

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*

December 12, 2022

TO: All interested persons.

RE: Aqua Utilities, Inc.  
TPDES Permit No. WQ0005206000

### **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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 Hondo Public Library, 1011 19th Street, Hondo, 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**

**Aqua Utilities, Inc.**

**TPDES Permit No. WQ0005206000**

The Executive Director has made the Response to Public Comment (RTC) for the application by Aqua Utilities, Inc. for TPDES Permit No. WQ0005206000 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 (WQ0005206000) 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, are available for review 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 Hondo Public Library, 1011 19th Street, Hondo, Texas.

MAILING LIST  
for  
Aqua Utilities, Inc.  
TPDES Permit No. WQ0005206000

FOR THE APPLICANT:

Scott Foltz, Environmental Compliance  
Manager  
Aqua Utilities, Inc.  
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Austin, Texas 78723

David Allen, P.E., President  
AEG, Inc.  
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INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR  
via electronic mail:

Ryan Vise, Deputy Director  
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FOR PUBLIC INTEREST COUNSEL  
via electronic mail:

Garrett T. Arthur, Attorney  
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FOR THE CHIEF CLERK  
via electronic mail:

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TPDES PERMIT NO. WQ0005206000

APPLICATION BY  
Aqua Utilities Inc.  
FOR NEW TPDES PERMIT  
NO. WQ0005206000

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§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

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EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

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The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the application by Aqua Utilities Inc. (the Applicant) for Texas Pollutant Discharge Elimination System (TPDES) permit No. WQ0005206000, and on the Executive Director's preliminary decision. As required by Title 30 of the Texas Administrative Code (30 TAC) Section (§) 55.156, before this application is approved, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk received timely comments from Robert N. Bowers, Scot W. Foltz, Randy T. Johnson, and Neel McNeel Scott. This response addresses all 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 Public Education Program at 1-800-687-4040. General information about the TCEQ can be found on the TCEQ web site at <http://www.tceq.texas.gov>.

**I. BACKGROUND**

**A. Description of Facility**

The Applicant, who proposes to continue to operate the existing Aqua Utilities Inc., Country View Estates WWTP, a water treatment plant, has applied to the TCEQ for new TPDES Permit No. WQ0005206000, to authorize the existing discharge of water treatment wastewater at a daily average flow not to exceed 55,000 gallons per day via Outfall 001.

The facility is located on Country Scene Road, approximately two miles north of Park Road 37 and 2.5 miles north of State Highway 16, northeast of the City of Helotes,

Medina County, Texas 78023.<sup>1</sup> The effluent is discharged to an unnamed tributary of San Geronimo Creek, thence to San Geronimo Creek, thence to Medina River Below Medina Diversion Lake in Segment No. 1903 of the San Antonio River Basin. The unclassified receiving water uses are minimal aquatic life use for the unnamed tributary of Geronimo Creek (upstream of Indian Mound Springs) and limited aquatic life use for the unnamed tributary of Geronimo Creek (downstream of Indian Mound Springs) The designated uses for Segment No. 1903 are primary contact recreation, public water supply, aquifer protection, and high aquatic life use.

### **B. Procedural Background**

The TCEQ received the application on August 3, 2016, and declared it administratively complete on September 26, 2016. The ED completed the technical review of the application on February 1, 2020, and prepared the proposed permit, which if approved, would establish the conditions under which the facility must operate.

The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in English in the *Hondo Anvil Herald* on October 13, 2016, and in Spanish in the *Hondo Anvil Herald* on October 27, 2016. The Applicant exceeded the ED's timeframes for review and acceptance of the draft permit. The Applicant opined that the draft permit contained effluent limits that were too stringent and unachievable and requested changes be made to the draft permit. ED staff determined that they were unable to make the changes requested because the proposed daily average and daily maximum effluent limitations for total dissolved (TDS) and sulfate are necessary to ensure the discharge is protective of water quality and will not cause a violation of the criteria for Segment No. 1903, so the draft permit retains the proposed effluent limitations for TDS and sulfate. This stalemate prevented the movement of the draft permit to public notice.

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<sup>1</sup> The following link is to an electronic map of the site or facility's general location and is provided as a public courtesy and not part of the application or notice. For the exact location, refer to the application. <https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=db5bac44afbc468bbddd360f8168250f&marker=-98.847222%2C29.635555&level=12>



In June 2021, the ED sent the Applicant a letter stating that its objection to the draft permit had been filed with the Chief Clerk's Office. The ED's letter also instructed the Applicant on how it may request a Contested Case Hearing on the executive director's decision or file a Motion for Reconsideration. Upon receiving the ED's letter, the Applicant published the Notice of Application and Preliminary Decision (NAPD) in English in the *Hondo Anvil Herald* on August 5, 2021. The public comment period for this application closed on September 7, 2021. As required by 30 Texas Administrative Code § 39.551(c)(2)(B), the ED requested an updated mailing list. On October 7, 2022 the Office of Chief Clerk mailed the NAPD to the updated mailing list provided by Aqua Utilities, Inc. and extended the comment period to November 7, 2022.

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

### **Access to Rules, Laws, and Records**

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

- to access the Secretary of State Website: [www.sos.state.tx.us](http://www.sos.state.tx.us);
- for TCEQ rules in Title 30 of the Texas Administrative Code (TAC): [www.sos.state.tx.us/tac/](http://www.sos.state.tx.us/tac/) (select "View the current Texas Administrative Code" on the right, then "Title 30 Environmental Quality");
- for Texas statutes: <https://statutes.capitol.texas.gov/>;
- to access the TCEQ website: [www.tceq.texas.gov](http://www.tceq.texas.gov) (for downloadable rules in Adobe PDF format, select "Rules and Rulemaking," then "Current Rules and Regulations," then "Download TCEQ Rules");
- for Federal rules in Title 40 of the Code of Federal Regulations (C.F.R.): [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40tab_02.tpl); and
- for Federal environmental laws: <https://www.epa.gov/laws-regulations>.
- Environmental or citizen complaints may be filed online at <https://www.tceq.texas.gov/compliance/complaints> or by sending an email to the following address: [complaint@tceq.texas.gov](mailto:complaint@tceq.texas.gov)

Commission records for this facility are available for viewing and copying at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1<sup>st</sup> Floor (Office of Chief Clerk), until final action is taken. In addition, some documents located in the Office of the Chief Clerk may be located on the Commissioners' Integrated Database at

<https://www14.tceq.texas.gov/epic/eCID/>. The permit application for this facility, Executive Director's Preliminary Decision, and the proposed permit are available for viewing and copying the Hondo Public Library, 1011 19<sup>th</sup> Street, Hondo, Texas.

The ED has determined that the proposed permit, if issued, meets all statutory and regulatory requirements and is protective of the environment, water quality, and human health. If you would like to file a complaint about the facility concerning its compliance with the provisions of its permit or with TCEQ rules, you may contact the TCEQ Regional Office (Region 13) in San Antonio, Texas at 210-490-3096 or the statewide toll-free number at 1-888-777-3186 to address potential permit violations. In addition, complaints may be filed online at <https://www.tceq.texas.gov/compliance/complaints>. If an inspection by the Regional Office finds that the facility is out of compliance, the facility may be subject to enforcement actions.

## II. COMMENTS AND RESPONSES

### COMMENT 1:

Scot W. Foltz, representing the applicant, commented that they have taken samples from the water well that supplies the reverse osmosis plant seeking the authorization and that they can't discharge less than what is in the natural environment. As such, the applicant believes the effluent limitations proposed in the draft permit are unachievable.

### RESPONSE 1:

The *Texas Surface Water Quality Standards* (TSWQS) found at 30 TAC Chapter 307 state that surface waters will not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life. The methodology outlined in the TCEQ guidance document *Procedures to Implement the Texas Surface Water Quality Standards* (IPs) is designed to ensure compliance with 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.

The effluent limitations for total dissolved solids (TDS) and sulfate in the proposed permit are calculated based on the applicable criteria in the TSWQS for the receiving water and in accordance with the methodology outlined in the IPs. The calculated limitations for TDS are 1484 mg/L for the daily average limitation and 3139 mg/L for the daily maximum limitation. The calculated limitations for sulfate are 260 mg/L for the daily average limitation and 551 mg/L for the daily maximum limitation.

Water quality-based effluent limitations are calculated based on the applicable water quality criteria in the TSWQS and the methodologies outlined in the IPs. Neither of these take into account the quality of the effluent or the quality of the source water in calculating the limitations. The quality of the effluent is only taken into account when making a reasonable potential determination on whether or not effluent limitations or monitoring requirements are necessary to be included in the permit for the protection of water quality. The reasonable potential thresholds to determine whether effluent limitations would be required for the proposed discharge are 1261 mg/L for TDS and 221 mg/L for sulfate.

The projected effluent quality levels provided by the applicant in the application are 4000 mg/L for TDS and 2470 mg/L for sulfate, which are above the reasonable potential thresholds referenced above. The quality levels of the source water (water well) prior to reverse-osmosis (RO) treatment, as provided to the TCEQ in an email dated May 12, 2021 are 2594 mg/L for TDS and 1500 mg/L for sulfate.

The existing process uses RO treatment on well water (2594 mg/L TDS; 1500 mg/L for sulfate) to produce drinking water that is distributed to customers and an RO reject wastewater (4000 mg/L for TDS; 2470 mg/L for sulfate) that is discharged currently without a permit and would be discharged under the proposed permit, if issued. Based on the comparison of the projected effluent quality to the calculated effluent limitations, there is no reasonable expectation that the applicant would be able to comply with the effluent limitations in the proposed permit without making substantial changes (selecting a different source water, selecting a different discharge

route, etc.) to the proposed project. If the proposed permit were issued as written, the applicant would need to design a facility capable of complying with the permit.

**COMMENT 2:**

Randy Johnson, President, San Geronimo Valley Alliance, Inc. and Neel McNeel Scott, President, Gallagher Ranch Cattle Company, Inc. and Managing Partner, Gallagher Ranch Partners, Ltd., commented that Aqua Utilities did not adhere to the rules and regulations of their previous permit (Permit No. WQ0004860000).

**RESPONSE 2:**

Note that Permit No. WQ0004860000 was not a Texas Pollutant Discharge Elimination System (TPDES) permit; it was a state-only permit known as a Texas Land Application Permit (TLAP).

During the technical review of a wastewater application, a compliance history review is conducted on the company and the site based on the criteria in Title 30, Chapter 60 of the Texas Administrative Code (TAC). The compliance history is reviewed for the company and site for the five-year period prior to the date the permit application was received by the Executive Director. The compliance history includes multimedia compliance-related components about the site under review. These components include the following: enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emissions events, investigations, notices of violations, audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs and early compliance.

A review of the compliance history for TLAP No. WQ0004860000 for the period of September 01, 2003, through December 17, 2021 indicated a satisfactory compliance rating with no enforcement orders or notice of violations in the record.

A review of the compliance history for the TPDES facility for the time period of August 3, 2011 to February 1, 2022 indicates that this site has an *Unclassified* classification and no rating at this time. The company rating and classification, which is the average of the ratings for all sites the company owns, is 3.77 for the numerical rating with a *Satisfactory* classification. Based on this rating and classification, the

Executive Director has determined that the company is operating in compliance with rules and regulations, and this permit should be issued.

**COMMENT 3:**

Randy Johnson, President, San Geronimo Valley Alliance, Inc. and Neel McNeel Scott, President, Gallagher Ranch Cattle Company, Inc. and Managing Partner, Gallagher Ranch Partners, Ltd. expressed concern that granting Aqua Utilities a discharge permit will result in the addition of contaminants into San Geronimo Creek, Edwards Aquifer, and the Medina River. They also stated that any contaminants into the stream have the potential to degrade the water quality in the stream, and Aqua Utilities has not demonstrated that degradation is justified.

**RESPONSE 3:**

In accordance with 30 TAC § 307.5 and TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life use are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life use downstream, and existing uses will be maintained and protected.

**COMMENT 4:**

Randy Johnson, President, San Geronimo Valley Alliance, Inc. and Neel McNeel Scott, President, Gallagher Ranch Cattle Company, Inc. and Managing Partner, Gallagher Ranch Partners, Ltd. expressed concern that the proposed discharge will impair the existing and attainable uses of the receiving waters for the discharge, including San Geronimo Creek. They concluded that Aqua Utilities has not demonstrated that the facility will comply with requirements of the Texas Surface Water Quality Standards contained in Chapter 307 of the TCEQ rules.

#### **RESPONSE 4:**

Since the discharge is directly to an unclassified water body, the permit action was reviewed in accordance with 30 Texas Administrative Code § 307.4(h) and (l) of the 2018 Texas Surface Water Quality Standards and the TCEQ's implementation procedures for the standards. Based on a receiving water assessment and/or other available information, a preliminary determination of the aquatic life uses in the area of the discharge impact has been performed and the corresponding dissolved oxygen criterion assigned.

Unnamed tributary of San Geronimo Creek (upstream of Indian Mound Springs); minimal aquatic life use; 2.0 mg/L dissolved oxygen.

Unnamed tributary of San Geronimo Creek (downstream of Indian Mound Springs); limited aquatic life use; 3.0 mg/L dissolved oxygen.

Based on the dissolved solids screening, permit limits of 1,484 mg/L total dissolved solids and 260 mg/L sulfate are recommended.

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. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses will be maintained and protected.

The Executive Director has determined that the proposed draft permit is protective of the environment, water quality, and human health and that it meets TCEQ rules and requirements. To report complaints about the facility, please contact the TCEQ at 1 888-777-3186 to reach the TCEQ region office in your area. Noncompliance with the permit may result in enforcement action against the permittee.

**COMMENT 5:**

Randy Johnson, President, San Geronimo Valley Alliance, Inc. and Neel McNeel Scott, President, Gallagher Ranch Cattle Company, Inc. and Managing Partner, Gallagher Ranch Partners, Ltd. stated that Aqua Utilities has failed to demonstrate that it plans to employ adequate and appropriate treatment technologies to address the contaminants that will be contained, or potentially contained, in the proposed discharge.

**RESPONSE 5:**

The draft permit includes effluent limitations that are required for the protection of the Texas Surface Water Quality Standards criteria for the receiving waters. The effluent is projected to comply with the specified limitations in the proposed permit for TDS and sulfate; the applicant would need to design a facility capable of complying with the permit if the permit were issued.

**COMMENT 6:**

Randy Johnson, President, San Geronimo Valley Alliance, Inc. and Neel McNeel Scott, President, Gallagher Ranch Cattle Company, Inc. and Managing Partner, Gallagher Ranch Partners, Ltd. expressed concern that Aqua Utilities has failed to demonstrate that the proposed discharge will not interfere with Gallagher Ranch's use and enjoyment of its property, as well as the ability of other downstream landowners to use and enjoy their respective properties.

**RESPONSE 6:**

If the draft permit is issued, it will not grant the permittee the right to use private or public property for conveyance of wastewater along the discharge route described in this permit. This includes, but is not limited to, property belonging to any individual, partnership, corporation or other entity. Neither does this permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to use the discharge route.

The TCEQ's jurisdiction in a permit application is limited to the issues set out by statute. The scope of the Agency's regulatory jurisdiction does not affect or limit

the ability of a landowner to seek relief from a court in response to activities that interfere with the landowner's use and enjoyment of his property.

**COMMENT 7:**

Robert N. Bowers, President, Valentine Ranch Property Owners Association, Inc. (VRPOA) Board of Directors commented that the VRPOA has reviewed the permit application on file at the Hondo Public Library. He stated that while the process description and sample data in the application are the same as in the recently withdrawn version (WQ0005167000), it does appear that the proposed reject/dilution water discharge route has changed. Mr. Bowers went on to say that instead of entering Valentine Ranch on the northeast side, subsequently flowing through the Valentine Ranch Fishing Pond on Sweetheart Creek and exiting Valentine Ranch on Park Road 37, the flow will only border Valentine Ranch along Park Road 37.

**RESPONSE 7:**

The proposed discharge route for the current permit application (05260-000) is different than the proposed discharge route for the previous permit application (05167-000). The previously proposed discharge route (for 05167-000) was to an unnamed tributary, to the west of the treatment plant, in the vicinity of Pecan Springs and Valentine Ranch Fish Pond, but this area is no longer part of the proposed discharge route. Approximately the first mile of the discharge route has changed. The currently proposed discharge route (for 05260-000) is to a different unnamed tributary, to the east of the treatment plant, which initially flows southeast from the discharge point, until crossing Park Road 37, at which point it flows generally east and then south to San Geronimo Creek.

**COMMENT 8:**

Robert N. Bowers, President, VRPOA Board of Directors, stated if his understanding of the change in the discharge is not correct and the route is as it was before, then he believes the receiving waters in Valentine Ranch are inaccurately described as "Intermittent" rather than "Intermittent with Perennial Pools" because the Fishing Pond always has water and aquatic life (fish, turtles, and ducks). Mr. Bower's concluded that if a reclassification is justified, more data should be included.



## RESPONSE 8:

The currently proposed discharge route does not flow through Valentine Ranch Pond. The current discharge route is noted to be as follows: to an unnamed tributary of San Geronimo Creek; thence to San Geronimo Creek; thence to Medina River Below Medina Diversion Lake in Segment 1903 of the San Antonio River Basin.

The discharge route depicted on the original landowner map (received 8/3/16), the revised landowner map (received 8/26/16), and the original USGS topographical maps (received 8/3/16) are all incorrect in that they depict the discharge as flowing in a ditch on the north side of Park Road 37 starting from approximately 0.38 mile downstream of the discharge point and continuing in the roadside ditch for approximately 0.42 mile before its confluence with a natural drainage/unnamed tributary. The correct discharge route is depicted on the revised USGS topo maps (received 9/15/16). Approximately 0.38 mile downstream of the proposed discharge point, the unnamed tributary flows under Park Road 37 and continues south of Park Road 37, following the natural drainage pattern.

A site visit for a previous application for this facility (05167-000) on 9/16/15 by the Standards Team confirmed the presence of pools along the discharge route within Valentine Ranch, including Valentine Ranch Fish Pond (presumably, the same pond referred to as "Fishing Pond" in the comment); however, the proposed discharge route has changed. The previously proposed discharge route (for 05167-000) was to an unnamed tributary, to the west of the treatment plant, in the vicinity of Pecan Springs and Valentine Ranch Fish Pond, but this area is no longer part of the proposed discharge route. Approximately the first mile of the discharge route has changed. The currently proposed discharge route (for 05260-000) is to a different unnamed tributary, to the east of the treatment plant, which initially flows southeast from the discharge point, until crossing Park Road 37, at which point it flows generally east and then south to San Geronimo Creek. The currently proposed discharge route does not confluence with the unnamed tributary flowing thru Valentine Ranch until downstream of Park Road 37; so, it will have no impact on the Valentine Ranch Fish Pond or other receiving waters west of the treatment plant and upstream of Park Road 37.

**COMMENT 9:**

Robert N. Bowers, President, VRPOA Board of Directors, questioned, if their understanding of the change is correct and the discharge will only flow along Valentine Ranch's border on Park Road 37, should authorization be obtained? Is it considered a county or state highway right-of-way (marked as "No" in the permit application)?

**RESPONSE 9:**

The discharge route depicted on the original landowner map (received 8/3/16), the revised landowner map (received 8/26/16), and the original USGS topo maps (received 8/3/16) are all partially incorrect in that they depict the discharge as flowing in a ditch on the north side of Park Road 37 starting from approximately 0.38 mile downstream of the discharge point and continuing in the roadside ditch for approximately 0.42 mile before its confluence with a natural drainage/unnamed tributary. The correct discharge route is depicted on the revised USGS topo maps (received 9/15/16). Approximately 0.38 mile downstream of the proposed discharge point, the unnamed tributary flows under Park Road 37 and continues south of Park Road 37, following the natural drainage pattern. The currently proposed discharge route does not flow along the southern border of Valentine Ranch nor along Park Road 37; instead, the discharge route crosses Park Road 37 and follows the natural path of the unnamed tributary as depicted on the USGS topographic map.

**COMMENT 10:**

Robert N. Bowers, President, VRPOA Board of Directors, asked what changes the draft permit incorporates compared to the current operation. He stated that the changes between the two permits is not addressed in the data provided. He also asked what is currently done under what permit?

**RESPONSE 10:**

The previous permit issued for this facility has expired, and the previously submitted applications for discharge permits for this facility have been withdrawn; there is not a current authorization issued by the TCEQ for the disposal or discharge of wastewater generated at this facility. The pending application, that the draft permit is based on, is for a new TPDES permit to authorize the discharge of water treatment

wastes at a daily average flow not to exceed 55,000 gallons per day via Outfall 001. Because this application is for a new permit and does not include the renewal or amendment of an existing authorization, no discussion is provided regarding the differences between the conditions and requirements of the proposed draft permit and the conditions and requirements of expired authorizations.

**COMMENT 11:**

Robert N. Bowers, President, VRPOA Board of Directors, asked why the proposed significantly higher discharge rate is using the “more efficient RO system” noted in the application; what is the need for, and availability of, a significant amount of dilution water; what studies exist to show the subsequent impact on the aquifer; and is this the best available technology.

**RESPONSE 11:**

The discharge rate in the draft permit is based on the requested discharge rate included in the application. No comparison of the requested discharge rate in the pending application was made to the discharge rates included in the previously submitted and subsequently withdrawn permit applications.

The dilution water (untreated well water) is blended with wastewater (water treatment wastes including reverse osmosis reject and filter backwash) generated by the facility to maintain a consistent quality of effluent for discharge.

TCEQ is not aware of the existence of any studies that show the potential subsequent impact this discharge will have on the aquifer. It is noted that the facility is located in the San Antonio Segment of the Edwards Aquifer contributing zone; the distance to the recharge zone is approximately 7.5 miles.

The proposed treatment system is not the best available technology for reverse-osmosis reject water.

**COMMENT 12:**

Robert N. Bowers, President, VRPOA Board of Directors, noted that based on page numbers many pages of the application appear to be missing from the copy of the application provided for review in the library and questioned whether the information on those pages is pertinent to their review.

**RESPONSE 12:**

A review of the application currently on file in the TCEQ Central Office (Austin) indicates that portions of the application that are not relevant to the pending permit action were not included in the submitted application. These omitted sections include, but are not limited to, the following:

Worksheet 1.0 (portions)	Worksheet 6.0 (entirety)
Worksheet 3.0 (entirety)	Worksheet 7.0 (portions)
Worksheet 3.1 (entirety)	Worksheet 8.0 (entirety)
Worksheet 3.2 (entirety)	Worksheet 9.0 (entirety)
Worksheet 3.3 (entirety)	Worksheet 10.0 (entirety)
Worksheet 5.0 (entirety)	Worksheet 11.0 (entirety)

It is not uncommon for non-relevant portions of the application to be omitted from the submitted application by the applicant. The draft permit was prepared based on the application submitted and the required information it contained. Staff has reviewed the contents of the central records file that contains the official submitted application and has confirmed that it included the information required for staff to perform a technical review of the application and prepare a draft permit that is protective of human health and the environment.

**COMMENT 13:**

Robert N. Bowers, President, VRPOA Board of Directors, expressed concern about the descriptions of the receiving waters and surrounding areas. The VRPOA stated that the area surrounding the receiving waters would be better described as “Natural Area” rather than “Common Setting” in the determination.

**RESPONSE 13:**

This information was provided by the applicant and is a subjective characterization of the aesthetics of the surrounding landscape. While it is reviewed and considered by the Standards Implementation Team as part of their assessment of the receiving waters, it is only one of multiple lines of evidence used in making a determination of each receiving water’s flow status and designated uses. In this case, the categorization of the area surrounding the receiving waters had no significant influence on the Standards reviewer’s assessment of the receiving waters.

**COMMENT 14:**

Robert N. Bowers, President, VRPOA Board of Directors, requested clarification be provided on what appears to be discrepancies in the discharge rate data described, the use of chemical or biological treatment, whether some of the pollutants noted appear to be above allowable limits, and whether the sample data is the same as the previous submittal or has additional data been done.

**RESPONSE 14:**

If issued, the draft permit will authorize the discharge of water treatment wastes at a daily average flow not to exceed 55,000 gallons per day via Outfall 001. Wastewater generated by the facility consists of water treatment wastes which include reverse osmosis reject, dilution water, and filter backwash. The wastewater is routed through a 2500-gallon blending tank where it is blended with untreated well water before being discharged via gravity through a six-inch effluent line at Outfall 001. No chemical or biological treatment is proposed. The relationship between the concentrations of specific pollutants in the effluent compared to the effluent limitations in the draft permit is discussed in detail in the response to Comment No. 1. There is insufficient information available to confirm the relationship between the data submitted with the application to the data submitted with previous applications.

**COMMENT 15:**

Randy Johnson, President, San Geronimo Valley Alliance, Inc. and Neel McNeel Scott, President, Gallagher Ranch Cattle Company, Inc. and Managing Partner, Gallagher Ranch Partners, Ltd., commented that the San Geronimo Valley Alliance asked the TCEQ to grant a public meeting.

**RESPONSE 15:**

Title 30, Texas Administrative Code Section 55.154(c) provides that a public meeting is to be held if: (1) the Executive Director determines that there is a substantial or significant degree of public interest in an application; (2) 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; or (3) when a public meeting is

otherwise required by law. Based on these factors, the Executive Director has determined not to hold a public meeting on this application.

### III. CHANGES MADE TO THE PERMIT IN RESPONSE TO COMMENT

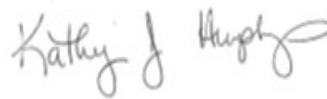
No changes to the proposed permit were made in response to comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Toby Baker  
Executive Director

Charmaine Backens, Deputy Director  
Environmental Law Division



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

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REPRESENTING THE EXECUTIVE DIRECTOR  
OF THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

### IV. CERTIFICATE OF SERVICE

I certify that on the 5<sup>th</sup> day of December, 2022 the Executive Director's Response to Public Comment for Permit No. WQ0005206000 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



Kathy Humphreys, Staff Attorney  
Environmental Law Division  
State Bar No. 24066672