

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Erin E. Chancellor, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 17, 2023

TO: All interested persons.

RE: Buck Creek WWTP, LLC
TPDES Permit No. WQ0016189001

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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. 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 Sherman Public Library, 421 North Travis Street, Sherman, Texas.

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

How to Request a Contested Case Hearing.

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

The request must include the following:

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

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

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

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

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

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

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

Deadline for Submitting Requests.

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

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

Processing of Requests.

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

How to Obtain Additional Information.

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

Sincerely,



Laurie Gharis
Chief Clerk

LG/erg

Enclosure

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
Buck Creek WWTP, LLC
TPDES Permit No. WQ0016189001**

The Executive Director has made the Response to Public Comment (RTC) for the application by Buck Creek WWTP, LLC for TPDES Permit No. WQ0016189001 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 (WQ0016189001) 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.

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 the Sherman Public Library, 421 North Travis Street, Sherman, Texas.

MAILING LIST
for
Buck Creek WWTP, LLC
TPDES Permit No. WQ0016189001

FOR THE APPLICANT:

Nagesh Kamarsu, Manager
Buck Creek WWTP, LLC
502 Bristol Drive
Allen, Texas 75013

Mark Ince, P.E., Project Engineer
Southwest Engineers, Inc.
307 Saint Lawrence Street
Gonzales, Texas 78629

INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

Ryan Vise, Deputy Director
Texas Commission on Environmental
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Public Education Program MC-108
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Aubrey Pawelka, Staff Attorney
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FOR PUBLIC INTEREST COUNSEL
via electronic mail:

Garrett T. Arthur, Attorney
Texas Commission on Environmental
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Public Interest Counsel MC-103
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FOR THE CHIEF CLERK
via electronic mail:

Laurie Gharis, Chief Clerk
Texas Commission on Environmental
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Office of Chief Clerk MC-105
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PILOT POINT TX 76258-3136

ARMSTRONG , DUSTIN TY
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220 COPPER BRANCH RD
WHITESBORO TX 76273-1116

CLARK , CLOYCE & MIKIE
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MCKINNEY TX 75071-1630

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GUNTER TX 75058-0856

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GUNTER TX 75058-3015

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GARNER , JODY K
387 SCOGGINS RD
TIOGA TX 76271-3301

GREEN , JAMES E
465 EMBERSON RANCH RD
PILOT POINT TX 76258-3153

HELLER , EVELYN S
271 SCOGGINS RD
TIOGA TX 76271-3300

LANE , KIMBERLY
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TEXAS HOUSE OF REPRESENTATIVES DISTRICT 62
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TIOGA TX 76271-3131

TCEQ PERMIT NO. WQ0016189001

**APPLICATION BY
BUCK CREEK WWTP, LLC
FOR NEW TPDES PERMIT NO.
WQ0016189001**

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**BEFORE THE
TEXAS COMMISSION
ON
ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on the Buck Creek WWTP, LLC's application and ED's preliminary decision for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016189001. 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 Deirdre Diamond, Jody K. Garner, and Shelby L. Garner, Kevin D. Lykins, Brittany Lykins, Dale E. Connor, Cherie Connor, Adriana Denison, James E. Green, Pamela Smothermon, Evelyn S. Heller, Carol Larue, Donna R. Armstrong, Dustin T. Armstrong, Kelly Robinson, Dale L. Rogers, and Kimberly Lane. 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

Buck Creek WWTP, LLC, 502 Bristol Drive, Allen, Texas 75013, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016189001 to authorize the discharge of

treated domestic wastewater at a daily average flow not to exceed 999,000 gallons per day. The proposed wastewater treatment facility will serve the proposed Buck Creek subdivision, in Grayson County, Texas.

The Buck Creek Wastewater Treatment Facility will be a Membrane Bioreactor (MBR) activated sludge process plant operated in the conventional mode. Treatment units in the Interim I phase will include a lift station, an equalization basin, two fine screens, an anoxic basin, an aeration basin, a membrane basin, a belt filter press, and two ultraviolet light (UV) disinfection systems. Treatment units in the Interim II phase will include a lift station, two equalization basins, two fine screens, two anoxic basins, two aeration basins, two membrane basins, a belt filter press, and four UV disinfection systems. Treatment units in the Final phase will include a lift station, three equalization basins, four fine screens, three anoxic basins, three aeration basins, three membrane basins, two belt filter presses, and eight UV disinfection systems.

The effluent limitations in the Interim I phase of the draft permit, based on a 30-day average, are 5 mg/l five-day carbonaceous biochemical oxygen demand (CBOD5), 5 mg/l total suspended solids (TSS), 2 mg/l ammonia-nitrogen (NH3-N), 1.0 mg/l total phosphorus, 126 colony forming units (CFU) or most probable number (MPN) of *Escherichia coli* (*E. coli*), and 4.0 mg/l minimum dissolved oxygen (DO). The permittee shall utilize an UV system for disinfection purposes, and shall not exceed a daily average *E. coli* 126 CFU or MPN per 100 ml.

The effluent limitations in the Interim II and Final phases of the draft permit, based on a 30-day average, are 5 mg/l CBOD5, 5 mg/l TSS, 2 mg/l NH3-N, 1.0 mg/l total phosphorus, 126 CFU or MPN of *E. coli*, and 5.0 mg/l minimum DO. The permittee shall utilize an UV system for disinfection purposes, and shall not exceed a daily average *E. coli* 126 CFU or MPN per 100 ml.

The treated effluent will be discharged to an unnamed tributary, thence to Buck Creek, thence to Ray Roberts Lake in Segment No. 0840 of the Trinity River Basin. The unclassified receiving water uses are minimal aquatic life use for the unnamed tributary, and high aquatic life use for Buck Creek. The designated uses for Segment No. 0840 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 July 11, 2022 and declared administratively complete on August 2, 2022. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published in English in the *Herald Democrat* on August 7, 2022. ED staff completed the technical review of the application on September 28, 2022 and prepared a draft permit. The Notice of Application and Preliminary Decision (NAPD) and public meeting was published in English in the *Herald Democrat* on November 25, 2022. A public meeting was held on January 5, 2023. The public comment period ended on January 5, 2023.

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. The application, draft permit, and Statement of Basis/Technical Summary and ED's Preliminary Decision are also available for viewing and copying at Sherman Public Library, 421 North Travis Street, Sherman, 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 4 Office directly at 325-698-9674. Citizen complaints may also be filed by sending an email to 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:

Deirdre Diamond, Jody K. Garner, and Shelby L. Garner requested to be added to the mailing list.

RESPONSE 1:

The ED acknowledges the requests, and these individuals have been added to the mailing list.

COMMENT 2:

Kevin D. Lykins, Dale E. Connor, Adriana Denison, James E. Green, Pamela Smothermon, Carol Larue, and Dustin T. Armstrong express a general opposition to the draft permit.

RESPONSE 2:

The ED acknowledges these concerns.

COMMENT 3:

Dale E. Connor comments that the proposed facility will contaminate the aquifer system that they rely on for their drinking water, livestock, and farming. Kelly Robinson comments that the runoff from Buck Creek runs into her property and will negatively impact her water well. James E. Green, Pamela Smothermon, Carol Larue, and James E. Green comment that the proposed facility will impact their water well. Kimberly Lane comments that their well is a primary source for water from underground aquifers, wastewater could seep into the ground from the proposed facility and contaminate the aquifers which would then contaminate their only drinking water source.

RESPONSE 3:

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 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.”

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:

Dale E. Connor comments that the creek Buck Creek WWTP, LLC plans to build near is Buck Creek, which is a primary feeder for Lake Ray Roberts, and toxic contaminants will be discharged into the lake. Evelyn S. Heller comments that the wastewater will contaminate Lake Ray Roberts. Pamela Smothermon comments that the proposed facility will contribute to environmental pollutants in a heavily fished and hunted area. Jody K. Garner and Shelby L. Garner comment that the proposed facility will contaminate natural water resources.

RESPONSE 4:

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 to an unnamed tributary, thence to Buck Creek, thence to Ray Roberts Lake in Segment No. 0840 of the Trinity River Basin. The unclassified receiving water uses are minimal aquatic life use for the unnamed tributary, and high aquatic life use for Buck Creek. The designated uses for Segment No. 0840 are primary contact recreation, public water supply, and high aquatic life use.

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

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 5:

Kimberly Lane comments that the wastewater will cause additional nutrients such as nitrogen and phosphorus in Lake Ray Roberts.

RESPONSE 5:

Phosphorus is a key nutrient necessary for algae growth and is often in limited supply in freshwater systems. By restricting the amount of phosphorus in the treated wastewater, the likelihood of the discharge stimulating excessive growth of algae or other aquatic vegetation is reduced significantly. To ensure the effluent from the Buck Creek Wastewater Treatment Facility will not cause an excessive accumulation of algae, the Executive Director performed a nutrient screening which indicated that because of the high clarity of the water column, lack of shade along the banks, and minimal dilution, a total phosphorus limit is needed in the draft permit. The Executive Director included a total phosphorus limit of 1 mg/l to preclude the excessive accumulation of algae. Additionally, the Executive Director added an ammonia nitrogen limit of 2 mg/l to the draft permit which will also help preclude the excessive accumulation of algae.

COMMENT 6:

Dale Connor comments that he has reviewed an environmental impact study that was done in 2017 which addressed airborne contaminants from WWTPs, the study addresses several illnesses and negative side effects and symptoms for people that live near the facility. Dale Connor requests that the proposed facility be covered to address as many airborne contaminants as possible.

RESPONSE 6:

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 Buck Creek WWTP, LLC operates and maintains the facility according to TCEQ rules and the requirements in the draft permit.

COMMENT 7:

Kelly Robinson comments that the run-off from the plant will cause serious health affects to her family. Jody K. Garner and Shelby L. Garner comment that recent studies have consistently shown that effluents from wastewater treatment plants are major contributors to microbes including antibiotic resistant bacteria (ARB), antimicrobial-resistant organisms (ARMs), and antibiotic resistance genes (ARGs), all of

which will negatively impact human health because of pharmaceuticals in the wastewater stream. Jody K. Garner and Shelby L. Garner comment on the potential impact on people's lives includes development of resistance to antibiotics leading to longer treatment times for infections or ineffective treatment of infections. Jody K. Garner and Shelby L. Garner comment that this will increase mortality or death rates among those who live near the wastewater treatment system. Jody K. Garner and Shelby L. Garner comment that the reuse of effluent from wastewater treatment plants for irrigation or into neighboring bodies of water compounds harmful effects to the environment and people living around it. Jody K. Garner and Shelby L. Garner comment that it is the responsibility of state agencies to work toward reducing health disparities to improve the overall health of rural Americans.

RESPONSE 7:

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. 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 Buck Creek WWTP, 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.

Neither the TCEQ nor the EPA has promulgated rules or criteria limiting emerging contaminants in wastewater. The EPA is investigating emerging contaminants and has stated that scientists have not found evidence of adverse human health effects from emerging contaminants in the environment. Removal of some emerging contaminants has been documented during municipal wastewater treatment; however, standard removal efficiencies have not been established. In addition, there are currently no federal or state effluent limits for emerging contaminants. So, while the EPA and other agencies continue to study the presence of PPCPs, there is currently no clear regulatory regime available to address the treatment of PPCPs in domestic wastewater.

Accordingly, neither the TCEQ nor the EPA has rules on the treatment of contaminants such as pharmaceuticals in domestic wastewater.

COMMENT 8:

Kelly Robinson comments on the impact of the proposed discharge to livestock health, and that it might make the land uninhabitable for livestock.

RESPONSE 8:

The proposed permit was drafted in accordance with 30 TAC § 307.5 and the

TCEQ's *Procedures for the Implementation of the Texas Surface Water Quality Standards* (IPs; June 2010). The Texas Surface Water Quality Standards (TSWQS) provide that surface waters cannot be toxic to aquatic or terrestrial organisms. While the TSWQS and the IPs do not specifically designate criteria for the protection of cattle or livestock, they do designate criteria for the protection of aquatic life that should preclude negative impacts to the health and performance of cattle or wildlife.

The Executive Director has determined that the proposed draft permit for the facility meets the requirements of the TSWQS, which are established to protect human health, terrestrial, and aquatic life. Aquatic organisms are more sensitive to water quality components than terrestrial organisms.

COMMENT 9:

Kimberly Lane comments that the proposed discharge will have a detrimental effect on habitats and wildlife including deer and birds. Dale E. Connor, Jody K. Garner, and Shelby L. Garner comment that the proposed facility will drive out local wildlife. Dustin T. Armstrong comments that this land should be used to benefit the environment and wildlife, and this facility will ruin the area and the quality of life for wildlife.

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 to an unnamed tributary, thence to Buck Creek, thence to Ray Roberts Lake in Segment No. 0840 of the Trinity

River Basin. The unclassified receiving water uses are minimal aquatic life use for the unnamed tributary, and high aquatic life use for Buck Creek. The designated uses for Segment No. 0840 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. Notice of this application was provided to TPWD.

COMMENT 10:

Dale E. Connor comments that the odor from the proposed facility will negatively impact their quality of life. Cherie Connor comments that the proposed facility is too close to her home, and she does not wish to smell this every day, and potentially make her sick. Jody K. Garner and Shelby L. Garner comment on odor.

RESPONSE 10:

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 Buck Creek WWTP, 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, Buck Creek WWTP, 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 Buck Creek WWTP, LLC is reported to be in violation of any applicable state or federal rules, the TCEQ Region 4 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, Buck Creek WWTP, 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 4 Office in Fort Worth at 817-588-5800. Citizen complaints may also be filed on-line at <https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html>.

COMMENT 11:

Dustin T. Armstrong comments that the proposed permit will infringe on future tax dollars for Grayson County, by prohibiting usage by the general public of US Corps of Engineer land along Buck Creek. Dustin T. Armstrong further comments that homes

could be built along the US Corps of Engineers land, driving higher taxes for residents in the area.

RESPONSE 11:

The TCEQ does not have the authority to address property tax 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 tax.

COMMENT 12:

Jody K. Garner and Shelby L. Garner comment that the proposed facility will destroy much of the terrain.

RESPONSE 12:

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

COMMENT 13:

Kimberly Lane comments that the proposed facility would disrupt the ability to continue agricultural activities.

RESPONSE 13:

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 Buck Creek WWTP, 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.

The TCEQ does not have the authority to address land use as part of the

wastewater permitting process. TWC Chapter 26 and applicable wastewater regulations do not authorize the TCEQ to consider issues such as land use.

COMMENT 14:

Dale E. Connor comments that surely a more isolated location can be found. Evelyn S. Heller asks why a site cannot be chosen where there are no homes currently. Cherie Connor asks TCEQ not to consider putting the proposed facility near so many homes. Cherie Connor suggests putting the proposed facility near the homes that the facility will benefit. Jody K. Garner and Shelby L. Garner comment that new domestic wastewater plants should be built in areas that are already zoned for this kind of activity where they would not affect rural residents. James E. Green expresses general opposition to the proposed facility's location.

Brittany Lykins comments on the implications for homeowners and potential buyers in this area. People who have purchased property here will be negatively impacted. If this facility was present when they had purchased the land, it would have impacted their decision to purchase the land. She comments that the families around the proposed facility site have owned this land for generations and the agricultural aspect of this community is what had made it desirable. Ms. Lykins would like to request an alternative location for the proposed facility. She suggests a location that impacts fewer families in the community and in a different area where the discharge point is fully on the property that is fully owned by the Applicant.

RESPONSE 14:

The TCEQ does not have jurisdiction over zoning. TCEQ does not have the authority to mandate a different wastewater treatment plant location or different discharge location or 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.” The proposed location of the WWTP complies with this requirement.

If Buck Creek WWTP, 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 15:

Dale E. Connor comments that the proposed facility will destroy his property values. Evelyn S. Heller comments that the proposed facility will bring her property values down. Jody K. Garner and Shelby L. Garner comment on the proposed facilities impacts on property values, that it will contribute to the marginalization of rural residents in Texas.

RESPONSE 15:

The TCEQ does not have the authority to address property values 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.

COMMENT 16:

Dale E. Connor comments that the facility will impact the local environment by increasing the fly and mosquito population.

RERSPONSE 16:

The plans and specifications of the plant design must be in compliance with 30 TAC Chapter 217, relating to “Design Criteria for Domestic Wastewater Systems.” The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Consequently, a health

hazard as a result of pests should not occur.

The permit does not limit the ability of an individual to seek legal remedies against Buck Creek WWTP, 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 17:

Dustin T. Armstrong and Dale E. Connor comment that the proposed facility will impact quality of life for residents. Jody K. Garner and Shelby L. Garner comment that they enjoy the unspoiled terrain, variety of wildlife, trees, fresh air, and other natural resources surrounding their property, and the proposed facility will impact their lifestyle.

RESPONSE 17:

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

The permit does not limit the ability of an individual to seek legal remedies against Buck Creek WWTP, 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 18:

Kevin D. Lykins is concerned that he and his neighbor did not receive a letter regarding the proposed facility, he found out about it through a neighbor who had received a letter. Dale E. Connor states that he received a notice letter but many of his neighbors who live near the proposed facility did not.

RESPONSE 18:

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

As part of the application process, the TCEQ's notice rules for a new permit or major amendment require mailed notice of the NORI and NAPD to landowners named on the application map and persons on the mailing list maintained by the Office of the Chief Clerk. The applicant is required to submit a landowner map as part of the application materials. The landowner map must include the property boundaries of landowners surrounding the applicant's property and the property boundaries of all landowners surrounding the discharge point and on both sides of the discharge route for one full stream mile downstream of the discharge point. The mailing list was prepared based on the list of the landowners provided in the landowner map by Buck Creek WWTP, LLC. Any persons who submit a comment or contested case hearing request prior to the end of the public comment period are added to the mailing list for that permit action.

COMMENT 19:

Dale Connor comments that it sounds like TCEQ's decision regarding this facility has already been made.

RESPONSE 19:

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. Once the ED files her response to all timely received public comments, the public will have 30 days to file a request for reconsideration or a request for a contested case hearing. If a timely hearing request is received, the final decision on this permit will be made by the TCEQ Commissioners.

COMMENT 20:

Kevin D. Lykins expresses concern about the unforeseen consequences of the proposed facility. He wants to know what the worst-case scenario with this facility would be regarding if something went wrong.

RESPONSE 20:

If the permit is issued, the plans and specifications of the plant design must be in compliance with 30 TAC Chapter 217, relating to "Design Criteria for Domestic Wastewater Systems." The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. There should not be any consequences if the facility is operated and maintained as required by the proposed permit and regulations.

Per Other Requirements No. 1 of the draft permit, the permittee shall employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration according to the requirements of 30 TAC Chapter 30, Occupational Licenses and

Registrations, and in particular 30 TAC Chapter 30, Subchapter J, Wastewater Operators and Operations Companies.

This Category C facility must be operated by a chief operator or an operator holding a Class C license or higher. The facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher. The licensed chief operator or operator holding the required level of license or higher must be available by telephone or pager seven days 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.

The permit does not limit the ability of an individual to seek legal remedies against Buck Creek WWTP, 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.

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

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