

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*

October 13, 2022

TO: All interested persons.

RE: Two Creeks Crossing Resort, LLC  
TPDES Permit No. WQ0016056001

### **Decision of the Executive Director.**

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter are instructions to view the Executive Director's Response to Public Comment (RTC) 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 RTC (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 Onalaska Public Library, 372 Farm-to-Market Road 356, Onalaska, Texas.

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

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

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

The request must include the following:

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

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

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

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

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

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director’s decision. A request for reconsideration should contain your name,

address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

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

A request for a contested case hearing or reconsideration of the executive director's decision must be **received by** the Chief Clerk's office no later than **30 calendar days** after the date of this letter. You may submit your request electronically at [www.tceq.texas.gov/agency/decisions/cc/comments.html](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 Education Program, toll free, at 1-800-687-4040.

Sincerely,



Laurie Gharis  
Chief Clerk

LG/erg

Enclosure

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT**  
**for**  
**Two Creeks Crossing Resort, LLC**  
**TPDES Permit No. WQ0016056001**

The Executive Director has made the Response to Public Comment (RTC) for the application by Two Creeks Crossing Resort, LLC for TPDES Permit No. WQ0016056001 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 (WQ0016056001) and click the "Search" button. The search results will display a link to the RTC.

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).

**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.

A complete copy of the RTC (including the mailing list), 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 Onalaska Public Library, 372 Farm-to-Market Road 356, Suite 103, Onalaska, Texas.

MAILING LIST  
for  
Two Creeks Crossing Resort, LLC  
TPDES Permit No. WQ0016056001

FOR THE APPLICANT:

John Payne, Member  
Two Creeks Crossing Resort, LLC  
P.O. Box 1345  
Montgomery, Texas 77356

Ryan Byrd, 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, Deputy Director  
Texas Commission on Environmental  
Quality  
External Relations Division  
Public Education Program MC-108  
P.O. Box 13087  
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Aubrey Pawelka, Staff Attorney  
Texas Commission on Environmental  
Quality  
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Deba Dutta, 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:

Garrett T. Arthur, 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

CHRISTIAN , MR HOWARD  
607 PARK KNOLL LN  
KATY TX 77450-2505

EVANS , PENNY  
PO BOX 34  
CORRIGAN TX 75939-0034

GRIFFIN , CONNIE  
280 BROKEN ARROW MARINA  
LIVINGSTON TX 77351-6871

GRIFFIN , PATRICK  
280 BROKEN ARROW MARINA  
LIVINGSTON TX 77351-6871

GRINDSTAFF , ELIZABETH  
2000 ARCADY LN  
CORNICANA TX 75110-2684

GRINDSTAFF , MS ELIZABETH MILLER  
4429 LUCABELLA LN  
LEANDER TX 78641-4252

HAMLIN , DENNIS R  
116 HIGH DR  
POINTBLANK TX 77364-6834

IVY , CATHY  
6811 PRESTON GROVE DR  
SPRING TX 77389-1416

IVY , DAVID WAYNE  
6811 PRESTON GROVE DR  
SPRING TX 77389-1416

JOHANSSON , ERIC  
24609 BELVON VALLEY LN  
PORTER TX 77365-5744

JONES , DUKE  
1879 TRIPLE CREEK LOOP  
LIVINGSTON TX 77351-5135

JONES , JESSICA  
JESSICA  
1879 TRIPLE CREEK LOOP  
LIVINGSTON TX 77351-5135

MANSELL , TIMOTHY LAMAR  
20619 ATASCOCITA SHORES DR  
HUMBLE TX 77346-1625

MILLER , THOMAS W  
7721 LA SOBRINA DR  
DALLAS TX 75248-3136

SEDA , EDWIN  
664 TWIN CREEKS DR  
LIVINGSTON TX 77351-4590

SEDA , SHELLA  
664 TWIN CREEKS DR  
LIVINGSTON TX 77351-4590

TARPLEY , GARRY  
550 TWIN CREEKS DR  
LIVINGSTON TX 77351-1960

TIPPIT , PETER  
498 TWIN CREEKS DR  
LIVINGSTON TX 77351-2399

VINCENT , MR RONNIE  
POLK COUNTY COMMISSIONER PRECINCT 2  
PO BOX 1388  
ONALASKA TX 77360-1388

WHITE , THE HONORABLE JAMES STATE  
REPRESENTATIVE  
TEXAS HOUSE OF REPRESENTATIVES DISTRICT 19  
PO BOX 2910  
AUSTIN TX 78768-2910

WHITE , THE HONORABLE JAMES STATE  
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TEXAS HOUSE OF REPRESENTATIVES DISTRICT 19  
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WILLIAMS , JOHN RICK  
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WILLIAMS , LAURA  
110 MAYFIELD DR  
MONTGOMERY TX 77316-1656

WILLIAMS , MR MARTY  
5481 US HIGHWAY 190 W  
LIVINGSTON TX 77351-1628

**TCEQ PERMIT NO. WQ0016056001**

<b>APPLICATION BY</b>	<b>§</b>	<b>BEFORE THE</b>
<b>TWO CREEKS CROSSING RESORT,</b>	<b>§</b>	<b>TEXAS COMMISSION</b>
<b>LLC</b>	<b>§</b>	<b>ON</b>
<b>FOR NEW TPDES PERMIT NO.</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>
<b>WQ0016056001</b>		

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

The Executive Director (ED) of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on the Two Creeks Crossing Resort, LLC’s application and ED’s preliminary decision for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016056001. As required by 30 Texas Administrative Code (TAC) Section 55.156, before a permit is issued, the ED prepares a response to all timely, relevant, and material, or significant comments. The Office of Chief Clerk timely received comments from Laura Williams, Timothy Lamar Mansell, Edwin Seda, David Wayne Ivy, Jessica Jones, Peter Tippit, Marty Williams, Howard Christian, Eric Johansson, Duke Jones, Garry Tarpley, Elizabeth Grindstaff, and Connie Griffin. This response addresses all such timely public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Participation and Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at <https://www.tceq.texas.gov/>.

**I. BACKGROUND**

**(A) Description of Facility**

Two Creeks Crossing Resort, LLC, P.O. Box 1345, Montgomery, Texas 77356, has applied to the TCEQ for new TPDES Permit No. WQ0016056001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 45,000

gallons per day. The proposed wastewater treatment facility will serve the Two Creek Crossings RV Resort Park.

The plant site will be located at 1581 Triple Creek Loop, in Polk County, Texas 77351. The Two Creeks Crossing Resort Wastewater Treatment Facility will be an activated sludge process plant operated in the conventional mode. Treatment units in the Interim phase will include an onsite lift station, bar screen, two aeration basins, a final clarifier, two sludge digesters, and a chlorine contact chamber. Treatment units in the Final phase will include an onsite lift station, bar screen, three aeration basins, two final clarifiers, three sludge digesters, and two chlorine contact chambers.

The effluent limitations in the Interim phase 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), 126 colony forming units (CFU) or most probable number (MPN) of Escherichia coli (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 effluent limitations in the Final phase of the draft permit, based on a 30 day average, are 10 mg/l CBOD<sub>5</sub>, 15 mg/l TSS, 3 mg/l NH<sub>3</sub>-N, 126 CFU or MPN of E. coli, and 4.0 mg/l minimum 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 treated effluent will be discharged directly to the Rocky Creek arm of Lake Livingston in Segment No. 0803 of the Trinity River Basin. The designated uses for Segment No. 0803 are primary contact recreation, public water supply, and high aquatic life use.



## **(B) Procedural Background**

The permit application for a new permit was received on October 15, 2021, and declared administratively complete on December 10, 2021. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published in English in the *Polk County Enterprise* on December 16, 2021. ED staff completed the technical review of the application on February 9, 2022, and prepared a draft permit. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published in English in the *Polk County Enterprise* on March 27, 2022. The public comment period ended on August 22, 2022.

This application was administratively complete 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.

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

- 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>
- 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. Some documents located at the Office of the Chief Clerk may also be located in the Commissioners’ Integrated Database at [www.tceq.texas.gov/goto/cid](http://www.tceq.texas.gov/goto/cid). The application, draft permit, and Statement of Basis/Technical Summary and ED’s Preliminary Decision are also available for

viewing and copying at Onalaska Public Library, 372 Farm-to-Market Road 356, Suite 103, Onalaska, Texas. If you would like to file a complaint about the facility concerning its compliance with provisions of its permit or TCEQ rules, you may call the TCEQ Environmental Complaints Hot Line at 1-888-777-3186 or the TCEQ Region 10 Office directly at 409-898-3838. Citizen complaints may also be filed by sending an email to [complaint@tceq.texas.gov](mailto:complaint@tceq.texas.gov) or online at the TCEQ web site (select “Reporting,” then “Make an Environmental Complaint”). If the facility is found to be out of compliance, it may be subject to an enforcement action.

## II. COMMENTS AND RESPONSES

### **COMMENT 1:**

Laura Williams, Timothy Lamar Mansell, Edwin Seda, David Wayne Ivy, and Jessica Jones comment that the recreational uses of the stream may be impaired, including kayaking, water sports, swimming, and fishing. Eric Johansson expresses that he is an avid fisherman and is concerned about negative impacts from the proposed facility on fishing.

### **RESPONSE 1**

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 proposed permit contains several water quality-specific parameter requirements that limit the potential impact of the discharge on the receiving waters.

The treated effluent will be discharged directly to the Rocky Creek arm of Lake Livingston in Segment No. 0803 of the Trinity River Basin. The designated uses for Segment No. 0803 are primary contact recreation, public water supply, and high

aquatic life use. The Texas Surface Water Quality Standards (TSWQS) in 30 Texas Administrative Code (TAC) Chapter 307 require that discharges not degrade the receiving waters and 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.

In accordance with 30 TAC Section (§) 307.5 and the TCEQ's *Procedure to Implement the Texas Surface Water Quality Standards* (June 2010) (IP), 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 Lake Livingston. The Water Quality Division has determined that the draft permit is in accordance with the Texas Surface Water Quality Standards, which helps ensure that the effluent discharge be protective of aquatic life, human health, and the environment. The review process for surface water quality is conducted by the Standards Implementation Team and Water Quality Assessment Team surface water modelers. The effluent limits in the draft permit are set to maintain and protect the existing instream uses.

The Executive Director determined that these uses should be protected if the facility is operated and maintained as required by the proposed permit and regulations. Additionally, the treated effluent will be disinfected prior to discharge to protect human health. The ED has made a preliminary determination that the draft permit, if issued, meets all statutory and regulatory requirements.

## **COMMENT 2**

Peter Tippit, Marty Williams, and David Wayne Ivy are concerned about the

negative impacts on public health of wastewater discharged where people use the lake. David Wayne Ivy comments that there will likely be unanticipated consequences. Timothy Lamar Mansell comments on the wastewater's effect on human health. Laura Williams questions what the public benefit is of releasing treated wastewater into Rocky Creek. Laura Williams comments that the allowable effluent limits be initially set so that individuals enjoying the designated uses for Lake Livingston are not adversely affected by the effluent.

## **RESPONSE 2**

The wastewater will be required to be treated and disinfected in accordance with the draft permit, regulations, and effluent limits prior to discharge to protect human health and wildlife. The effluent limits in the draft permit are set to maintain and protect the existing instream uses.

The Water Quality Division has determined that the draft permit is in accordance with the TSWQS, which helps ensure that the effluent discharge is protective of aquatic life, human health, and the environment. The review process for surface water quality is conducted by the Standards Implementation Team and Water Quality Assessment Team surface water modelers.

The TSWQS in 30 TAC Chapter 307 require that discharges not degrade the receiving waters and not result in situations that impair existing, attainable, or designated uses. The proposed draft permit was developed in accordance with the TSWQS to be protective of water quality, provided that Two Creeks Crossing Resort, LLC operates and maintains the proposed facility according to TCEQ rules, and the proposed permit's requirements. The methodology outlined in the *IP* is designed to ensure compliance with the TSWQS.

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.

See Response 1 above for additional water quality issues in lake Livingston.

### **COMMENT 3**

Laura Williams and Timothy Lamar Mansell are concerned that water wells will become compromised. Peter Tippit expresses a general concern about water quality. Garry Tarpley comments that the amount of well water being used could cause problems with many local household wells. Edwin Seda comments on the possible contamination to the underground water supply that feeds local water wells. David Wayne Ivy comments that he relies on his water well and withdrawing the huge amount of water needed to support a commercial operation could create issues in the aquifer.

### **RESPONSE 3**

The legislature has determined that “the goal of groundwater policy in this state is that the existing quality of groundwater not be degraded. This goal of non-degradation does not mean zero-contaminant discharge.” Chapter 26 of the Texas Water Code further stipulates that “discharges of pollutants, disposal of wastes, or other activities subject to regulation by state agencies be conducted in a manner that will maintain present uses and not impair potential uses of groundwater or pose a public health hazard.”

As mentioned in other responses, the Water Quality Division has determined that the draft permit is in accordance with the TSWQS, which helps ensure that the effluent discharge be protective of aquatic life, human health, and the environment. The Water Quality Division has determined that if surface water quality is protected,

then the groundwater quality in the vicinity will not be impacted by the discharge. Therefore, the permit limits given in the draft permit are intended to maintain the existing uses of the surface waters, preclude degradation, and protect groundwater.

The effect, if any, of the proposed facility on groundwater availability is outside of the scope of the TCEQ's review on a TPDES application. Groundwater availability is not under the authority of the TCEQ to consider when evaluating a wastewater discharge permit action. For information on Groundwater Conservation Districts (GCD), please call the TCEQ's Office of Water Supply at (512) 239-4691. Areas that are not within a GCD are subject to the rule of capture. For general information on groundwater, please contact the Texas Water Development Board at (512) 463-7847.

The Ground Water Rule does not address private wells because they are not under the jurisdiction of the Safe Drinking Water Act and are, therefore, not subject to TCEQ regulation. TCEQ recommends that well owners periodically test their water for microbial and chemical contaminants and properly maintain their well. 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. 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 <https://twon.tamu.edu/wp-content/uploads/sites/3/2021/06/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 4**

David Wayne Ivy is concerned about the proposed facility's impact on the creek

such as upsetting the balance and ecology of the creeks. Jessica Jones comments that Lake Livingston is an environmentally fragile creek and too small and environmentally important to support such a large project that will tax the environmental balance.

#### **RESPONSE 4**

Please see Response 1 above.

#### **COMMENT 5**

Laura Williams comments that under the Clean Water Act, the EPA states that impaired waterways (such as Lake Livingston) should be protected and restored. She states that it's the policy of Texas law to maintain the quality of water in the state, consistent with public health and enjoyment, but this is a form of pollution. She further states that the discharge renders the water harmful, detrimental, and injurious. She asks what is being done by TCEQ to clean up Lake Livingston. Laura Williams asks if TCEQ has identified water quality problems and known pollution sources and set priorities for taking appropriate action regarding those problems and sources. Laura Williams comments if the Applicant is correcting identified water quality problems and pollution sources. She asks if Lake Livingston is under federal jurisdiction since the EPA states that impaired waterways should be protected and restored. Laura Williams comments that allowable effluent limits should not risk further degradation of the already impair water quality of Lake Livingston.

#### **RESPONSE 5**

The ED has made a preliminary determination that the draft permit, if issued, meets all statutory and regulatory requirements. The TCEQ submitted the draft permit to the U.S. Environmental Protection Agency (EPA) Region 6 for review. The EPA reviewed the draft permit and did not have any objections to the issuance of the draft permit.

Segment No. 0803 is currently listed on the State’s inventory of impaired and threatened waters (the 2020 Clean Water Act § 303(d) list). The listing is for dioxin in edible and polychlorinated biphenyls (PCBs) in edible tissue, and sulfate in water throughout the entire reservoir (Assessment Units 0803\_01 through 0803\_12). Two Creeks Crossing Resort wastewater treatment facility will not receive industrial wastewater contributions, and discharges will be very minimal (45,000 gallons per day). A total dissolved solids (TDS) screen will pass with values of 1000 mg/l for TDS, 500 mg/l for chloride, and 255 mg/l for sulfate. Without an industrial source, these “mock” numbers give a high degree of confidence that effluent dissolved solids in the Segment 0803 will not exceed the segment criteria once they begin discharging, and therefore should not add to the sulfate impairment of the segment.

**COMMENT 6**

Laura Williams requests that the Applicant pay for well testing for the landowners along the creek.

**RESPONSE 6**

The TCEQ has no jurisdiction to require the applicant to pay for testing of private wells. Private wells are not under the jurisdiction of the Safe Drinking Water Act and are not subject to TCEQ regulation. TCEQ recommends that well owners periodically test their water for microbial and chemical contaminants and properly maintain their well. 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.

**COMMENT 7**

Laura Williams comments that the Texas Natural Resource Conservation Commission had stated that treated wastewater can still contain measurable levels of



oocysts, and that toxic chemicals released to the sewage system are believed to be partially removed through wastewater treatment, however, the EPA estimates that 25% of these toxic substances pass through sewage treatment to receiving waters. She further states that the water quality concern relates to times when downstream drinking water treatment fails or the system becomes overloaded, posing a threat to public health. Laura Williams comments that the National Academics Press states that one of the major water quality impairments is through accidental discharges and spills from wastewater treatment plants.

#### **RESPONSE 7**

The TNRCC was a predecessor agency to the TCEQ prior to the name change in 2001. An unauthorized discharge is a violation of the proposed permit for which an enforcement action can be brought by the TCEQ against Two Creeks Crossing Resort, LLC. The proposed permit would not limit anyone's ability to seek legal remedies from Two Creeks Crossing Resort, LLC regarding any potential trespass, nuisance, or other cause of action in response to the proposed facility's activities that may result in injury to human health or property or interfere with the normal use and enjoyment of property.

If you would like to file a complaint about the facility concerning its compliance with provisions of its permit or with TCEQ rules, you may call the TCEQ Environmental Complaints Hot Line at 1-888-777-3186 or the TCEQ Region 10 Office at 409-898-3838. Citizen complaints may also be filed on-line at

<https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html>

#### **COMMENT 8**

Laura Williams asks how TCEQ is enforcing environmental regulations.

## **RESPONSE 8**

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 10 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.

If the facility is found to be out of compliance with the terms or conditions of the permit, Two Creeks Crossing Resort, LLC 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 10 Office in Beaumont at 409-898-3838. Citizen complaints may also be filed on-line at

[https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaint\\_s.html](https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaint_s.html). If Two Creeks Crossing Resort, LLC fails to comply with all requirements of the permit, it may be subject to enforcement action.

## **COMMENT 9**

Laura Williams comments that fish, marine life, and wildlife may be detrimentally affected by the proposed facility. Laura Williams comments that there is already a fish consumption advisory on Lake Livingston. Timothy Lamar Mansell

comments on wildlife health and evacuation. Duke Jones is concerned about the discharge's effect on the natural habitat of fish and aquatic plants.

#### **RESPONSE 9**

The TSWQS require that discharges not degrade the receiving waters and 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.

In this case, the treated effluent will be discharged directly to the Rocky Creek arm of Lake Livingston in Segment No. 0803 of the Trinity River Basin. The designated uses for Segment No. 0803 are primary contact recreation, public water supply, and high aquatic life use. The Executive Director determined that these uses should be protected if the facility is operated and maintained as required by the proposed permit and regulations. Additionally, the treated effluent will be disinfected prior to discharge to protect human health.

The Texas Parks and Wildlife Department 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.

#### **COMMENT 10**

Peter Tippit and David Wayne Ivy express concern about the proposed discharge's effect on the environment of fish and wildlife. Garry Tarpley is concerned about the proposed facility being built so close to a prime fish habitat. Timothy Lamar Mansell comments on the environmental destruction of vegetation. Duke Jones comments that the permit could be devastating to the local environment. Jessica Jones comments that the population density within an RV park will contribute to wildlife

habitat destruction. Jessica Jones comments that the creek is a natural spring with waterfalls and clear water, a habitat for bass and crappie, as well as waterfowl and other wildlife.

**RESPONSE 10**

Please see Response 9 above.

**COMMENT 11**

Howard Christian comments that the proposed facility probably does not require dichlorination and will result in a death trap for crappie and other game fish. Duke Jones expresses his concern about dichlorination and the potential for algae. Laura Williams states that the draft permit indicates that Applicant will be using chlorine contact chambers as a means of disinfectant to treat the effluent. She urges that the disinfectant method be changed to ultraviolet light disinfection, which requires less space and has no residual effect that could be harmful to humans or aquatic life. Laura Williams comments that all forms of chlorine are highly corrosive and toxic.

**RESPONSE 11**

The rules in 30 TAC § 309.3(g)(1) require that disinfection of domestic wastewater be protective of both public health and aquatic life. However, the rules do not require a specific method of disinfection. A permittee may disinfect domestic wastewater through use of 1) chlorination, 2) ultra-violet light, or 3) an equivalent method of disinfection with prior approval of the Executive Director. Chlorine is one of the most practical and effective means of disinfection because it can kill disease-causing bacteria and nuisance organisms and can eliminate certain noxious odors during disinfection. For this facility, Two Creeks Crossing Resort, LLC has chosen chlorine disinfection. Chlorination may be via gaseous, liquid, or tablet forms.

Whichever form is used, the design criteria for chemical disinfection by chlorine, including safety requirements, in 30 TAC Chapter 217, Subchapter K are required to be observed.

The permit limits in the draft permit intended to maintain the existing uses of the surface waters and preclude degradation also include the 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.

Per TCEQ's IP, in order to prevent toxicity due to chlorine, domestic dischargers who request a new permit with permitted flow greater than or equal to 0.5 MGD are required to dechlorinate their effluent or use another form of disinfection. In this case, Two Creeks Crossing Resort, LLC applied to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.030 MGD in the interim phase, 0.045 MGD in the final phase. So, the permit does not require them to dechlorinate the effluent.

#### **COMMENT 12**

Laura Williams comments that excess quantities of phosphorus, even in small amounts, can lead to eutrophication and cause harmful algae growth in a waterway.

#### **RESPONSE 12**

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

When ED staff's analysis of a discharge permit application shows the effluent has the potential to cause nutrient issues that could lead to conditions such as algal blooms in the receiving waters, the usual course of action is to add total phosphorus

effluent limits to the draft permit to control nutrient levels entering the receiving waters. For this application, various factors such as the authorized average effluent flow volume of 45,000 gallons per day, precluded including total phosphorus limits in the draft permit. Per TCEQ's IP, the level of concern is considered as "Low" if the permitted flow is below 250,000 gallons per day). The water clarity and aquatic vegetation were also examined using aerial imagery, and were determined to not warrant total phosphorus limits. Therefore, total phosphorus effluent limits were not recommended for this permit action. As written, the draft permit, if followed, will sufficiently control nutrient levels in the discharge.

### **COMMENT 13**

Laura Williams comments that she and her neighbors use private septic tanks and aerobic systems that are regulated to maintain distance from Rocky Creek. She states that she consciously works to protect the pristine waterway. Laura Williams further requests Applicant withdraw their permit request and instead use a zero-discharge water conservation plan, and reuse effluent as irrigation on site and pursue a Texas Land Application Permit. Laura Williams states that she advocates for environmentally friendly wastewater alternatives that provide community benefits rather than damaging their water with excess nutrients, bacteria, and potential spills of raw sewage. Laura Williams suggests beneficial reuse. Marty Williams suggests an on-site aerobic facility would be much safer. Timothy Lamar Mansell asks TCEQ to please reconsider alternatives to the potential contamination of Rocky Creek.

### **RESPONSE 13**

The TCEQ does not have the authority to mandate the method of disposal of treated effluent if the Applicant adheres to the rules and provisions under TWC Chapter 26 and 30 TAC Chapters 217, 305, 307 and 309.

If Two Creeks Crossing Resort, LLC 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).” 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. 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.

Treated effluent may also be disposed of via land application. A Texas Land Application Permit (TLAP) authorizes the disposal of treated effluent by means of surface irrigation, subsurface irrigation, or evaporation. The effluent must be treated to the pollutant concentrations prescribed in 30 TAC § 309.4. If Two Creeks Crossing Resort, LLC changes the proposed method of disposal this would require further review by the TCEQ and additional public notice.

Further, treated effluent may also be utilized for beneficial use pursuant to 30 TAC Chapter 210, relating to “Use of Reclaimed Water,” however this is a separate authorization and, under current TCEQ rules, requires that either a TPDES or TLAP permit be obtained first.

#### **COMMENT 14**

Eric Johansson is opposed to the volume of waste proposed being dumped into Rocky Creek, where he owns waterfront property. Marty Williams is concerned about the size of the facility and the discharge volume into Rocky Creek. David Wayne Ivy asks if any testing or data gathering has been done to confirm adequate capacity to support the operation without impacting residents.

#### **RESPONSE 14**

The potential impact of the proposed discharge on instream dissolved oxygen levels is evaluated under hot and dry, low-flow summertime conditions, which are typically the most restrictive conditions in regard to dissolved oxygen levels. Critical low-flow, as defined in 30 TAC § 307.3(a)(16), is a “low-flow condition that consists of the seven-day, two-year flow (7Q2),” which is the lowest seven-day average discharge with a recurrence interval of two years. The criteria of the TSWS are applicable even during critical low-flow, therefore critical low-flow is considered when evaluating the appropriate effluent limits for the proposed discharge.

The effluent limitations in the draft permit, assuming they are adhered to, will maintain and protect the existing instream uses and comply with the TSWQS, and 30 TAC §§ 307.1 - 307.10. The proposed draft permit includes effluent limitations and monitoring requirements to ensure that the proposed wastewater treatment plant meets water quality standards for the protection of surface water quality, even during periods of low flow, according to TCEQ rules and policies.

#### **COMMENT 15**

Howard Christian states that for most of the year, the creek that the proposed facility will discharge to has no moving water and acts more like a detention than a running creek. Garry Tarpley is concerned about the creeks low water level. Duke Jones comments that he’s seen the engineering assumptions but believes that they reflect assumptions that are not valid or within the actual parameters stated as there appears to be no testing as to river flow and constant levels. David Wayne Ivy comments that for much of the year, there is very little water flow through Rocky Creek. Laura Williams comments that TCEQ needs to revisit the flow modeling on Rocky Creek - the



creek is small without much current, which is further exacerbated by the recent drought.

**RESPONSE 15**

Please see Response 14 above.

**COMMENT 16**

Duke Jones comments that there is a negative flow in the creek, water from Kickapoo Creek feeds into his creek and water at the “Y” of the creek gets drawn back. He is concerned that the discharge will not flow down the creek but will stay stagnate.

**RESPONSE 16**

Please see Response 14 above.

**COMMENT 17**

Marty Williams is concerned about inadequate monitoring of the facility, he states that the monitoring will not be done by a state-run organization, and oversight and maintenance could be minimal, and profit-driven. He further comments that the environmental impact may not be the most important factor once proposed facility is in operation. Elizabeth Grindstaff wants to make sure that Applicant complies and remains in compliance.

**RESPONSE 17**

Per Other Requirement No. 1 of the draft permit, the permittee is required to 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 per 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.

It is correct that continuous monitoring of the facility will not be done by a state-run organization. However, the TCEQ's Office of Compliance and Enforcement helps ensure compliance with applicable state and federal regulations. The Region 10 office is required to conduct a mandatory comprehensive compliance investigation at minor facilities (facilities with permitted flow less than 1 MGD) 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.

Per Monitoring and Reporting Requirements of the Permit, monitoring results shall be provided to TCEQ at the intervals specified in the permit. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall conduct effluent sampling and reporting in accordance with 30 TAC §§ 319.4 - 319.12. Unless otherwise specified, effluent monitoring data shall be submitted each month, to the Compliance Monitoring Team of the Enforcement Division (MC 224), by the 20th day of the following month for each discharge which is described by this permit whether or not a discharge is made for that month. The TCEQ Compliance Monitoring Team reviews the submitted data periodically, and initiates violation and enforcement

actions if any parameter exceeds the permitted limits.

As provided by state law, the permittee is subject to administrative, civil and criminal penalties, as applicable, for negligently or knowingly violating the Clean Water Act (CWA); TWC §§ 26, 27, and 28; and THSC § 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 this 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 18**

Laura Williams asks if TRA does actual on-site water sampling or measurements, or just computer modeling. She also asks if Undine is the company that will run the plant.

**RESPONSE 18**

Two Creeks Crossing Resort, LLC may collect and analyze the effluent samples itself, or it may contract with a third party for either or both the sampling and analysis. In addition, a permittee may operate the facility itself or contract with an individual operator, company, and other entity to operate the facility. Sampling, analysis, and reporting for compliance of the permit provisions are required to be performed in accordance with the Monitoring and Reporting Requirements section and the Definitions and Standard Permit Conditions section of the draft permit.

Please also see Response 17 above.

**COMMENT 19**

Garry Tarpley comments that flooding due to heavy rains can cause the creek to

overflow and can lead to deposits of untreated human waste being deposited into two prime fishing creeks (Twin creeks, Kickapoo Creek). Garry Tarpley comments that overflow at small plants like this are not uncommon.

**RESPONSE 19**

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, Two Creeks Crossing Resort, LLC is required to comply with all the numeric and narrative effluent limitations and other conditions in the proposed permit at all times, including during flooding conditions. For flooding concerns, please contact the local floodplain administrator for this area. If you need help finding the local floodplain administrator, please call the TCEQ Resource Protection Team at (512) 239-4691. For Polk County Emergency Management, call 936-327-6826. As stated in the application, the proposed facility will be located above the 100-year floodplain. In addition, per other requirement no. 10 of the draft permit, the permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.

**COMMENT 20**

Garry Tarpley and Timothy Lamar Mansell comment on the possibility of foul odor that such a large facility can cause.

**RESPONSE 20**

Maintaining an adequate dissolved oxygen concentration in the early stages of wastewater treatment helps to minimize sulfide generation, which is the most common cause of odor. The treatment process proposed by Two Creeks Crossing Resort, LLC

supplies oxygen from the air into the wastewater for biodegradation of the organic contaminants in the wastewater through aeration. Oxygen also turns the sulfide compounds into odorless sulfates.

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). The required buffer zone requirement is 150 feet for all treatment units. According to its application, Two Creeks Crossing Resort, LLC intends to comply with the requirement to abate and control nuisance of odor by ownership of the required buffer zone. This requirement is incorporated in the draft permit. Therefore, nuisance odor is not expected to occur as a result of the permitted activities at the facility if the permittee operates the facility in compliance with TCEQ's rules and the terms and conditions of the draft permit. The permittee is also required to comply with 30 TAC § 309.13(a) through (d), which restrict WWTP construction based on unsuitable site characteristics.

The TCEQ's Office of Compliance and Enforcement ensures compliance with applicable state and federal regulations. If Two Creeks Crossing Resort, LLC is reported to be in violation of any applicable state or federal rules, the TCEQ Region 10 office is required to conduct a comprehensive compliance investigation. If the facility is found to be out of compliance with the terms or conditions of the permit, Two Creeks Crossing Resort, LLC 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 10 Office in Beaumont at 409-898-3838. Citizen complaints may also be filed on-line at <https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html>

### **COMMENT 21**

Laura Williams comments that the Notice of Public Meeting, the permit application, and the ED's preliminary decision all state that the draft permit is available for viewing and copying at Onalaska Public Library, 372 Farm-To-Market Road 356, Suit 103, Onalaska, Texas. However, when she inquired about the documents, there was no record of the documents being available to the public at the library. Laura Williams states she contacted TCEQ to receive the paperwork, which was made available at the library on August 2, 2022. She states that concerned citizens and parties should not be subjected to such hurdles to access information that is vital to developing public input and comments.

### **RESPONSE 21**

The Applicant maintains that the application for this facility has been available for viewing and copying at the Onalaska Public Library, 372 Farm-to-Market Road 356, Suite 103, Onalaska, 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 22**

David Wayne Ivy asks if air emissions have been considered in the project's

environmental impact. He states that there could be potentially noxious fumes containing respiratory irritants. Further, he states that this project will bring in a high volume of vehicular traffic which will lead to additional greenhouse gas emissions.

## **RESPONSE 22**

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, Two Creeks Crossing Resort, LLC 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.

Wastewater Treatment Plants do not contribute significant amounts of air contaminants to the atmosphere, and thus, do not significantly impact human health and the environment. The Executive Director has determined that the draft permit meets all regulatory and statutory requirements for the protection of human health and the environment. The draft permit was developed to protect aquatic life and human health in accordance with the Texas Surface Water Quality Standards and was established to be protective of human health and the environment provided the Two Creeks Crossing Resort, LLC operates and maintains the facility according to TCEQ

rules and the requirements in the draft permit.

The TCEQ does not have the authority to address traffic issues as part of the wastewater permitting process. However, the permit does not limit the ability of an individual to seek legal remedies against Two Creeks Crossing Resort, LLC 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 23**

Timothy Lamar Mansell and Edwin Seda comment that the proposed facility could be costly to property owners due to well contamination and property devaluation.

**RESPONSE 23**

The TCEQ does not have the authority to address property devaluation as part of the wastewater permitting process. TWC Chapter 26 and applicable wastewater regulations do not authorize the TCEQ to consider issues such as property values. For well contamination, please see Response 3 above.

**COMMENT 24**

Howard Christian objects to the location of the proposed facility. He comments that a much better location would be into the body of the lake and not at the throat of the creek. Edwin Seda requests consideration be given to alternate sites. David Wayne Ivy comments that the flow should be scaled down and a better way be found to handle the wastewater.

**RESPONSE 24**

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 TWC Chapter 26 and 30 TAC Chapter 309, relating to “Domestic Wastewater Effluent Limitations and Plant Siting.” This location complies with this requirement. The TCEQ does not have jurisdiction over zoning.

If Two Creeks Crossing Resorts, LLC 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 25**

Laura Williams comments that Two Creeks Crossing is burning brush with smoke and ruining her outdoor activities. Additionally, the smoke seeps into her barndominium. David Wayne Ivy comments that widespread areas of trees have been cleared and burned, creating a smoke and soot hazard in the area. He asks if there are permits in place to allow this large-scale commercial burning.

#### **RESPONSE 25**

The TCEQ’s Office of Compliance and Enforcement ensures compliance with applicable state and federal regulations. If Two Creeks Crossing Resort, LLC is reported to be in violation of any applicable state or federal rules, the TCEQ Region 10 office is required to conduct a comprehensive compliance investigation. If the facility is found to be out of compliance with the terms or conditions of the permit, Two Creeks Crossing Resort, LLC 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 10 Office in Beaumont at 409-898-3838. Citizen complaints may also be filed on-line at <https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html>

#### **COMMENT 26**

Timothy Lamar Mansell comments on the destruction of the pristine natural beauty and tranquility of the neighborhood. Elizabeth Grindstaff comments that her property has been in her family since 1857, and she expresses a general concern about the proposed facility's impacts.

#### **RESPONSE 26**

The TCEQ does not have the authority to address these types of issues 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.

However, the permit does not limit the ability of an individual to seek legal remedies against Two Creeks Crossing Resorts, LLC, 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 27**

Jessica Jones comments that the RV park will lead to noise and night sky pollution.

#### **RESPONSE 27**

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

However, the permit does not limit the ability of an individual to seek legal remedies against Two Creeks Crossing Resorts, LLC 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 28**

Duke Jones comments that the Applicant has torn up their road.

**RESPONSE 28**

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

However, the permit does not limit the ability of an individual to seek legal remedies against Two Creeks Crossing Resorts, LLC 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 29**

Jessica Jones is concerned about erosion of the creek banks. She comments that increased boat traffic resulting from the RV park will result in erosion and further degrade water quality.

**RESPONSE 29**

The TCEQ does not have jurisdiction to address erosion or traffic 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.

However, the permit does not limit the ability of an individual to seek legal remedies against Two Creeks Resorts, LLC, 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 30**

Connie Griffin expresses a general concern about the application but also welcomes the Applicant to the neighborhood.

**RESPONSE 30**

The ED acknowledges this comment.

**III. 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  
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