove CN affiliation for MER contact (TLAP and TPDES)

OTHER

- Copy of notice, contact sheet, and labels to I/Drive
- SADDs -- Application to Dept. of Health Services
- Email TXDOT if discharge is to a state highway right-of-way or roadside ditch.
- Email NORI
- Update facility name (if needed in PARIS)
- Update coordinates (if needed in PARIS), make sure correct link in Notice
- EPA ID CN, location address, facility name (if needed in PARIS)

Melissa Schmidt

From: PUBCOMMENT-OCC
Sent: Monday, June 21, 2021 2:18 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0015917001

RFR

From: marthakosub@yahoo.com <marthakosub@yahoo.com>
Sent: Thursday, June 17, 2021 7:10 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0015917001

REGULATED ENTY NAME CLEARWATER CREEK WWTP

RN NUMBER: RN111093126

PERMIT NUMBER: WQ0015917001

DOCKET NUMBER:

COUNTY: BEXAR

PRINCIPAL NAME: GREEN VALLEY SPECIAL UTILIITY DISTRICT

CN NUMBER: CN600684294

FROM

NAME: MRS Martha J Kosub

E-MAIL: marthakosub@yahoo.com

COMPANY: Kosub Farms

ADDRESS: 3740 STAPPER RD
SAINT HEDWIG TX 78152-9730

PHONE: 2108372007

FAX:

COMMENTS: I own 58 acres on Woman Hollering creek extremely close to the site where this facility is to be. My cattle drink from the creek. I am concerned about cleanliness of the water and flooding. My husband has an autoimmune health issue and I have low white blood cell count which is a concern to fight off infection. We are 60s and 70s. We have lived here 25 years. This facility will pose a health threat to us and our cattle. Please reconsider the location of this facility.

Melissa Schmidt

From: PUBCOMMENT-OCC
Sent: Monday, May 17, 2021 11:37 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0015917001

RFR

From: kalebsmimi@yahoo.com <kalebsmimi@yahoo.com>
Sent: Sunday, May 16, 2021 11:56 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0015917001

REGULATED ENTY NAME CLEARWATER CREEK WWTP

RN NUMBER: RN111093126

PERMIT NUMBER: WQ0015917001

DOCKET NUMBER:

COUNTY: BEXAR

PRINCIPAL NAME: GREEN VALLEY SPECIAL UTILITY DISTRICT

CN NUMBER: CN600684294

FROM

NAME: Kathy Jeanette Lauderdale

E-MAIL: kalebsmimi@yahoo.com

COMPANY:

ADDRESS: 3746 STAPPER RD # 3
SAINT HEDWIG TX 78152-9778

PHONE: 2102646056

FAX:

COMMENTS: My name is Kathy and divorced , and I am a 68-year-old grandmother of three beautiful boys. After a long battle with intestinal cancer where 3 1/2 feet of my intestines and part of my stomach were removed, I retired, and my only source of income now is social security. I have lived at 3746 Stapper Rd. in St Hedwig for 43 years and reside only a couple of acres away from the proposed wastewater facility. Having had intestinal cancer and now living with nutritional and bowel deficiencies as a result, I fear the impact chemicals and fumes at a waste plant will have on my health. With

social security as my only income, however, I can not afford to move away. In light of the potential repercussions to both me personally and the community as a whole, I ask that the Texas Commission on Environmental Quality please reconsider the location of this wastewater facility.

Melissa Schmidt

From: PUBCOMMENT-OCC
Sent: Monday, June 7, 2021 10:18 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0015917001

H

From: ott4466@gmail.com <ott4466@gmail.com>
Sent: Sunday, June 6, 2021 4:53 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0015917001

REGULATED ENTY NAME CLEARWATER CREEK WWTP

RN NUMBER: RN111093126

PERMIT NUMBER: WQ0015917001

DOCKET NUMBER:

COUNTY: BEXAR

PRINCIPAL NAME: GREEN VALLEY SPECIAL UTILITY DISTRICT

CN NUMBER: CN600684294

FROM

NAME: Shane Ott

E-MAIL: ott4466@gmail.com

COMPANY:

ADDRESS: 3519 CREEKSIDE DR
SAINT HEDWIG TX 78152-9785

PHONE: 2102138827

FAX:

COMMENTS: I am writing on behalf of myself and my family (5 in my household) to oppose the Green Valley Utility sewage plant that is planned for Stapper Road in Saint Hedwig, TX. This plant will negatively impact the agriculture land that will surround this plant. It will cause erosion issues, and negatively affect agriculture. There is already an established community of which is on septic tanks. This plant will not serve our community at all, yet we will be impacted by the smell, noise, lights and decreased property values caused from this plant. There are multiple other non-community

areas in which this plant can be placed. There are areas close to the new subdivisions it WILL serve. If this plant moves forward in the established, septic tank developed community in the Stapper Road area, GVSUD should buy-out those in the community which will be impacted. We request a hearing on this issue.

Melissa Schmidt

From: PUBCOMMENT-OCC
Sent: Monday, June 7, 2021 10:18 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0015917001

H

From: shanestephott@aol.com <shanestephott@aol.com>
Sent: Sunday, June 6, 2021 4:51 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0015917001

REGULATED ENTY NAME CLEARWATER CREEK WWTP

RN NUMBER: RN111093126

PERMIT NUMBER: WQ0015917001

DOCKET NUMBER:

COUNTY: BEXAR

PRINCIPAL NAME: GREEN VALLEY SPECIAL UTILITY DISTRICT

CN NUMBER: CN600684294

FROM

NAME: Stephanie Ott

E-MAIL: shanestephott@aol.com

COMPANY:

ADDRESS: 3519 CREEKSIDE DR
SAINT HEDWIG TX 78152-9785

PHONE: 2102136091

FAX:

COMMENTS: I am writing on behalf of myself and my family (5 in my household) to oppose the Green Valley Utility sewage plant that is planned for Stapper Road in Saint Hedwig, TX. This plant will negatively impact the agriculture land that will surround this plant. It will cause erosion issues, and negatively affect agriculture. There is already an established community of which is on septic tanks. This plant will not serve our community at all, yet we will be impacted by the smell, noise, lights and decreased property values caused from this plant. There are multiple other non-community

areas in which this plant can be placed. There are areas close to the new subdivisions it WILL serve. If this plant moves forward in the established, septic tank developed community in the Stapper Road area, GVSUD should buy-out those in the community which will be impacted. We request a hearing on this issue.

15

TCEQ Public Meeting Form

Shane - speaks

PLEASE PRINT

Name: Stephanie Ott / Shane Ott

Mailing Address: 3519 Creekside DR.

Physical Address (if different): _____

City/State: St. Hedwig, TX Zip: 78152

Email: shane.stephott@aol.com

****E-mail addresses are subject to public disclosure under the Texas Public Information Act****

Phone Number: (210) 213-6091; 210-213-8827

• Are you here today representing a municipality, legislator, agency, or group? Yes No

If yes, which one? _____

Please add me to the mailing list.

I wish to provide formal *ORAL COMMENTS* at tonight's public meeting.

I wish to provide formal *WRITTEN COMMENTS* at tonight's public meeting.
(Written comments may be submitted at any time during the meeting)

Please give this form to the person at the information table. Thank you.

Stephanie & Shane Ott
3519 Creekside Dr.
St. Hedwig, TX 78152

AT PUBLIC MEETING

SEP 14 2021

RECEIVED

Questions / Comments for the Record

St. Hedwig is on septic tanks. This plant does NOT benefit the St. Hedwig Community.

Our property backs up to the Woman Hollering Creek. It is often dry. Even with water from rain, the portion of the creek on our land does NOT flow. It does however flood. The flood waters come up $\frac{1}{2}$ acre towards our home.

- Did anyone check the flow of the water downstream?
- Did anyone check for dams or water blockages downstream?
- We will be about $\frac{1}{2}$ mile from the plant. What assurances do we have that the flood waters will NOT be contaminated? This question is valid as no actual samples have been completed/taken.

The value of our property being $\frac{1}{2}$ mile from the plant with the creek running at the back of our property, will be greatly impacted.

- Is/will there be an option to be bought out?
- move the plant to another area outside of St. Hedwig.

During the questions and answers, the Texas lady answering questions about the flow and testing said the water "should" be safe, however no actual samples/studies have been completed. That is unacceptable, as animals are sold & you may be the consumer eating the animals raised here.

Shane Ott
Stephanie Ott

Melissa Schmidt

From: PUBCOMMENT-OCC
Sent: Wednesday, June 16, 2021 1:43 PM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0015917001

H

From: xpressit6@gmail.com <xpressit6@gmail.com>
Sent: Tuesday, June 15, 2021 10:50 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0015917001

REGULATED ENTY NAME CLEARWATER CREEK WWTP

RN NUMBER: RN111093126

PERMIT NUMBER: WQ0015917001

DOCKET NUMBER:

COUNTY: BEXAR

PRINCIPAL NAME: GREEN VALLEY SPECIAL UTILITY DISTRICT

CN NUMBER: CN600684294

FROM

NAME: Rolf Schaefer

E-MAIL: xpressit6@gmail.com

COMPANY:

ADDRESS: PO BOX 988
ADKINS TX 78101-0988

PHONE: 2108624002

FAX:

COMMENTS: I request a contested case hearing! I live 3.4 miles away from this proposed sewage site. I understand the need for sewage treatment plants, however, our community is an agriculture area and we are all on septic systems. There are INDUSTRIAL ZONES in the area that would be more suitable for this sewage plant. Waste water from treatment plants significantly influences the river ecosystem. As the quantity of organic matter is bigger, the activity of the organisms that feed on it increases. Yet other organisms are harmed because this matter contains toxic substances,

not to mention the smell, air pollution and sound involved. One of our biggest compliments is the quietness and tranquility of our area, this is one of the best qualities that you will be stripping us of by building this sewage plant in our area. Take your SEWAGE and build your plant in an INDUSTRIAL zone and allow residential the right to enjoy life without the smell and sound!

Melissa Schmidt

From: PUBCOMMENT-OCC
Sent: Wednesday, June 16, 2021 1:44 PM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0015917001

H

From: dachshund@prodigy.net <dachshund@prodigy.net>
Sent: Tuesday, June 15, 2021 10:28 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0015917001

REGULATED ENTY NAME CLEARWATER CREEK WWTP

RN NUMBER: RN111093126

PERMIT NUMBER: WQ0015917001

DOCKET NUMBER:

COUNTY: BEXAR

PRINCIPAL NAME: GREEN VALLEY SPECIAL UTILITY DISTRICT

CN NUMBER: CN600684294

FROM

NAME: Wendy Schaefer

E-MAIL: dachshund@prodigy.net

COMPANY:

ADDRESS: PO BOX 988
ADKINS TX 78101-0988

PHONE: 2102875421

FAX:

COMMENTS: I request a contested case hearing! I live 3.4 miles away from this proposed sewage site. I understand the need for sewage treatment plants, however, our community is an agriculture area and we are all on septic systems. There are INDUSTRIAL ZONES in the area that would be more suitable for this sewage plant. We did not move to the country to have this smell and noise disrupt this otherwise quiet lifestyle that we love about this area. If you feel the

need to build this sewage plant.....plant in the backyard of the residential subdivisions and let them enjoy the disruption and smell!

Melissa Schmidt

From: PUBCOMMENT-OCC
Sent: Wednesday, June 16, 2021 1:44 PM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0015917001

H

From: wschaefer81@gmail.com <wschaefer81@gmail.com>
Sent: Tuesday, June 15, 2021 10:21 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0015917001

REGULATED ENTY NAME CLEARWATER CREEK WWTP

RN NUMBER: RN111093126

PERMIT NUMBER: WQ0015917001

DOCKET NUMBER:

COUNTY: BEXAR

PRINCIPAL NAME: GREEN VALLEY SPECIAL UTILITY DISTRICT

CN NUMBER: CN600684294

FROM

NAME: Wendy Schaefer

E-MAIL: wschaefer81@gmail.com

COMPANY:

ADDRESS: 1390 N GABLE RD
SAINT HEDWIG TX 78152-9798

PHONE: 2102875421

FAX:

COMMENTS: I request a contested case hearing! I live 3.4 miles away from this proposed sewage site. I understand the need for sewage treatment plants, however, our community is an agriculture area and we are all on septic systems. There are INDUSTRIAL ZONES in the area that would be more suitable for this sewage plant. We did not move to the country to have this smell and noise disrupt this otherwise quiet lifestyle that we love about this area. If you feel the

need to build this sewage plant.....plant in the backyard of the residential subdivisions and let them enjoy the disruption and smell!