

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 26, 2022

TO: All interested persons.

RE: FM 2920 Land Company, Ltd.  
TPDES Permit No. WQ0015977001

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter are instructions to view the Executive Director's Response to Comments on the Internet. Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at [CHIEFCLK@tceq.texas.gov](mailto:CHIEFCLK@tceq.texas.gov). A complete copy of the Executive Director's Response to Comments (including the mailing list), complete application, draft permit and related documents, including public comments, are available for review at the TCEQ Central Office. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the TCEQ Central Office, and at the Northwest Branch Library, 11355 Regency Green Drive, Cypress, Texas.

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

### **How to Request a Contested Case Hearing.**

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

The request must include the following:

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

Your request must demonstrate that you are an "**affected person.**" An affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities. A person who may be affected by emissions of air contaminants from the facility is entitled to request a contested case hearing.

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

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

### **How to Request Reconsideration of the Executive Director's Decision.**

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

### **Deadline for Submitting Requests.**

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

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

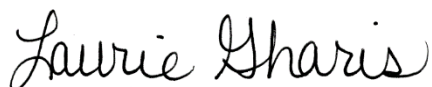
### **Processing of Requests.**

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

### **How to Obtain Additional Information.**

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

Sincerely,



Laurie Gharis  
Chief Clerk

LG/mo

Enclosure

## **EXECUTIVE DIRECTOR'S RESPONSE TO COMMENTS**

**for**

**FM 2920 Land Company, Ltd.**

**TPDES Permit No. WQ001577001**

The Executive Director has made the Response to Comments (RTC) for the application by FM 2920 Land Company, Ltd. for TPDES Permit No. WQ001577001 available for viewing on the Internet. You may view and print the document by visiting the TCEQ Commissioners' Integrated Database at the following link:

<https://www.tceq.texas.gov/goto/cid>

In order to view the RTC at the link above, enter the TCEQ ID Number for this application (WQ0015977001) and click the "Search" button. The search results will display a link to the RTC. When viewing the RTC, it will be an attachment to the cover letter and may need to be downloaded depending on the browser.

Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at CHIEFCLK@tceq.texas.gov.

### **Additional Information**

For more information on the public participation process, you may contact the Office of the Public Interest Counsel at (512) 239-6363 or call the Public Education Program, toll free, at (800) 687-4040.

You may also view a copy of the Executive Director's Response to Comments, the complete application, the draft permit, and related documents, including comments, at the TCEQ Central Office in Austin, Texas. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Northwest Branch Library, 11355 Regency Green Drive, Cypress, Texas.

MAILING LIST  
for  
TPDES Permit No. WQ0015977001

FOR THE APPLICANT:

Jeff Mickler, Authorized Representative  
FM 2920 Land Company, Ltd.  
2000 West Parkwood Avenue  
Friendswood, Texas 77546

Phi Nguyen, P.E., Senior Project Manager  
Ward, Getz & Associates  
2500 Tanglewilde Street, Suite 120  
Houston, Texas 77063

INTERESTED PERSONS:

See attached List.

FOR THE EXECUTIVE DIRECTOR  
via electronic mail:

Ryan Vise, Director  
Texas Commission on Environmental  
Quality  
External Relations Division  
Public Education Program MC-108  
P.O. Box 13087  
Austin, Texas 78711-3087

Kathy Humphreys, Staff Attorney  
Hollis Henley, Staff Attorney  
Texas Commission on Environmental  
Quality  
Environmental Law Division MC-173  
P.O. Box 13087  
Austin, Texas 78711-3087

Krishna Lennon Winston, Technical Staff  
Texas Commission on Environmental  
Quality  
Water Quality Division MC-148  
P.O. Box 13087  
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL  
via electronic mail:

Vic McWherter, Attorney  
Texas Commission on Environmental  
Quality  
Public Interest Counsel MC-103  
P.O. Box 13087  
Austin, Texas 78711-3087

FOR THE CHIEF CLERK  
via electronic mail:

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

ALLISON , COLIN ANN  
22727 THREE PINES DR  
HOCKLEY TX 77447-7055

ALLISON , MRS JUDITH  
22727 THREE PINES DR  
HOCKLEY TX 77447-7055

BOEHM , DANA R  
22012 PINE TREE LN  
HOCKLEY TX 77447-8770

CARTER , RICK C  
22603 THREE PINES DR  
HOCKLEY TX 77447-7082

COMEAU , DANIELLE  
22314 THREE PINES DR  
HOCKLEY TX 77447-7020

COOPER JR , MR WILLIAM L  
22011 PINE TREE LN  
HOCKLEY TX 77447-8754

CRANE , CINDY  
22811 THREE PINES DR  
HOCKLEY TX 77447-7024

CRANE , CYNTHIA & KEVIN  
22811 THREE PINES DR  
HOCKLEY TX 77447-7024

ENDSLEY , KEVIN C  
22623 THREE PINES DR  
HOCKLEY TX 77447-7082

EPPLIN , JANA M  
22015 THREE PINES DR  
HOCKLEY TX 77447-9369

GARDNER , BETSY  
590  
22510 THREE PINES DR  
HOCKLEY TX 77447-7078

GARDNER , KENNETH  
STE 600  
24501 HUFSMITH KOHRVILLE RD  
HOCKLEY TX 77447

GARDNER , MR KENNY  
22510 THREE PINES DR  
HOCKLEY TX 77447-7078

GLASS , TOM  
22915 THREE PINES DR  
HOCKLEY TX 77447-7073

GRAY , SUSAN M L  
22353 MUESCHKE RD  
TOMBALL TX 77377-3442

GREEN , KERRY  
22623 THREE PINES DR  
HOCKLEY TX 77447-7082

HART , MR TERRY G  
22219 THREE PINES DR  
HOCKLEY TX 77447-7045

HILL , KAREN & SCOTT  
22914 THREE PINES DR  
HOCKLEY TX 77447-7074

HILL , KAREN  
22914 THREE PINES DR  
HOCKLEY TX 77447-7074

HILL , SCOTT  
22914 THREE PINES DR  
HOCKLEY TX 77447-7074

JONES , LIANA  
22718 THREE PINES DR  
HOCKLEY TX 77447-7055

LONG , JAMES PAUL  
22315 THREE PINES DR  
HOCKLEY TX 77447-7023

MATHERNE , WAYNE JOSEPH  
20603 NEW KENTUCKY VLG  
HOCKLEY TX 77447-8785

MESSINA , PAMELA  
MESSINA INTERESTS LLC  
22351 MUESCHKE RD  
TOMBALL TX 77377-3442

MESSINA , ROSS J  
22351 MUESCHKE RD  
TOMBALL TX 77377-3442

MICKLER , SEAN  
2000 WEST PARKWOOD AVE  
FRIENDSWOOD TX 77546

O'MEARA , JAMES  
20815 ROSE LN  
HOCKLEY TX 77447

OLIVERSON , THE HONORABLE TOM STATE  
REPRESENTATIVE  
TEXAS HOUSE OF REPRESENTATIVES DISTRICT 13  
PO BOX 2910  
AUSTIN TX 78768-2910

OLIVERSON , THE HONORABLE TOM STATE  
REPRESENTATIVE  
TEXAS HOUSE OF REPRESENTATIVES DISTRICT 13  
STE 221  
12345 JONES RD  
HOUSTON TX 77070-4855

RENAZCO , MELANIE W  
THE LAW OFFICE OF MELANIE W RENAZCO  
24215 KINGSLAND BLVD  
KATY TX 77494-2976

REZZOFFI , KAREN  
20818 PINE OAK LN  
HOCKLEY TX 77447-8705

REZZOFFI , LYNDA & PETE  
20818 PINE OAK LN  
HOCKLEY TX 77447-8705

SMART , MR VIC T  
22427 THREE PINES DR  
HOCKLEY TX 77447-7080

STAHLIN , MARK  
22830 THREE PINES DR  
HOCKLEY TX 77447-7021

WALPOLE , DORIS  
22037 PINE TREE LN  
HOCKLEY TX 77447

**TPDES Permit No. WQ0015977001**

**APPLICATION FROM FM 2920 Land § BEFORE THE TEXAS  
Company, Ltd. FOR A NEW TEXAS §  
POLLUTANT DISCHARGE ELIMINATION § COMMISSION ON  
SYSTEM PERMIT NO. WQ0015977001 § ENVIRONMENTAL QUALITY**

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT**

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ) files this Response to Public Comment on the application by FM 2920 Land Company, Ltd. for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015977001 and the ED's Preliminary Decision. As required by Title 30, section 55.156 of the Texas Administrative Code (TAC), before a permit is issued, the ED prepares a response to all timely, relevant and material, or significant comments. State Representative of House District 160 Tom Oliverson, M.D. requested a public meeting on this matter. In addition, The Office of the Chief Clerk received timely comments from:

- Colin Ann Allison
- Judith Allison
- Dana R. Boehm
- Rick C. Carter
- Danielle Comeau
- William L. Cooper
- Cynthia (Cindy) Crane
- Kevin Crane
- Kevin C. Endsley
- Jana M. Epplin
- Betsy Gardner
- Kenneth (Kenny) Gardner
- Tom Glass
- Susan M. L. Gray
- Terry G. Hart
- Karen Hill
- Scott Hill
- Liana Jones
- James Paul Long
- Wayne Joseph Matherine
- Pamela Messina
- Ross J. Messina
- Melanie W. Renazco
- Lynda Karen Rezzoffi
- Pete Rezzoffi
- Vic T. Smart
- Mark Stahlin

This response addresses all timely public comments received, whether or not withdrawn. For more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found on the TCEQ's web site at <http://www.tceq.texas.gov>.



## I. BACKGROUND

### (A) Facility Description

FM 2920 Land Company, Ltd. has applied to the TCEQ for a new permit that would authorize the discharge of treated domestic wastewater via Outfall 001 at a daily average flow not to exceed 120,000 gallons per day. The FM 2920 Land Wastewater Treatment Facility will be an activated sludge process plant operated in the complete mix mode. Treatment units in the Interim phase include one lift station, one bar screens, one aeration basin, one final clarifier, one sludge digester, and one chlorine contact chamber. Treatment units in the Final phase include one lift station, one bar screens, two aeration basins, one final clarifier, two sludge digesters, and two chlorine contact chambers. The facility has not been constructed.

The effluent limitations in both the Interim and Final phases of the draft permit, based on a 30-day average, are 10 mg/l five-day carbonaceous biochemical oxygen demand (CBOD<sub>5</sub>), 15 mg/l total suspended solids (TSS), 3 mg/l ammonia-nitrogen (NH<sub>3</sub>-N), 63 CFU or MPN of *E. coli* per 100 ml, and 4.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a total chlorine residual of at least 1.0 mg/l and shall not exceed a total chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow. The pH must be in the range of 6.0 to 9.0 standard units in all phases.

The wastewater treatment plant (WWTP) will be located on Farm-to-Market Road 2920 approximately 550 feet east of the intersection of Farm-to-Market Road 2920 and Three Pines Drive, in Harris County, Texas 77447. The treated effluent will be discharged to a man-made ditch, thence to Spring Creek in Segment No. 1008 of the San Jacinto River Basin. The receiving water uses are minimal aquatic life use for the man-made ditch and high aquatic life use for Spring Creek. The designated uses for Segment No. 1008 are primary contact recreation, public water supply, and high aquatic life use.

### (B) Procedural Background

The TCEQ received the application on April 15, 2021, and declared it administratively complete on May 20, 2021. The Notice of Receipt of Application and Intent to Obtain Water Quality Permit (NORI) was published on June 11, 2021, in the Executive Director's Response to Public Comment Application by FM 2920 Land Company, Ltd. for TPDES Permit No. WQ0015977001

*Houston Business Journal* and on July 7, 2021, in the *Houston Chronicle dba La Voz*. The ED completed the technical review of the application on September 7, 2021, and prepared a draft permit. The Notice of Application and Preliminary Decision (NAPD) was published on October 22, 2021, in the *Houston Business Journal*. The Combined NAPD and Public Meeting Notice was published on January 4, 2022, in the *Houston Business Journal*. The public meeting was virtually held on February 7, 2022. The public comment period ended on February 7, 2022, at the close of the public meeting.

This application was filed on or after September 1, 2015. Therefore, it is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature (1999) and Senate Bill 709, 84th Legislature (2015), both implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55.

### **(C) Access to Rules, Statutes, and Records**

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

- Secretary of State website for all Texas administrative rules: <http://www.sos.state.tx.us/texreg/index.shtml>;
- TCEQ rules in title 30 of the Texas Administrative Code: <http://www.sos.state.tx.us/tac/index.shtml> (select “View the current *Texas Administrative Code*,” then “Title 30 Environmental Quality”);
- Texas statutes: <https://statutes.capitol.texas.gov/>;
- TCEQ website: <http://www.tceq.texas.gov> (for downloadable rules in portable document format, select “Rules and Rulemaking,” then “Download TCEQ Rules”);
- Federal rules in Title 40 of the Code of Federal Regulations: <http://www.ecfr.gov/> and
- Federal environmental laws: <https://www.epa.gov/laws-regulations>.

TCEQ records for this application are available at the TCEQ’s Office of the Chief Clerk until the TCEQ takes final action on the application. In light of directives to protect public health, documents can be obtained from the Office of the Chief Clerk by leaving a voice mail at (512) 239-3300; someone will return your call the same day. Some documents located at the Office of the Chief Clerk may also be located in the Commissioners’ Integrated Database at <https://www14.tceq.texas.gov/epic/eCID/>. The application, draft permit, and Statement of Basis/Technical Summary and ED’s Executive Director’s Response to Public Comment Application by FM 2920 Land Company, Ltd. for TPDES Permit No. WQ0015977001

Preliminary Decision are also available for viewing and copying at Northwest Branch Library, 11355 Regency Green Drive, Cypress, Texas.

## II. COMMENTS AND RESPONSES

### Comment 1

Danielle Comeau, James Paul Long, Pamela Messina, and Mark Stahlin stated that representatives from the Harris County Flood Control Board, Montgomery County, Harris County Sheriff's Office, Rosehill Volunteer Fire Department, the Houston-Galveston Subsidence District, TXDOT, Harris County Constables from Precents 3 and 4 should attend the meeting to address public concern over the draft permit.

### Response 1

According to 30 TAC § 55.154, a public meeting must be held if the Executive Director determines there is significant degree of public interest in the application or a member of the legislature who represents the general area in which the facility is located or proposed to be located requests that a public meeting be held. As there was a request from State Representative of House District 160 Tom Oliverson, M.D., a public meeting was held on February 7, 2022. While TCEQ rules address the circumstances under which a public meeting must be held, the rules do not address or require the kind of entities named in Comment 1 to attend the public meeting.

### Comment 2

Terry Hart expressed concern that the wastewater treatment facility (WWTF) will not be able to handle salts. Mr. Hart noted that salts can affect the ecosystem.

### Response 2

The proposed treatment process involves an activated sludge process plant operated in the complete mix mode. Treatment units in the Interim phase will include one lift station, one bar screens, one aeration basin, one final clarifier, one sludge digester, and one chlorine contact chamber. Treatment units in the Final phase will include one lift station, one bar screens, two aeration basins, one final clarifier, two sludge digesters, and two chlorine contact chambers. The TCEQ design criteria for a domestic wastewater system under 30 TAC Chapter 217 identify types of treatment technology that can achieve the treatment levels required in the draft permit. Other

Requirement No. 7 in the draft permit requires FM 2920 Land Company, Ltd. to submit a summary transmittal letter in accordance with the requirements in 30 TAC § 217.6(d). If requested by the Wastewater Permitting Section, the permittee shall submit plans and specifications and a final engineering design report which comply with 30 TAC Chapter 217, relating to “Design Criteria for Domestic Wastewater Systems.” The permittee shall clearly show how the treatment system will meet the permitted effluent limitations required on Page 2 and 2a of the draft permit. The Executive Director’s staff will ensure that the plant design can adequately treat the domestic wastewater in accordance with the effluent limitations in the draft permit during the review of the plans and specifications for this facility.

**Comment 3**

Terry Hart asked if the WWTF will have sufficient instrumentation to verify that the WWTF is working properly.

**Response 3**

The TCEQ issues permits that describe the conditions under which the wastewater facility must operate. All facilities must be designed, operated, and maintained consistent with applicable TCEQ rules. These provisions require that a facility is properly operated and maintained at all times.

**Comment 4**

Terry Hart expressed concern over pests from the WWTF.

**Response 4**

The plans and specifications of the plant design must be in compliance with 30 TAC Chapter 217, relating to “Design Criteria for Domestic Wastewater Systems.” The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Consequently, a health hazard as a result of pests should not occur.

The permit does not limit the ability of an individual to seek legal remedies against FM 2920 Land Company, Ltd. regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

## **Comment 5**

Terry Hart asked if the Homeowners Association can have copies of all reports generated by the WWTF. Ross Messina requested information related to the wastewater application.

## **Response 5**

TCEQ rules require the applicant to make a copy of the application available for review and copying at a public place in the county in which the facility is located or proposed to be located.<sup>1</sup> A copy of the administratively complete application must be available for review and copying beginning on the first day of newspaper publication of Notice of Receipt of Application and Intent to Obtain Permit (NORI) and remain available for the publication's designated comment period.<sup>2</sup> In addition, a copy of the complete application (including any subsequent revisions to the application) and the executive director's preliminary decision must be available for review and copying beginning on the first day of newspaper publication and remain available until the commission has taken action on the application or the commission refers issues to State Office of Administrative Hearings.<sup>3</sup> The TCEQ does not have the authority to require an applicant to make available documents other than what is required by TCEQ rules.

The application for this facility has been available for viewing and copying at Northwest Branch Library, 11355 Regency Green Drive, Cypress, Texas since publication of the NORI. The draft permit, the Statement of Basis/Technical Summary, and the Executive Director's preliminary decision have been available for viewing and copying at the same location since publication of the NAPD.

Additionally, during regular business hours, the public may review or copy the public file for this application, which includes the application, its attachments, the comment letters, this Response to Public Comment, the Hearing Requests, the Responses to Hearing Requests, and any other communications made during the review of this application at TCEQ's Office of the Chief Clerk located in Building F, 12100 Park 35 Circle, Austin, Texas.

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<sup>1</sup> 30 TAC § 39.405(g).

<sup>2</sup> 30 TAC § 39.405(g)(1).

<sup>3</sup> 30 TAC § 39.405(g)(2).

### **Comment 6**

Terry Hart asked if the Homeowners Association can have documentation that all of the WWTF employees are properly trained.

### **Response 6**

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

This Category C facility must be operated by a chief operator or an operator holding a Class C license or higher. The facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher. The licensed chief operator or operator holding the required level of license or higher must be available by telephone or pager seven days a week. Where shift operation of the wastewater treatment facility is necessary, each shift that does not have the on-site supervision of the licensed chief operator must be supervised by an operator in charge who is licensed not less than one level below the category for the facility.

Regarding any documentation FM 2920 Land Company, Ltd. must submit by TCEQ rules, please see the response to Comment 5.

### **Comment 7**

Kenneth Gardner and Melanie W. Renazco expressed concern about the discharge contaminating drinking water and water for livestock. Karen Hill expressed concern about the discharge contaminating water and vegetation sources. Terry Hart asked if the water used by the proposed development would negatively impact his water supply. Kenneth Gardner stated that dumping treated sewage is going to create more contamination in Spring Creek. Betsy Gardner and Keith Gardner asked what chemicals are used to treat the waste. Judith Allison asked how the developers are going to ensure the water discharged into the creek is not going to harm to the environment. Cynthia Crane and Kevin Crane stated that the dumping of huge amounts of water into the creek that feeds directly into Houston's water source will affect everything downstream.

## Response 7

The TCEQ is responsible for the protection of water quality with federal regulatory authority over discharges of pollutants to Texas surface water. The TCEQ has a statutory responsibility to protect water quality in the State of Texas and to authorize wastewater discharge TPDES permits under Texas Water Code (TWC) Chapter 26 and regulations under 30 TAC Chapters 305, 307, and 309, including specific regulations regarding wastewater treatment systems under 30 TAC Chapters 217 and 309.

The draft permit was developed in accordance with the Texas Surface Water Quality Standards (TSWQS) to be protective of water quality, provided that FM 2920 Land Company, Ltd. operates and maintains the proposed facility according to TCEQ rules and the draft permit's requirements. The methodology outlined in the *Procedures to Implement the Texas Surface Water Quality Standards* (IPs; June 2010) is designed to ensure compliance with the TSWQS (30 TAC Chapter 307).

Specifically, the methodology is designed to ensure that no source will be allowed to discharge any wastewater that: 1) results in instream aquatic toxicity; 2) causes a violation of an applicable narrative or numerical state water quality standard; 3) results in the endangerment of a drinking water supply; or 4) results in aquatic bioaccumulation that threatens human health.

As part of the application process, TCEQ staff must determine the uses of the receiving waters and set effluent limits that are protective of those uses. In order to achieve the goal of maintaining a level of water quality sufficient to protect existing water body uses, the draft permit contains several water quality specific parameter requirements that limit the potential impact of the discharge on the receiving waters.

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

protected. The preliminary determination can be reexamined and may be modified if new information is received. The preliminary determination can be reexamined and may be modified if new information is received.

Effluent limitations in the draft permit for the conventional effluent parameters (i.e., BOD<sub>5</sub>, TSS, and minimum DO) are based on stream standards and waste load allocations for water quality-limited streams as established in the TSWQS and the State of Texas Water Quality Management Plan (WQMP).

The WWTP will be an activated sludge process plant operated in the complete mix mode. Treatment units in the Interim phase will include one lift station, one bar screens, one aeration basin, one final clarifier, one sludge digester, and one chlorine contact chamber. Treatment units in the Final phase will include one lift station, one bar screens, two aeration basins, one final clarifier, two sludge digesters, and two chlorine contact chambers. The only chemical addition to the treatment process is chlorine for disinfection purposes. The permit limits given in the draft permit intend to maintain the existing uses of the surface waters and preclude degradation; this includes residual chlorine concentration in the treated effluent. The permit limitation for maximum total chlorine residual is 4.0 mg/l to be monitored five times per week by grab sample.

#### **Comment 8**

Cindy Crane and Kevin C. Endsley Terry G. Hart asked about plans for retention ponds at the facility.

#### **Response 8**

The wastewater treatment facility will be an activated sludge process plant operated in the complete mix mode. Treatment units in the Interim phase include one lift station, one bar screens, one aeration basin, one final clarifier, one sludge digester, and one chlorine contact chamber. Treatment units in the Final phase include one lift station, one bar screens, two aeration basins, one final clarifier, two sludge digesters, and two chlorine contact chambers. There will be no retention ponds at the WWTF.

#### **Comment 9**

Terry Hart stated that it would be better for the new development to be served by an OSSF.



## Response 9

Decentralized wastewater treatment units such as septic tanks or aerobic systems are types of on-site sewage facilities (OSSF). A septic tank is a buried, watertight tank designed and constructed to partially treat raw wastewater. The tank separates and retains floatable and settleable solids in the wastewater. Following the primary treatment, wastewater is then discharged to a drain field for further treatment by and dispersal to the environment. Aerobic systems are similar to septic systems in that they use natural processes to treat wastewater; however aerobic systems use a mechanism to inject and circulate air inside the treatment tank for more efficient treatment. The State of Texas does not mandate a specific type of OSSF treatment system.

If FM 2920 Land Company, Ltd. decides to utilize individual septic tanks to serve the proposed residential area, it will be subject to 30 TAC Chapter 285, relating to “On-site Sewage Facilities (OSSF).”<sup>4</sup> However, the anticipated combined flow from all systems on a tract of land must be less than 5,000 gallons per day (gpd) on an annual average basis.<sup>5</sup> If the anticipated combined flow exceeds 5,000 gpd, a domestic wastewater treatment facility is required, because wastewater treatment facilities produce a higher quality effluent than septic tanks and are therefore more protective of the environment.

The quality of effluent from an individual anaerobic OSSF and from a WWTP is significantly different. An OSSF treats a limited volume of domestic wastewater to primary treatment standards. The wastewater strength, or organic loading, of CBOD<sub>5</sub> and NH<sub>3</sub>-N in untreated or raw sewage from a residential subdivision is estimated to be 250-400 mg/l and 15-75 mg/l, respectively. The draft permit, for example, requires that the treated effluent shall not exceed 10 mg/l CBOD<sub>5</sub> with 3 mg/l NH<sub>3</sub>-N. Therefore, the WWTP will be required to achieve a more than 95% reduction in CBOD<sub>5</sub> concentration in the treated effluent prior to discharge.

In comparison, a well-maintained septic tank treats sewage to approximately 100 mg/l CBOD<sub>5</sub> prior to discharging into the underground drain field or soil absorption field. To meet its effluent limits, the proposed facility will have to provide

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<sup>4</sup> 30 TEX. ADMIN. CODE § 285.4.

<sup>5</sup> 30 TEX. ADMIN. CODE § 285.8(a)(3).

better than secondary treatment including disinfection. For a proposed development of this type, a wastewater treatment facility will provide a higher level of environmental protection than septic tanks.

For more information regarding OSSF rules and regulations please contact the TCEQ OSSF Program at (512) 239-3799.

#### **Comment 10**

Danielle Comeau, Terry Hart, Pete and Karen Rezzoffi, Danielle Comeau, James Long, Pamela Messina, and Mark Stahlin expressed concern over the impact of the development on the traffic on FM 2920. Danielle Comeau also expressed concern over street lighting and turning lanes. James Long, Pamela Messina, and Mark Stahlin expressed concern that the proposed development does not have fire hydrants. James Paul Long expressed concern that there will be an increase in crime, thus affecting his safety. Pete and Karen Rezzoffi, Cynthia Crane, and Kevin Crane expressed concern over property values. James Long, Pamela Messina, and Mark Stahlin expressed concern that the local Fire and EMS services do not have the resources necessary to serve the development or neighbors. Pamela Messina expressed concern over noise from the proposed WWTF. Liana Jones asked how the applicant will reduce WWTP air/light/noise pollution. Jana M. Epplin asked how the applicant will supply trash collection for 440 mobile homes.

#### **Response 10**

While the Texas Legislature has given the TCEQ the responsibility to protect water quality, the water quality permitting process is limited to controlling the discharge of pollutants into or adjacent to water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ does not have the authority to address issues such as traffic, streetlights, turning lanes, fire hydrants, crime, property values, noise, and trash collection.as part of the wastewater permitting process. TWC Chapter 26 and applicable wastewater regulations do not authorize the TCEQ to consider issues such as aesthetics, crime, property values, noise and traffic.

However, the permit does not limit the ability of an individual to seek legal remedies against FM 2920 Land Company, Ltd. regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to

human health or property or that may interfere with the normal use and enjoyment of property.

For concerns about noise, please contact local law enforcement or the Harris County Sheriff's Office at 713-221-6000 to inquire if there is a noise ordinance in your area.

Concerns regarding personal safety or security should be directed to local law enforcement or the Harris County Sheriff's Office at 713-221-6000.

#### **Comment 11**

Pete and Karen Rezzoffi expressed concern over the number of mobile home spaces proposed by the developer.

#### **Response 11**

The TCEQ does not have the authority to address the number of mobile homes proposed by the developer as part of the wastewater permitting process. While the Texas Legislature has given the TCEQ the responsibility to protect water quality, the water quality permitting process is limited to controlling the discharge of pollutants into or adjacent to water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ does not have jurisdiction to address the number of homes in FM 2920 Land Company, Ltd. development project, as long as water quality is maintained.

#### **Comment 12**

Pete and Karen Rezzoffi expressed concern that the proposed WWTF will discharge to Spring Creek.

#### **Response 12**

TCEQ does not have the authority to mandate a different discharge location or wastewater treatment plant location if the applicant's proposed location and discharge route comply with the TWC Chapter 26 and 30 TAC Chapter 309, relating to "Domestic Wastewater Effluent Limitations and Plant Siting." The TCEQ does not have jurisdiction over zoning.

If FM 2920 Land Company, Ltd. updates its application with a different location or a different discharge route, the Executive Director will reevaluate the discharge

route to make sure that the draft permit contains appropriate limits and conditions for the revised discharge location or route. Additionally, new landowners may need to be notified of a change of the facility location or the discharge route.

### **Comment 13**

Colin Ann Allison, Rick Carter, William Cooper, Danielle Comeau, Cynthia Crane, Kevin Crane, James Paul Long, Pamela Messina, and Mark Stahlin expressed concern over flooding. Danielle Comeau, James Long, Melanie W. Renazco, and Mark Stahlin stated that flooding poses a significant public health risk, as well as a risk to wildlife. Susan Gray stated that the properties downslope from the proposed development will be subject to rainwater runoff. Colin Ann Allison and Cindy Crane expressed concern that runoff from the property will negatively impact the creek and surrounding communities. Danielle Comeau, Pamela Messina, and Mark Stahlin expressed concern over damage to her property caused by erosion. Similarly, James Paul Long expressed concern over subsidence. Colin Ann Allison asked what measures are proposed to control the erosion to the creek banks. Wayne Joseph Matherine expressed concern that any infringement on the creek near his property would lend itself to more frequent flood along the creek. Kevin Endsley asked how the developer will assure nearby property owners that their plans incorporate the necessary steps to prevent exacerbation of flooding on Three Pines Drive. Colin Ann Allison asked what measures are proposed to control the erosion to the creek banks and prevent homes closest to the creek from flooding. Melanie Renazco added not only will the wetlands be greatly impacted by the developer(s) planned construction, but it will affect water flow issues as this area is very prone to flooding from the runoff.

### **Response 13**

TPDES permits establish terms and conditions that are intended to provide water quality pollution control, therefore, the Executive Director's review of an application for a TPDES permit focuses on controlling the discharge of pollutants into water in the state. The TCEQ does not have jurisdiction to address flooding or erosion issues in the wastewater permitting process. The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes and coastal waters.

For flooding concerns, please contact the local floodplain administrator for this Executive Director's Response to Public Comment Application by FM 2920 Land Company, Ltd. for TPDES Permit No. WQ0015977001

area. If you need help finding the local floodplain administrator, please call the TCEQ Resource Protection Team at (512) 239-4691.

#### **Comment 14**

Tom Glass and James Paul Long expressed concern that FM 2920 Land Company, Ltd. does not own or lease the property. Scott Hill stated that current public records do not show that FM 2920 Land Company, Ltd. has purchased the acreage where the proposed WWTP and manufactured home park are to be located. Mr. Hill asked how it was proven that the applicant owns the property. James Paul Long said there was no proof that the applicant owns the property. Kenneth Gardner and Tom Glass requested proof that the applicant owns the property of the proposed facility. Kevin Endsley stated the applicant has not proven that it owns the property of the proposed facility.

#### **Response 14**

The application states that FM 2920 Land Company, Ltd. owns the property. In accordance with 30 Texas Administrative Code § 305.44, the person signing the application is required to make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

In addition, the applicant FM 2920 Land Company, Ltd. provided the Executive Director with a copy of the deed showing ownership of the property. The public may review or copy the public file for this application, which includes the deed of ownership, at TCEQ's Office of the Chief Clerk located in Building F, 12100 Park 35 Circle, Austin, Texas during regular business hours.

#### **Comment 15**

Tom Glass and Scott Hill stated that the application is incorrect because

according to the application, the discharge will be to a watershed that feeds into Lake Houston. According to Tom Glass, Spring Creek feeds into Lake Houston. Mr. Hill stated that while the immediate discharge will be Spring Creek, this creek flows into the West fork of the San Jacinto River which empties into Lake Houston.

#### **Response 15**

The Standards Implementation Team evaluates the discharge route from the discharge point to the initial classified segment. The permit application was evaluated as required from the initial point of discharge into a natural drainage, to the first classified segment, Spring Creek. Spring Creek, as defined in the Texas Surface Water Quality Standards, is classified Segment 1008. Lake Houston and the West Fork of the San Jacinto are also segments, located downstream of Spring Creek; however, the initial segment is Spring Creek.

#### **Comment 16**

Kenneth Gardner, Tom Glass, Scott Hill, James Paul Long, and Liana Jones stated that the application is incorrect because there are wetlands on the FM 2920 Land Co.'s property. Specifically, Scott Hill stated that the box (on top of page 18) "Disturbance of vegetation or wetland" is not checked. Scott Hill stated that the National Wetlands Inventory List has five documented wetlands on the 80+ acres of the proposed WWTP and manufactured home community site. Similarly, Danielle Comeau stated that there are multiple wetlands on the property which will be destroyed by the development. Ms. Comeau stated that there is not sufficient space for the developer to safely preserve the wetlands. Jana M. Epplin expressed concern that the wetlands on her property will be disturbed by the applicant's permitted activity. Kenneth Gardner asked what the plans for development are to preserve the natural land and species so that it follows all guidelines. Melanie W. Renazco stated that she does not believe that TCEQ was made aware of the presence of the potential jurisdictional wetlands on this property. Liana Jones expressed concern about wetlands being negatively impacted by the discharge. James Paul Long requested that TCEQ make a formal inquiry regarding the wetlands on the affected property, requesting USACE review the wetland(s) status and decision on whether they are, in fact, jurisdictional and associated with navigable waters. Rick Carter expressed concern about facility negatively affecting wetlands.

## **Response 16**

The draft permit is a TPDES wastewater discharge permit. The TPDES program does not review impacts to wetlands and does not make a determination as to whether wetlands on the property are jurisdictional or negatively affected by the discharge. Permits that affect wetlands are handled by the US Army Corps of Engineers Regulatory Division. The Water Quality Standards Implementation Team works in conjunction with the Corps to certify these projects under the Clean Water Act, Section 401, however this is a separate process from the TPDES application.

## **Comment 17**

Tom Glass and James Paul Long stated that according to the Harris County Flood Control map, the WWTF will be located in the 500-year flood plain. Betsy Gardner and Kenneth Gardner stated that the land for the facility is in the 100-year flood plain. Scott Hill asked about the date of the FEMA map the application relied on to state the proposed facilities will be above the 100-year frequency flood plain. Mr. Scott expressed concern that if the applicant relied on dated maps (10 years and 3 years before Hurricane Harvey), then it is probable that the 100-year flood plain has changed and will impact the location of the proposed WWTP. Karen Hill and Scott Hill requested that the date of the FEMA Flood Map used to answer the 100-year flood plain question on the application be verified to be later than Hurricane Harvey August 2017. Liana asked what the regulations and/or requirements are to build near or within a 100-year flood plain.

## **Response 17**

The TCEQ does not have jurisdiction to regulate flooding in the context of a wastewater discharge permit. The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes and coastal waters. However, to the extent that an issue related to flooding also involves water quality, FM 2920 Land Company, Ltd. is required to comply with all the numeric and narrative effluent limitations and other conditions in the draft permit at all times, including during flooding conditions.

According to the application, the proposed facility is located above the 100-year flood plain application based on Federal Emergency Management Agency (FEMA) Flood

Insurance Rate Map 48201C0205L, effective June 18, 2007. Based on information from the FEMA Flood Map Service Center, this was the FEMA map in effect at the time the technical review of the application was completed. For additional protection, the draft permit includes Other Requirement No. 4, which requires the permittee to provide protection for the facility from a 100-year flood.

#### **Comment 18**

Tom Glass, Scott Hill, and James Paul Long stated that the flow characteristics of Spring Creek reported in the application are incorrect. According to Tom Glass, the appropriate description of Spring Creek should be that it is “never flowing.” According to Scott Hill, “Perennial-normally flowing” is a more accurate statement. According to James Paul Long, the appropriate description is “Perennial - normally flowing.” Karen Hill and Jana Eplin stated that the man-made channel or ditch that will take the discharge from the treatment plant to Spring Creek will not flow as intended. Karen Hill expressed concern that the discharge will flow downhill and collect in the wetland area and flood properties.

#### **Response 18**

Spring Creek is defined in the Texas Surface Water Quality Standards as classified segment 1008. Based on the instream data collected, over a significant period of time, Spring Creek is perennial and has a designated high aquatic life use. The outfall for the current drainage ditch is placed in the flow path of a natural drainage as described by United States Geological Survey (USGS) topographic maps. It is common for TPDES applicants to improve drainage pathways to establish a defined watercourse. The description submitted in the current application indicates the drainage will flow towards and into Spring Creek.

The TPDES permit does not authorize flooding of neighboring properties, however flooding is outside of the scope of the review of a TPDES application.

#### **Comment 19**

Tom Glass, Scott Hill, and James Paul Long stated that the description of the water body aesthetics in the application is incorrect. They stated that the appropriate description of the water body is “Wilderness: outstanding natural beauty, usually wooded or unpastured area; water clarity exceptional.”



### **Response 19**

The description in the application was considered during the review, and while the applicant may have checked “natural area, water clarity discolored,” the Standards Implementation Team performs an independent thorough review to ensure the streams are evaluated correctly.

### **Comment 20**

Tom Glass and James Paul Long stated that the distance between the WWTF and Spring Creek will vary with the flow in Spring Creek, especially during flood events.

### **Response 20**

Spring Creek is a natural watercourse, and as with most natural watercourses, it is anticipated and expected that flow regime will change seasonally, therefore potentially changing the distance from the outfall and man-made ditch to Spring Creek. The Standards Implementation Team performed its review with this in mind.

### **Comment 21**

Susan Gray asked who received notice of the application. Ms. Gray notes that she is downstream of the proposed WWTF but did not receive notice.

### **Response 21**

There are two public notices regarding this permit action, the Notice of Receipt of Application and Intent to Obtain a Wastewater Permit (NORI) and the Notice of Application and Preliminary Decision (NAPD). The TCEQ’s notice rules require applicants to provide public notices for wastewater permits by publishing the NORI in a “newspaper of largest circulation in the county in which the facility is located or proposed to be located... if the facility is located or proposed to be located in a municipality, the applicant [must] publish notice in any newspaper of general circulation in the municipality.”<sup>6</sup> After the Office of the Chief Clerk has mailed the preliminary decision and the NAPD to the applicant, the applicant is required to publish the NAPD “at least once in a newspaper regularly published or circulated within each county where the proposed facility or discharge is located and, in each county, affected by the discharge.” In accordance with TCEQ’s notice rules, two public

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<sup>6</sup> 30 TAC § 39.405(f)(1).

notices were published for the submitted application. FM 2920 Land Company, Ltd. published the NORI on June 11, 2021, in the *Houston Business Journal* and on July 7, 2021, in the *Houston Chronicle dba La Voz*, and the NAPD on October 22, 2021, in the *Houston Business Journal*.

Additionally, the TCEQ's notice rules for a new permit or major amendment require mailed notice of the NORI and NAPD to landowners named on the application map and persons on the mailing list maintained by the Office of the Chief Clerk. The applicant is required to submit a landowner map as part of the application materials. The landowner map must include the property boundaries of landowners surrounding the applicant's property and the property boundaries of all landowners surrounding the discharge point and on both sides of the discharge route for one full stream mile downstream of the discharge point. TCEQ rules requires that all applications for wastewater discharge permits include mailed notice of both the NORI and the NAPD to "the landowners named on the application map or supplemental map, or the sheet attached to the application map or supplemental map."<sup>7</sup> The landowner map provided by FM 2920 Land Company; Ltd. did not indicate Susan Gray as being an adjacent landowner. Therefore, she was not included on the mailing list for the NORI. Any persons who submit a comment or contested case hearing request prior to the end of the public comment period are added to the mailing list for this permit action.

## **Comment 22**

Danielle Comeau, James Long, Mark Stahlin, stated that the parcel of land is home to a pair of Red Cockaded Woodpeckers, which is an endangered species. Danielle Comeau stated that the development will destroy the birds' habitat in violation of the Endangered Species Act. Vic T. Smart expressed concern about water being discharged into a habitat of endangered and/or protected species. Jana M. Epplin expressed concern about bald eagles in the area being disturbed or put at risk. James Paul Long requested the study completed by the applicant/engineering firm in relation to endangered species.

## **Response 22**

As provided in the *Procedures to Implement the State Surface Water Quality*

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<sup>7</sup> 30 TAC § 39.413  
Executive Director's Response to Public Comment  
Application by FM 2920 Land Company, Ltd. for  
TPDES Permit No. WQ0015977001

*Standards* (June 2010), the Executive Director reviewed the application for potential impacts to aquatic or aquatic-dependent federally listed endangered or threatened species. The discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic-dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS's) biological opinion on the State of Texas authorization of the TPDES (September 14, 1998; October 21, 1998, update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic-dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species.

### **Comment 23**

Danielle Comeau, James Long, Pamela Messina, and Mark Stahlin expressed concern over odors from the WWTF. Betsy Gardner asked what type of odor control will be used.

### **Response 23**

All wastewater treatment facilities have the potential to generate odors. To control and abate odors the TCEQ rules require domestic WWTPs to meet buffer zone requirements for the abatement and control of nuisance odor according to 30 TAC § 309.13(e), which provides three options for applicants to satisfy the nuisance odor abatement and control requirements. FM 2920 Land Company, Ltd. can comply with the rule by 1) ownership of the buffer zone area; 2) restrictive easement from the adjacent property owners for any part of the buffer zone not owned by FM 2920 Land Company, Ltd.; or 3) providing nuisance odor control.

According to its application, FM 2920 Land Company, Ltd. intends to comply with the requirement to abate and control nuisance of odor by locating the treatment units at least 150 feet from the nearest property line. This requirement is incorporated in the draft permit. Therefore, nuisance odor is not expected to occur as a result of the permitted activities at the facility if the permittee operates the facility in compliance with TCEQ's rules and the terms and conditions of the draft permit.

If anyone experiences nuisance odor conditions or any other suspected incidents of noncompliance with the permit or TCEQ rules, they may report to TCEQ by calling toll-free 1-888-777-3186, or the TCEQ Region 12 Office in Houston at 713-767-3500. Citizen complaints may also be filed on-line at <http://www2.tceq.texas.gov/oce/complaints/index.cfm>.

Moreover, the permit does not limit the ability of an individual to seek legal remedies against FM 2920 Land Company, Ltd. regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

#### **Comment 24**

Pamela Messina and Mark Stahlin stated that the proposed WWTF does not meet the required buffer zone requirements.

#### **Response 24**

According to the application, FM 2920 Land Company, Ltd. stated that the buffer zone was met by ownership. The permittee shall comply with the requirements of 30 TAC § 309.13(a) through (d). In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC § 309.13(e).

#### **Comment 25**

Liana Jones, Pamela Messina, and Mark Stahlin stated that the proposed WWTF does not meet the required setback requirement to her or her neighbor's private water well. Betsy Gardner asked how the applicant will guarantee private water wells on neighboring properties will not be contaminated. Betsy Gardner asked if the water will be contaminated and if surrounding dwellings' water will be protected. Jana Epplin expressed concern about the discharge contaminating water wells.

#### **Response 25**

30 TAC § 309.13(c) states that a wastewater treatment plant unit may not be located closer than 500 feet from a public water well nor 250 feet from a private water well. To ensure the effluent will be properly disinfected, the draft permit requires FM 2920 Land Company, Ltd. to chlorinate its effluent. Further, the draft permit contains

permit limits of 63 CFU or MPN of E. coli per 100 ml of treated effluent. This limit has been found to be protective of human health in primary contact recreation uses which includes incidental ingestion from activities such as swimming.

In Texas, private water wells are largely unregulated with regard to testing water quality from the well or any treatment to improve water quality. It is the responsibility of the private well owner to take steps to have his or her water quality tested at least annually for possible constituents of concern—or more often if the well is thought to have a surface water connection. The Centers for Disease Control and Prevention (CDC) and National Ground Water Association recommend that owners of private water wells test the water quality of their well water at least annually for bacteria, nitrate (as nitrogen), and any other constituents that may be of concern. The EPA has developed drinking water standards for certain criteria. The drinking water maximum contaminant level (MCL) for nitrate (reported as nitrogen) is 10 mg/L. The MCL goal for bacteria is zero. Please see <http://wellowner.org/water-quality/water-testing/> for more information about testing private water wells.

If your well tests positive for fecal coliform bacteria, please see the Texas A&M AgriLife Extension publication titled “What to Do About Coliform Bacteria in Well Water” at <http://twon.tamu.edu/media/619641/what-to-do-about-coliform-in-well-water.pdf> or the TCEQ publication titled “Disinfecting Your Private Well” at <https://www.tceq.texas.gov/publications/gi/gi-432.html> for more information.

#### **Comment 26**

Pamela Messina and Mark Stahlin expressed concern that the proposed water well for the development will cause subsidence affecting their property, their neighbors’ properties, and the developer’s property.

#### **Response 26**

Issues related to groundwater pumping and subsidence are outside the scope of the review of a TPDES permit. Concerns about groundwater usage may be directed to the Harris-Galveston Subsidence District.

#### **Comment 27**

Betsy Gardner, Kenneth Gardner, and Melanie W. Renazco stated that there is a historical homestead and asked about the applicant’s plans regarding this. Melanie W.

Renazco stated that the applicant does not provide details or the required photos of the site when the application asked it to submit photos of any structure that is “50 years or older on the property.” Scott Hill stated that there is a homestead on the 80+ acres that dates back to 1944 or earlier, which could have significant historical value. Mr. Scott went on to state that it does not appear the applicant adequately addressed this in his application because the box “Visual effects that could damage or detract from a historic property’s integrity” was not checked. James Paul Long stated that the application is misleading in answers/responses because of the existence of a former homestead.

### **Response 27**

The TCEQ sends notice of the application for new and major amendment permit actions to the Texas Historical Commission (THC). The FM 2920 Land Company, Ltd. is responsible for coordinating separately with the THC with regard to the requirements of the THC. The THC requirements do not affect the TCEQ permitting process.

### **Comment 28**

Pamela Messina stated “we are part of a 180-acre co-op that has a wildlife exemption. We do not see anything that could compromise that exemption from HCAD.”

### **Response 28**

The ED is not familiar with an HCAD “wildlife exemption” or what that exemption would entail. However, the Texas Surface Water Quality Standards (TSWQS) in 30 TAC Chapter 307 require that discharges may not degrade the receiving waters and may not result in situations that impair existing, attainable or designated uses, and that surface waters not be toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals. The effluent limits in the draft permit are set to maintain and protect the existing instream uses. The extensive technical reviews performed resulted in permit limits to ensure the permitted discharge is consistent with applicable laws, rules, and procedures and protective of the Texas Surface Water Quality Standards which includes the antidegradation policy, designated and presumed uses. Therefore, the permit is expected to be protective of aquatic-dependent species that reside in the receiving streams and other wildlife that utilize the receiving streams.

The Texas Parks and Wildlife Department (TPWD) is the state agency that oversees and protects wildlife and their habitat. The TPWD received notice of FM 2920 Land Company, Ltd. permit application.

#### **Comment 29**

Jana Epplin asked how trash, human excrement, illegal dumping, and vehicle gas/oil/antifreeze runoff will be prevented from flowing into the open ditch into the creek. Liana Jones and Jana Epplin asked when using an open ditch drainage system, how will the applicant ensure that the ditches are free from blockages caused by sediment buildup or that debris/trees/plants have not obstructed the flow. Melanie Renazco stated that run-off from the water treatment plant will most certainly enter groundwater. She expressed concern about the potential contaminants that will flow into the San Jacinto River from Spring Creek. Rick Carter expressed concern about pollution from the facility negatively affecting his neighborhood. Betsy Gardner asked how the wastewater will affect the creek, and how the creek will be protected.

#### **Response 29**

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

The draft permit includes provisions to ensure that these surface water quality standards will be maintained. Conventional domestic sewage does not typically contain toxic compounds in measurable quantities that might result in toxic effects in the receiving waterbodies, unless there are significant industrial users contributing to the waste stream.

#### **Comment 30**

Rick Carter, Kevin Endsley, Karen and Scott Hill, James Paul Long, Kevin Endsley, and Liana Jones requested that TCEQ make an official on-site visit to the property to observe proposed site, associated property, and flow characteristics of Spring Creek.

### **Response 30**

The Standards Implementation Team appreciates the formal invitation to visit the stream. The Standards Implementation Team does not have the resources to physically view each proposed wastewater plant or facility proposed for a TPDES permit. While the Standards reviewer has not officially been on site, the reviewer has knowledge of the area and the physical characteristics of the riparian portion of Spring Creek, as well as used available resources to perform a thorough review of the stream and riparian areas using photos and maps.

### **Comment 32**

Terry Hart asked if the WWTF will have a generator. Similarly, Tom Glass and James Paul Long stated that the design of the WWTF should include a backup source of power. Kenneth Gardner and James Paul Long asked what happens during a power outage. Scott Hill asked what alternative source of power the applicant will use in case of a power outage. Cynthia Crane and Kevin Crane expressed concern about the system failing during a power outage. Betsy Gardner expressed concern about protocol in the case of mechanical failure at the plant.

### **Response 32**

TCEQ rules state that “a wastewater treatment facility must be designed to prevent the discharge of untreated or partially treated wastewater during electric power outages.”<sup>8</sup> In addition, the draft permit requires the permittee to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, or retention of inadequately treated wastewater. The draft permit prohibits unauthorized discharge of wastewater or any other waste and includes appropriate requirements, including in the event of a power outage. Except as allowed by 30 TAC § 305.132, FM 2920 Land Company, Ltd. will be required to report an unauthorized discharge to the TCEQ within 24 hours. Finally, FM 2920 will be subject to potential enforcement action for failure to comply with TCEQ rules or the permit.<sup>9</sup>

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<sup>8</sup> 30 TEX. ADMIN. CODE § 217.36.

<sup>9</sup> FM 2920 Land Company Draft Permit, Operational Requirements, Item 4, page 13.



### **Comment 33**

James Paul Long asked how *E. coli* estimates were determined? Liana Jones expressed concern that the WWTP will contribute more contaminants to an already bacteria impaired stream and thus into navigable waterways. Betsy Gardner asked what levels of bacteria are acceptable and what is considered “unsafe water.” Betsy Gardner asked what temperature the water will be in the treatment plant to prevent the growth of bacteria. Susan Gray stated that everyone in the Spring Creek watershed will be affected by the proposed discharge.

### **Response 33**

One finalized Total Maximum Daily Load (TMDL) Project is available for this segment: *Fifteen Total Maximum Daily Loads for Indicator Bacteria in Watersheds Upstream of Lake Houston For Segment Numbers 1004E, 1008, 1008H, 1009, 1009C, 1009D, 1009E, 1010, and 1011* (Project No. 82). Addendums to the original Project No. 82 TMDL subsequently added additional assessment units to the original TMDL project. On April 6, 2011, the TCEQ adopted the TMDL, and the EPA approved it on June 29, 2011. The TMDL addresses elevated levels of bacteria in nine classified and unclassified segments (Stewarts Creek - 1004E; Spring Creek - 1008; Willow Creek - 1008H; Cypress Creek - 1009; Faulkey Gully - 1009C; Spring Gully - 1009D; Little Cypress Creek - 1009E; Caney Creek - 1010; and Peach Creek - 1011) in this watershed. This project takes a watershed approach, so all Assessment Units (AU) in the TMDL segments and in several additional unclassified segments (Mill Creek - 1008A; Upper Panther Branch - 1008B; Lower Panther Branch - 1008C ; Metzler Creek - 1008D; Bear Branch - 1008E; Walnut Creek - 1008I; Brushy Creek - 1008J; Arnold Branch - 1008K; Mink Branch - 1008L; Sulphur Branch - 1008M; Dry Creek - 1009A; Dry Gully - 1009B; Mound Creek - 1009F; Dry Gully - 1009G; Dry Creek - 1010A; White Oak Creek - 1010B; and Spring Branch - 1010C) are also subject to this TMDL. The wasteload allocation (WLA) for wastewater treatment facilities was established as the permitted flow for each facility multiplied by one-half the geometric mean criterion for bacteria. Future growth from existing or new permitted sources is not limited by these TMDLs as long as the sources do not exceed the limits of one-half the bacteria geometric mean criterion for *Escherichia coli* (*E. coli*). To ensure that effluent limitations for this discharge are consistent with the WLAs provided in the TMDL, a concentration based

effluent limitation for *E. coli* of 63 colony-forming units (CFU) or most probable number (MPN) per 100 ml has been included in the draft permit.

Additionally, a concentration based effluent limitation of *E. coli* of 63 CFU or MPN is safe for segment No. 1008 based on TMDL Project No. 82.

The Texas Surface Water Quality Standards designated stream criteria for temperature. The WWTP discharge should not exceed the designated temperature for Spring Creek which is 90 degrees F. Although the segment criteria is 90 degrees, WWTP discharges are not typically elevated. Temperature is more of a concern with industrial facilities that require heat during their process.

#### **Comment 34**

Scott Hill and James Paul Long asked: who specifically is responsible for taking grab samples for testing for contaminants; who hires the testing agency; was scale of development taken into consideration as population of development increases; are violations to be reported by permittee and in what method are they communicated; and who oversees the permittee compliance with this requirement. Liana Jones asked if the WWTP fails any safeguards and contaminates the creek and surrounding properties, how will property owners near the WWTP and upstream/downstream of the creek be notified, and who is responsible for any remediation. Betsy Gardner asked when and how the people in the surrounding dwellings are notified of bacterial or other findings in the water. Betsy Gardner asked when and how the units or surrounding dwellings are notified of any problem at the plant. Regarding Page 7 of the draft permit, Scott Hill expressed doubt that permittees will self-report violations to the TCEQ. Mr. Hill asked what resources, other than the Permittee's word or TCEQ, are available for the public to know that these requirements are being met.

#### **Response 34**

The TCEQ issues permits that describe the conditions under which the wastewater facility must operate. All facilities must be designed, operated, and maintained consistent with applicable TCEQ rules. These provisions require that a facility is properly operated and maintained at all times.

The TCEQ's Office of Compliance and Enforcement ensures compliance with applicable state and federal regulations. The Region 12 office is required to conduct a

mandatory comprehensive compliance investigation (CCI) at minor facilities (facilities with permitted flow less than 1 million gpd) once every five fiscal years. Additional mandatory investigations can be required if the facility is categorized as significant noncompliance (SNC). SNC is determined by the Compliance Monitoring Section of the TCEQ and is based on self-reported effluent violations.

Under 30 TAC § 319.1, permittees are required to report the status of their compliance with the terms and conditions of their permits and with other relevant statutes in a manner approved by the Executive Director. The Draft Permit, if issued, would require White Stallion to submit monthly Discharge Monitoring Reports (DMRs) to the TCEQ Enforcement Division on the 20th day of each month, regardless of whether a discharge occurred during that month. All laboratory tests submitted to demonstrate compliance with the permit must be performed by laboratories that adhere to the requirements of 30 TAC Chapter 25, regarding Environmental Testing Laboratory Accreditation and Certification. Furthermore, knowingly or intentionally making any false statement, misrepresentation, or certification on any report, record, or other document submitted or required to be maintained by a permit can subject a permittee to administrative, civil, and criminal penalties.

The public has access to DMR data to verify whether a permittee discharges effluent that exceeds permitted effluent limits. DMR data is stored on the EPA Enforcement & Compliance History Online (ECHO) database, which can be accessed at the following publicly accessible website: <https://echo.epa.gov/>. Also, the draft permit, if issued, would require the Applicant to report any noncompliance that may endanger human health or safety to the TCEQ Regional Office (Region 12) within 24 hours of becoming aware of the noncompliance.

If the facility is found to be out of compliance with the terms or conditions of the permit, FM 2920 Land Company, Ltd. may be subject to enforcement. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report these to the TCEQ by calling the toll-free number, 1-888-777-3186, or the TCEQ Region 12 Office in Houston at (713) 767-3500. Citizen complaints may also be filed on-line at

<https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html>. If FM 2920 Land Company, Ltd. fails to comply with all requirements of the

permit, it may be subject to enforcement action.

**Comment 35**

Judith Allison expressed concern about algae causing buildup of scum, noxious odors, poor water quality, slowing down of waterways, pooling, and mosquito activity.

**Response 35**

ED staff reviews the potential for a discharge to create instream eutrophic conditions using the procedures outlined in the Standards Implementation Procedures (IPs) (RG-194). The IPs define the factors considered when determining nutrient limits. For this application, a typical nutrient screening was conducted during the review. The variables considered were flow, water clarity, instream dilution, substrate type, stream geomorphology, stream flow, consistency with permits in the area, vegetation and listings on the State Inventory 305(b) list. Based on the nutrient screening conducted, total phosphorus effluent limits were not warranted for this permit action. As written, the draft permit will sufficiently control nutrient levels in the discharge.

**Comment 36**

Betsey Gardner and Kenneth Gardner expressed concern on how the air quality will be affected.

**Response 36**

TCEQ is the agency responsible for enforcing air pollution laws. The Texas Clean Air Act provides that certain facilities may be exempt from the requirements of an air quality permit if, upon review, it is found that those facilities will not make a significant contribution of air contaminants to the atmosphere and that human health, and the environment will be protected. According to the TCEQ rules in 30 TAC § 106.532, wastewater treatment plants have undergone this review and are permitted by rule, provided the wastewater treatment plant only performs the functions listed in the rule. In its application, FM 2920 Land Company, Ltd. indicated that the treatment process of the proposed wastewater treatment facility would use the activated sludge process. This treatment process will not make a significant contribution of air contaminants to the atmosphere pursuant to the Texas Health and Safety Code's (THSC) Texas Clean Air Act § 382.057 and § 382.05196 and is therefore permitted by rule.

**Comment 37**

Ross Messina stated that he wants information regarding the application including map with location of structure and use of land.

**Response 37**

The application for this facility has been available for viewing and copying at Northwest Branch Library, 11355 Regency Green Drive, Cypress, Texas since publication of the NORI. The draft permit, the Statement of Basis/Technical Summary, and the Executive Director's preliminary decision have been available for viewing and copying at the same location since publication of the NAPD.

Additionally, during regular business hours, the public may review or copy the public file for this application, which includes the application, its attachments, the comment letters, this Response to Public Comment, the Hearing Requests, the Responses to Hearing Requests, and any other communications made during the review of this application, at TCEQ's Office of the Chief Clerk located in Building F, 12100 Park 35 Circle, Austin, Texas.

**Comment 38**

Jana Epplin expressed concern about the permitted activity disturbing bald eagles in the area or putting them at risk. Cynthia Crane and Kevin Crane expressed concern that wildlife will be displaced by the proposed activity. Jana Epplin expressed concern that the discharge will pollute Kleb Park, thereby negatively impacting the wildlife there.

**Response 38**

The Texas Surface Water Quality Standards (TSWQS) in 30 TAC Chapter 307 require that discharges may not degrade the receiving waters and may not result in situations that impair existing, attainable or designated uses, and that surface waters not be toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals. The effluent limits in the draft permit are set to maintain and protect the existing instream uses.

The proposed draft permit was developed in accordance with the TSWQS to be protective of water quality, provided that FM 2920 Land Company, Ltd. operates and

maintains the proposed facility according to TCEQ rules and the draft permit's requirements. The methodology outlined in the *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010) is designed to ensure compliance with the TSWQS (30 TAC Chapter 307).

Specifically, the methodology is designed to ensure that no source will be allowed to discharge any wastewater that: 1) results in instream aquatic toxicity; 2) causes a violation of an applicable narrative or numerical state water quality standard; 3) results in the endangerment of a drinking water supply; or 4) results in aquatic bioaccumulation that threatens human health.

As part of the application process, TCEQ staff must determine the uses of the receiving waters and set effluent limits that are protective of those uses. In order to achieve the goal of maintaining a level of water quality sufficient to protect existing water body uses, the draft permit contains several water quality specific parameter requirements that limit the potential impact of the discharge on the receiving waters.

The Executive Director has made a preliminary determination that the draft permit, if issued, meets all statutory and regulatory requirements. The TCEQ also submitted the draft permit to the U.S. Environmental Protection Agency (EPA) Region 12 for review. The EPA reviewed the draft permit and did not have any objections to the issuance of the draft permit.

The Texas Parks and Wildlife Department (TPWD) is the state agency that oversees and protects wildlife and their habitat. It can be contacted by calling 1-800-792-1112 or by mail at 4200 Smith School Road, Austin, Texas 78744. The TPWD received notice of FM 2920 Land Company, Ltd. permit application.

### **Comment 39**

Rick C. Carter stated that there are discrepancies in the application. Scott and Karen Hill and Liana Jones stated that there are several areas within the application that need to be more thoroughly reviewed due to omissions or incorrect responses. James Long asked what the impact to the developer/applicant is if it is found they have lied or knowingly misrepresented facts on the submitted application.

### **Response 39**

As provided by state law, a permittee is subject to administrative, civil and

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criminal penalties, as applicable, for negligently or knowingly violating the Clean Water Act, Texas Water Code §§ 26, 27, and 28, and the Texas Health and Safety Code § 361, including but not limited to knowingly making any false statement, representation, or certification on any report, record, or other document submitted or required to be maintained under the draft permit, including monitoring reports or reports of compliance or noncompliance, or falsifying, tampering with or knowingly rendering inaccurate any monitoring device or method required by this permit or violating any other requirement imposed by state or federal regulations.

**Comment 40**

Melanie Renazco said there is an issue of environmental equity and justice at stake. She noted that the population is mostly on fixed incomes and cannot afford the luxury of moving to another location.

**Response 40**

The TCEQ has made a strong policy commitment to address environmental equity by creating the Environmental Equity Program within the Office of the Chief Clerk. This program works to help citizens and neighborhood groups participate in the regulatory process; to ensure that the program works to help citizens and neighborhood groups participate in the regulatory process; to ensure that agency programs that may affect human health or the environment operate without discrimination; and to make sure citizens' concerns are considered thoroughly and are handled in a way that is fair to all.

Individuals may raise environmental equity or environmental justice concerns with TCEQ staff through a toll free number, 1-800-687-4040, or at the following address, phone, and fax numbers:

Environmental Equity  
Texas Commission on Environmental Quality  
P.O. Box 13087, MC 105  
Austin, Texas 78711-3087  
Tel: 512-239-2566  
Fax: 512-239-3311

Additional information on environmental equity can be found at the following TCEQ website: <http://www.tceq.texas.gov/agency/hearings/envequ.html>.

**Comment 41**

Betsy Gardner asked if raw sewage will be stored outside and if any sewage mixed with any other liquid will be stored outside.

**Response 41**

FM 2920 Land Company, Ltd. has stated that no raw sewage nor sewage mixed with any liquid will be stored outside.

**Comment 42**

Betsy Gardner asked if the applicant has drawings with criteria used for designing/selecting, as well as detailed technical specifications for the electrical installations, power generation equipment, complete water infrastructure, piping for fresh water and sewage with drawings showing the routings.

**Response 42**

The proposed treatment process involves an activated sludge process plant operated in the complete mix mode. Treatment units in the Interim phase will include one lift station, one bar screens, one aeration basin, one final clarifier, one sludge digester, and one chlorine contact chamber. Treatment units in the Final phase will include one lift station, one bar screens, two aeration basins, one final clarifier, two sludge digesters, and two chlorine contact chambers. The TCEQ design criteria for a domestic wastewater system under 30 TAC Chapter 217, identify types of treatment technology that can achieve the treatment levels required in the draft permit. Other Requirement No. 7 in the draft permit requires FM 2920 Land Company, Ltd. to submit a summary transmittal letter in accordance with the requirements in 30 TAC § 217.6(d). If requested by the Wastewater Permitting Section, the permittee shall submit plans and specifications and a final engineering design report which comply with 30 TAC Chapter 217, relating to "Design Criteria for Domestic Wastewater Systems." The permittee shall clearly show how the treatment system will meet the permitted effluent limitations required on Page 2 and 2a of the draft permit. The Executive Director's staff will ensure that the plant design can adequately treat the domestic wastewater in accordance with the effluent limitations in the draft permit during the review of the plans and specifications for this facility.



**Comment 43**

Betsy Gardner expressed concern that the part of the land where the wastewater will be disposed is on a slope and will not directly go into Spring Creek.

**Response 43**

The proposed discharge route was evaluated using the provided latitude and longitude coordinates within the application. The point of discharge is located in what is considered a natural drainage path, that will be improved to a defined man-made ditch, which flows directly to Spring Creek. The current drainage pathway as indicated by the contour lines on the USGS topographic maps, depicts the flow path as going directly into Spring Creek.

**Comment 44**

Betsy Gardner asked: what is a sanitary survey; how often will sanitary surveys be conducted; will the residents be notified of each sanitary survey that is conducted; where can the sanitary survey information be found for residents; and how residents will be notified of such a sanitary survey?

**Response 44**

Sanitary Surveys are not required by the TCEQ as part of the wastewater permitting process. For information regarding sanitary surveys please contact the Public Drinking Water Section at [pdws@tceq.texas.gov](mailto:pdws@tceq.texas.gov) .

**Comment 45**

Betsy Gardner asked how often the plant will be monitored. Betsy Gardner also asked how the data will be recorded when monitoring the plant.

**Response 45**

The following table describes the frequency of monitoring for each parameter in each phase of the draft permit.

EFFLUENT PARAMETER	INTERIM PHASE	FINAL PHASE
CBOD <sub>5</sub>	One/week	One/week
TSS	One/week	One/week
NH <sub>3</sub> -N	One/week	One/week
<i>E. coli</i>	One/quarter	One/month
Chlorine Residual	Five/week	Five/week
pH	One/month	One/month
DO	One/week	One/week

The frequencies set in this table are in accordance with 30 TAC § 319.9 (Figure: 30 TAC § 319.9(a)). The permittee shall conduct effluent sampling and reporting in accordance with 30 TAC §§ 319.4 - 319.12. Effluent monitoring data shall be submitted each month, to the Compliance Monitoring Team of the Enforcement Division and monitoring results must be submitted online using the NetDMR reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver.

**Comment 46**

Betsy Gardner asked for details on the pumps and other motor driven rotary equipment as installed with information on how these have been selected.

**Response 46**

Other Requirement No. 7 in the draft permit requires FM 2920 Land Company, Ltd. to submit a summary transmittal letter in accordance with the requirements in 30 TAC § 217.6(d). If requested by the Wastewater Permitting Section, the permittee shall submit plans and specifications and a final engineering design report which comply with 30 TAC Chapter 217, relating to “Design Criteria for Domestic Wastewater Systems.” The permittee shall clearly show how the treatment system will meet the permitted effluent limitations required on Page 2 and 2a of the draft permit. The Executive Director’s staff will ensure that the plant design can adequately treat the domestic wastewater in accordance with the effluent limitations in the draft permit

during the review of the plans and specifications for this facility.

**Comment 47**

Betsy Gardner asked for the pretreatment process description of target water quality of the proposed pretreatment process method(s) or technologies used; and operating parameters, such as chemical dosages, filter loading rates, and empty bed contact times. Betsy Gardner asked for the names of the biocides used to treat the water.

**Response 47**

Applicable federal categorical pretreatment standards must be followed for the discharge of industrial waste. The FM 2920 Land WWTP is a private facility that will not receive industrial waste. Therefore, no pretreatment is required.

**Comment 48**

Betsy Gardner asked what kind of training the water treatment employees go through.

**Response 48**

The permittee shall employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration according to the requirements of 30 TAC Chapter 30, Occupational Licenses and Registrations, and in particular 30 TAC Chapter 30, Subchapter J, Wastewater Operators and Operations Companies. This Category C facility must be operated by a chief operator or an operator holding a Class C license or higher.

**Comment 49**

Betsy Gardner asked how often aerosol sample will be taken; how will the surrounding dwellings be notified of the results of the aerosol testing; what is considered a “normal” aerosol reading; and what is considered a high aerosol reading.

**Response 49**

TCEQ is the agency responsible for enforcing air pollution laws. The Texas Clean Air Act provides that certain facilities may be exempt from the requirements of an air

quality permit if, upon review, it is found that those facilities will not make a significant contribution of air contaminants to the atmosphere and that human health and the environment will be protected. According to the TCEQ rules in 30 TAC § 106.532, wastewater treatment plants have undergone this review and are permitted by rule, provided the wastewater treatment plant only performs the functions listed in the rule. In its application, FM 2920 Land Company, Ltd. indicated that the treatment process of the proposed wastewater treatment facility would use the activated sludge process. This treatment process will not make a significant contribution of air contaminants to the atmosphere pursuant to the Texas Health and Safety Code's (THSC) Texas Clean Air Act § 382.057 and § 382.05196 and is therefore permitted by rule.

**Comment 50**

Betsy Gardner and Melanie Renazco asked how solids will be treated on-site.

**Response 50**

Sludge generated from the FM 2920 Land, Ltd. Wastewater Treatment Facility will be hauled by a registered transporter to Mount Houston Road MUD Wastewater Treatment Facility, Permit No. WQ0011154001, to be digested, dewatered, and then disposed of with the bulk of the sludge from the plant accepting the sludge. The draft permit also authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

**Comment 51**

Melanie W. Renazco objected to the 440 unit complex and the waste water treatment plant's location. She expressed concern about construction activities filling in and disturbing the wetlands or the vegetation.

**Response 52**

Section 26.027 of the Texas Water Code authorizes the TCEQ to issue permits to control the discharge of wastes or pollutants into state waters and to protect the water quality of the state's rivers, lakes, and coastal waters. The water quality permitting process is limited to controlling the discharge of pollutants into or adjacent to water in the state and protecting the water quality of the state's rivers, lakes, and coastal

waters. The TCEQ does not have jurisdiction under the Texas Water Code or its regulations to address or consider the construction of the complex in its determination of whether or not to issue a water quality permit.

The construction of the WWTP is handled by the regulatory division of the US Army Corps of Engineers during a Clean Water Act (CWA) Section 404 review. The TCEQ works in conjunction with the Corps providing Water Quality Certifications for projects affecting wetlands, in accordance with CWA Section 401. The TPDES application has no bearing on the development and impact to wetlands. However, based on the wetland delineation report provided by FM 2920 Land Company, Ltd., the proposed location for the FM 2920 Land WWTP states that the WWTP will not interfere with the wetlands present on the 88.5-acre site.

#### **Comment 52**

Scott Hill stated that the application was incorrect to answer “No” to the acceptance of grit and grease waste in the application (Domestic Technical Report 1.0 - Section 6 D -1 on page 5 of 80 - Grit and Grease). Mr. Hill asked how there can be wastewater from 440 kitchens and there not be some amount of grease that needs to be addressed.

#### **Response 52**

FM 2920 Land Company, Ltd. will not be accepting Grit and Grease from other WWTFs as stated in the application.

#### **Comment 53**

Scott Hill stated that while in Domestic Technical Report Worksheet 2.0 - Section 4A on page 29 of 80 - the applicant checked the “Receiving water type” will be a “Man-made channel or ditch,” the more accurate description would be “Stream.”

#### **Response 53**

The proposed outfall for this application is to a natural drainage way as described by USGS topographic maps. The natural drainage is indicated by the contour lines on the USGS topographic maps, however, is not a defined stream per the USGS topo maps. The applicant is proposing to improve the natural drainage to convey wastewater to Spring Creek. The appropriate name for the improved water course is

“man-made ditch.” The discharge route as written by ED staff is to man-made ditch thence to Spring Creek.

**Comment 54**

James Paul Long asked for information regarding who prepared the application.

**Response 54**

The application was prepared by Ward, Getz & Associates on behalf of FM 2920 Land Company, Ltd.

**Comment 55**

Scott Hill stated that as more and more WWTP and similar facilities get approved, the quality of the creek is compromised until eventually it will no longer be able to sustain life and organisms.

**Response 55**

Potential impacts of wastewater treatment plant discharges on instream dissolved oxygen levels throughout the Spring Creek watershed are evaluated using modeling analyses that include the many permitted discharges located throughout the watershed, to take into account any potential combined or cumulative effects related to these discharges in the overall assessment of potential dissolved oxygen impacts for the protection of aquatic life. Similarly, the Total Maximum Daily Load (TMDL) project for bacteria in watersheds upstream of Lake Houston, including that of Spring Creek and its tributaries, takes a watershed approach in its evaluation of potential bacteria impacts related to wastewater treatment plant discharges, as well as various non-point sources of bacteria in the watershed including failing septic systems, livestock, pets, and wildlife.

**Comment 56**

Scott Hill stated that in the early 1980's, a road with ditches on either side and a cul-de-sac at each end was cut through the woods. This road is shown as Smokey Tree on current maps. The road was to service 52 one-acre homesites that were platted, but the developer at that time abandoned the project. Mr. Scott asked if this property has been re-platted to allow manufactured homes.

**Response 56**

The TCEQ does not have the authority to address this type of issue as part of the wastewater permitting process. While the Texas Legislature has given the TCEQ the responsibility to protect water quality, the water quality permitting process is limited to controlling the discharge of pollutants into or adjacent to water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. Any opposition that may exist for the development itself is not a part of the TPDES permitting process. This process is for the WWTF and does not pertain to any considerations the developer needs to satisfy for the development itself.

**Comment 57**

Liana Jones asked if TCEQ permit approval is allowed without any input from Harris County Flood Control District or Environmental Protection Agency. Ms. Jones asked who is responsible for informing the EPA about wetlands in the development area.

**Response 57**

The TPDES permit review process does not require that the Executive Director obtain input from the Harris County Flood Control District. The formal process for impacts to wetlands is coordinated by the US Army Corps of Engineers. The Corps publishes a public notice that notifies all agencies to include the EPA of potential impacts to wetlands. The agencies and public are provided an opportunity to comment during a comment period in which the applicant provides a response to comment. If there is a concerned citizen regarding potential unauthorized activities (unpermitted impacts to wetlands) the citizen is encouraged to contact the Compliance Branch of the Regulatory Division at the US Army Corps of Engineers in the appropriate district. The district that encompasses Harris County is the Galveston District of the US Army Corps of Engineers.

**Comment 58**

James Paul Jones expressed concern that current plans place this applicant's facility in very close proximity to existing homes.

**Response 58**

The permittee shall comply with the requirements of 30 TAC § 309.13(a) through (d). In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC § 309.13(e). The buffer zone requirement is 150 feet for all treatment units from any residential structures.

**Comment 59**

James Paul Long stated that the WWTP is initially planned to discharge an estimated 120,000 gallons/day of wastewater during PHASE 1 of the developers plan, with an anticipated 480,000 gallons planned for future phases. He asked that TCEQ consider the maximum amount of discharge the developer has in its plans when considering the environmental impact to Spring Creek and the surrounding area.

**Response 59**

The current permit application is only for two proposed flow phases -- an interim phase of 60,000 gallons per day daily average flow and a final phase of 120,000 gallons per day daily average flow. A dissolved oxygen modeling analysis was conducted for both of these proposed flow phases to ensure that instream dissolved oxygen levels in the receiving waters, including Spring Creek, will be maintained above the criteria established for these water bodies for the protection of aquatic life. In addition, the proposed final phase flow of 120,000 gallons per day daily average flow was included in an update to the Total Maximum Daily Load (TMDL) project for bacteria in watersheds upstream of Lake Houston, which specifically includes *E. coli* waste load allocations throughout the Spring Creek watershed. Other aspects of the permitting process also use these proposed flow phases for an assessment of potential impacts and permitting requirements applicable to the draft permit. If the applicant has future plans to increase their permitted flow beyond 120,000 gallons per day, a major amendment application will be required before such a flow increase may be authorized. This major amendment application would go through the same permitting process as is applicable to the current new permit application.

**Comment 60**

Kenneth Gardner asked if their water tables will be affected in the event of heavy rain.



## **Response 60**

TPDES permits establish terms and conditions that are intended to provide water quality pollution control. Therefore, the Executive Director's review of an application for a TPDES permit focuses on controlling the discharge of pollutants into water in the state. Evaluating impacts to the water table is beyond the scope of review for a TPDES application.

## **Comment 61**

Kevin Endsley objected to the public meeting being the first chance to question the developers without any follow-up.

## **Response 61**

The public comment period for this application began following the mailing and publication of the NORI as describe in Section B of this RTC. Pursuant to 30 TAC § 55.152 (b), the comment period for FM 2920's permit application was extended until the close of the public meeting on February 7, 2022. Based on the participation at the public meeting and the number of written comments during the comment period, it is evident the individuals that could potentially be affected by the permit, if it is issued, are aware of FM 2920's application..

The public meeting included an informal comment portion, where the public was given the opportunity to ask questions and receive answers from the Applicant and the TCEQ regarding the application and draft permit. Additionally, the ED is responding to all timely formal and written comments in this response to comment document. Finally, members of the public who have made formal comments and still have objections or concerns with the application and/or draft permit may file a hearing request.

### **CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT**

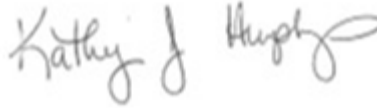
The ED did not make any changes to the draft permit in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

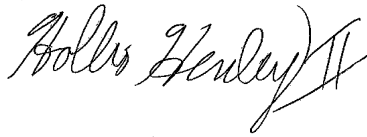
Toby Baker  
Executive Director

Charmaine Backens, Deputy Director  
Environmental Law Division



By: \_\_\_\_\_

Kathy Humphreys, Staff Attorney  
Environmental Law Division  
State Bar No. 24006911  
P.O. Box 13087, MC 173  
Austin, Texas 78711-3087  
Phone (512) 239-3417  
Fax: (512) 239-0606



Hollis Henley, Staff Attorney  
Environmental Law Division  
State Bar No. 24066672  
P.O. Box 13087, MC 173  
Austin, Texas 78711-3087  
Phone: (512) 239-2253  
Fax: (512) 239-0606

**CERTIFICATE OF SERVICE**

I certify that on April 19, 2022, the Executive Director's Response to Public Comment for Permit No. WQ0015977001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



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Hollis Henley, *Staff Attorney*  
Environmental Law Division  
State Bar No. 24066672