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Emily Lindley, *Commissioner*
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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 18, 2022

TO: All interested persons.

RE: Gilden Blair Blackburn
TDPES Permit No. WQ0016104001

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 Weatherford City Hall, 303 Palo Pinto Street, Weatherford, 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
Gilden Blair Blackburn
TPDES Permit No. WQ0016104001

The Executive Director has made the Response to Public Comment (RTC) for the application by Gilden Blair Blackburn for TPDES Permit No. WQ0016104001 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 (WQ0016104001) 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, 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 Weatherford City Hall, 303 Palo Pinto Street, Weatherford, Texas

MAILING LIST
for
Gilden Blair Blackburn
TPDES Permit No. WQ0016104001

FOR THE APPLICANT:

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FOR THE EXECUTIVE DIRECTOR
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TPDES Permit No. WQ0016104001

Application from Gilden Blair § Before the Texas Commission
Blackburn for new Texas Pollutant §
Discharge Elimination System Permit §
No. WQ0016104001 § on Environmental Quality

Executive Director’s Response to Public Comment

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ) files this Response to Public Comment on Gilden Blair Blackburn’s application for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016104001 and the ED’s preliminary decision. As required by title 30, section 55.156 of the Texas Administrative Code (30 Tex. Admin. Code § 55.156), before a permit is issued, the ED prepares a response to all timely, relevant, and material, or significant comments. The Office of the Chief Clerk received a timely comment from Bartlett Ranch Brock LLC and FM 1189 LLC, who referred to themselves as the Bartlett Ranch Owners. This response addresses all such timely public comments received, whether or not withdrawn. For more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about TCEQ can be found on TCEQ’s website at <http://www.tceq.texas.gov>.

I. Background

(A) Facility Description

Mr. Blackburn has applied to TCEQ for a new permit that would authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 20,000 gallons per day. The Brock North Wastewater Treatment Facility will be an activated sludge process plant operated in the extended aeration mode. Treatment units will include one bar screen, one aeration basin, one final clarifier, one sludge digester with a sludge holding chamber, and one chlorine contact chamber. The treatment facility has not been constructed and will serve the Brock North duplexes.

Effluent limits in the draft permit, based on a thirty-day average, are 20 milligrams per liter (mg/L) five-day biochemical oxygen demand (BOD₅), 20 mg/L total suspended solids, 126 colony-forming units or most probable number of *E. coli* per 100 milliliters, and 2 mg/L minimum dissolved oxygen. The pH must be in the range of 6.0 to 9.0 standard units, and the effluent shall contain a total chlorine residual in the range of 1.0 to 4.0 mg/L after a detention time of at least twenty minutes (based on peak flow).

The wastewater treatment facility will be located approximately 1,273 feet northwest of the intersection of Fairview Road and Interstate Highway 20, in Parker County, Texas 76087. The treated effluent will be discharged to an unnamed tributary, thence to an unnamed tributary of Grindstone Creek, thence to Grindstone Creek, thence to Brazos River Below Possum Kingdom Lake in Segment No. 1206 of the Brazos River Basin. The unclassified receiving water uses are limited aquatic life use for the

unnamed tributary and unnamed tributary of Grindstone Creek and high aquatic life use for Grindstone Creek. The designated uses for Segment No. 1206 are primary contact recreation and high aquatic life use.

(B) Procedural Background

TCEQ received the application on January 31, 2022 and declared it administratively complete on April 5, 2022. The Notice of Receipt of Application and Intent to Obtain Water Quality Permit (NORI) was published in English on April 12, 2022 in the *Weatherford Democrat* and in Spanish on April 26, 2022 in *La Prensa Comunidad*. ED staff completed the technical review of the application on June 9, 2022 and prepared a draft permit. The Notice of Application and Preliminary Decision for TPDES Permit for Municipal Wastewater was published in English on July 9, 2022 in the *Weatherford Democrat* and in Spanish on July 12, 2022 in *La Prensa Comunidad*. The public comment period ended on August 11, 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: <http://www.statutes.capitol.texas.gov>
- TCEQ website: <http://www.tceq.texas.gov>
- Federal rules in title 40 of the Code of Federal Regulations: <http://www.ecfr.gov>
- Federal environmental laws: <http://www.epa.gov/laws-regulations>

TCEQ records for this application are available for viewing and copying at TCEQ’s main office in Austin, 12100 Park 35 Circle, Building F, First Floor (Office of the Chief Clerk), until 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 <https://www14.tceq.texas.gov/epic/eCID/>. The application, draft permit, and Statement of Basis/Technical Summary and ED’s Preliminary Decision are also available for viewing and copying at Weatherford City Hall, 303 Palo Pinto Street, Weatherford, 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 1-817-588-5800. Citizen complaints may also be filed by sending an email to complaint@tceq.texas.gov or online at the TCEQ website (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

The Bartlett Ranch Owners commented that they did not receive the NORI despite their properties being located less than one-half mile from the proposed wastewater treatment facility.

Response 1

TCEQ's notice rules for a new permit require that the NORI be mailed to landowners named on the application map and persons on the mailing list maintained by the Office of the Chief Clerk.¹ Under section 1 of Domestic Administrative Report 1.1 in the wastewater permit application, the applicant is required to submit a landowner map as part of the application materials. The landowner map must include the properties that share a boundary with the applicant's property and that border the discharge route for one full stream mile downstream from the discharge point. The applicant must also provide a list that identifies the properties' owners. The landowners map and list provided by Mr. Blackburn met those requirements, and the Office of the Chief Clerk used the list when mailing out the NORI. The Bartlett Ranch Owners are not on the adjacent landowner list, so TCEQ was not required to mail them the NORI as adjacent landowners.

Comment 2

The Bartlett Ranch Owners stated that Grindstone Creek runs across their properties, and they expressed concern regarding their ability to continue enjoying the creek.

Response 2

Effluent discharged in Texas into water in the state is required to meet the Texas Surface Water Quality Standards (30 Tex. Admin. Code ch. 307). According to section 307.6(b)(3) of the Standards, "[w]ater in the state must be maintained to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water or any combination of the three." As part of the permit application review process, TCEQ determines the uses of the receiving waters, including any recreational uses, and establishes effluent limits that are protective of those uses. The designated recreational use for Segment No. 1206 is primary contact recreation, which consists of activities that involve a significant risk of ingesting water, such as wading and swimming.² Under section 307.4(j)(3) of the Standards, this is also the presumed recreational use for the other water bodies along the discharge route, including Grindstone Creek. The effluent limits and monitoring requirements in the draft permit were designed to protect and maintain this recreational use. ED staff who conducted the technical review for this application took Mr. Blackburn's proposed flow of 20,000 gallons per day into consideration when screening the discharges for compliance with the Standards. This

¹ 30 TEX. ADMIN. CODE §§ 39.413, 39.418, 39.419, 39.551 (West 2022).

² *Id.* § 307.3(47).

included the antidegradation review of the receiving waters, which was performed in accordance with the Standards and TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (IPs). 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 Grindstone Creek, which has been identified as having high aquatic life use. Existing uses will be maintained and protected.

Based on the results of the technical review process, treated effluent discharged in accordance with the requirements of the draft permit will protect human health. This includes the effluent limits for *E. coli* that will require Mr. Blackburn to disinfect the treated wastewater in a manner that will maintain the receiving waters' primary contact recreation use. The ED also notes that conventional domestic wastewater does not typically contain toxic compounds in measurable quantities that might result in toxic effects in the receiving water bodies unless there are significant industrial users contributing to the waste stream. This wastewater treatment facility will receive wastewater from residential users and will not be accepting industrial wastewater.

Comment 3

The Bartlett Ranch Owners expressed concern regarding their ability to continue utilizing Grindstone Creek for agricultural and livestock purposes.

Response 3

The draft permit was composed in accordance with the Standards for the protection of the receiving waters' existing uses. The Standards assume that all waters have basic uses, including agricultural water supply.³ Another protected use is the use of the receiving waters by livestock. For example, under section 307.6(b)(4) of the Standards, discharged effluent cannot make water in the state toxic to livestock. While the Standards do not specifically designate criteria for the protection of agricultural water supplies or livestock, they do designate criteria for the protection of aquatic life and human health. As discussed in section I(A), Grindstone Creek has high aquatic life use, and the unnamed tributary and unnamed tributary for Grindstone Creek have limited aquatic life use. All these water bodies are also presumed to have primary contact recreation. The effluent limits in the draft permit, including the daily average bacteria limit of 126 colony-forming units or most probable number of *E. coli* per 100 milliliters, have been calculated to maintain and protect these existing instream uses. The limits and secondary treatment levels that apply to the proposed discharge are expected to provide water quality that is safe for aquatic life and human health, the latter of which was discussed in Response 2. If the draft permit will protect aquatic life and human health, it will also protect livestock that drink water or agricultural water supplies that are drawn from the discharge route. Therefore, TCEQ does not expect the treated effluent to adversely affect any agricultural or livestock uses of Grindstone Creek.

³ *Id.* § 307.7(b)(5).

Comment 4

The Bartlett Ranch Owners expressed concern that the draft permit's nutrient effluent limits will not prevent nuisance conditions.

Response 4

Phosphorus is a key nutrient in the regulation of algae. In freshwater systems, phosphorus is usually the nutrient in lowest supply, so algal growth tends to be sensitive to its availability. When a stream is already sensitive to algal growth from other environmental factors, maintaining low phosphorus in treated wastewater reduces the likelihood of a wastewater discharge stimulating an excessive growth of algae or other aquatic vegetation. To ensure the effluent from the proposed wastewater treatment facility will not cause an excessive accumulation of algae, ED staff from TCEQ's Standards Implementation Team considered site-specific factors that would indicate whether excessive algal growth was a potential issue and whether a more in-depth screening procedure was warranted. These factors included the relatively small size of the proposed discharge, whether other discharge permits in the area have total phosphorus limits, and the receiving waters' geology, soil, substrate, flow status, and sensitivity to nutrients. ED staff ultimately determined a total phosphorus limit was not needed in the permit to prevent excessive algal growth.

Comment 5

The Bartlett Ranch Owners expressed concern that all the pertinent stream conditions were not considered when ED staff developed the effluent limits, and the effluent will significantly degrade water quality.

Response 5

The Standards require that discharges not degrade receiving waters' quality and not cause situations that impair existing, attainable, or designated uses. Under section 307.5 of the Standards, ED staff must conduct an antidegradation review for new discharge permit applications to ensure degradation and impairment will not occur under the draft permit. The review is conducted as prescribed by the IPs and begins with determining the receiving waters' characteristics. For this application, ED staff from the Standards Implementation Team used resources such as aerial photography and topographic maps to determine the streams' flow regimes and whether any impoundments exist along the discharge route. Based on the gathered information, staff determined that the unnamed tributary and unnamed tributary of Grindstone Creek have characteristics that support limited aquatic life use and require 3 mg/L minimum dissolved oxygen, and Grindstone Creek is a perennial stream that supports high aquatic life use and requires 5 mg/L minimum dissolved oxygen. As discussed in Response 2, the water bodies are also presumed to support primary contact recreation.

Once ED staff have determined the receiving waters' characteristics and uses, they can apply the necessary antidegradation review requirements to the water bodies. Under section 307.5 of the Standards, the review has three tiers, two of which apply here—Tier 1 and Tier 2. All water bodies are subject to a Tier 1 review, in which ED staff determine if existing water quality uses will be impaired by a permit action. For

this application, staff determined that the water bodies' uses will not be impaired if the draft permit is issued. Numerical and narrative criteria to protect existing uses will be maintained. Water bodies that have an intermediate, high, or exceptional aquatic life use are subject to a Tier 2 review, in which ED staff determine if water quality will be degraded, i.e., lowered by more than a de minimis extent. Here, staff concluded that no significant degradation of water quality is expected in Grindstone Creek, which has high aquatic life use. Existing uses will be maintained and protected. In other words, the draft permit contains sufficient protections to ensure water quality will not be degraded along the discharge route, provided Mr. Blackburn operates and maintains the proposed wastewater treatment facility according to TCEQ rules and the draft permit's requirements. These determinations are preliminary and may be modified if new information is received.

One important part of the technical review process that contributed to ED staff's conclusions regarding impairment and degradation was the dissolved oxygen modeling analysis, which was performed to ensure the draft permit's effluent limits and other requirements will support the applicable dissolved oxygen criteria for the receiving waters and, therefore, protect the receiving waters' aquatic life uses. For this proposed discharge, ED staff from the Water Quality Assessment Team performed the dissolved oxygen modeling analysis using an uncalibrated QUAL-TX model. Staff took the receiving waters' specific characteristics into account in the model, such as kinetic rates and water body dimensions. Furthermore, to ensure the modeling results and corresponding effluent limit recommendations were conservative and protective under all conditions, the receiving waters were evaluated under what are expected to be the most unfavorable of environmental conditions, specifically hot and dry summertime conditions. Even under these conservative model assumptions, instream dissolved oxygen levels were predicted to be maintained above the criterion established for Grindstone Creek with the effluent limits of 20 mg/L BOD₅ and 2 mg/L minimum dissolved oxygen in the draft permit.

Comment 6

The Bartlett Ranch Owners expressed concern that the effluent will negatively impact aquatic life and terrestrial wildlife.

Response 6

The draft permit was composed in accordance with the Standards and IPs. Under section 307.6(b)(4) of the Standards, discharged effluent cannot make water in the state toxic to aquatic or terrestrial organisms. While the Standards and IPs do not specifically designate criteria for the protection of terrestrial wildlife, they do designate criteria for the protection of aquatic life and human health. As discussed above, the unnamed tributary and unnamed tributary of Grindstone Creek have limited aquatic life use, and Grindstone Creek has high aquatic life use. The water bodies also are presumed to have primary contact recreation. The effluent limits in the draft permit have been calculated to maintain and protect these existing instream uses. For example, based on the determined aquatic life use, unclassified segments are assigned a numeric dissolved oxygen criterion that must be met to support the aquatic life use. TCEQ's Water Quality Assessment Team then performs a dissolved oxygen modeling analysis to ensure the permit's effluent limits and other requirements will support the

dissolved oxygen criterion and, therefore, protect the aquatic life use. As discussed in Response 5, a dissolved oxygen modeling analysis was performed for the three unclassified water bodies along the discharge route, and the effluent limits in the draft permit reflect the treatment levels necessary to comply with the water bodies' applicable dissolved oxygen criteria. The limits and secondary treatment levels that apply to the proposed discharge are expected to provide water quality that is safe for aquatic wildlife and human health. If the draft permit will protect aquatic life and human health, it should also protect terrestrial wildlife that drink water or consume aquatic organisms along the discharge route. Therefore, TCEQ does not expect the treated effluent to adversely affect aquatic life or terrestrial wildlife.

Comment 7

The Bartlett Ranch Owners stated it is important to ensure the effluent limits will adequately protect local groundwater resources.

Response 7

According to section 26.401(b) of the Texas Water Code, the Texas Legislature has determined that "it is the goal of groundwater policy in this state that the existing quality of groundwater not be degraded. This goal of nondegradation does not mean zero-contaminant discharge." In subsection (c), the legislature further stated 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." TCEQ has been tasked with the responsibility of regulating discharges of pollutants into water in the state. The agency's Water Quality Division, which is responsible for reviewing discharge permit applications and drafting permits that will be protective of human health and the environment, has determined that if surface water quality will be protected under a draft permit, groundwater quality in the vicinity will not be impacted by the discharge.

When someone files a permit application for a wastewater discharge to surface water, the technical review is conducted by the Water Quality Division's Standards Implementation Team reviewers, Water Quality Assessment Team surface water modelers, and Municipal Permits Team permit writers. Following their review of Mr. Blackburn's application, Water Quality Division staff drafted a permit with effluent limits that will meet the requirements of the Standards by maintaining the receiving waters' existing uses. This ensures the discharge will be protective of aquatic life, human health, and the environment. Because the effluent limits in the draft permit will maintain the existing uses of the surface waters along the discharge route and preclude degradation, they will also protect groundwater.

Comment 8

The Bartlett Ranch Owners expressed concern that the receiving waters will contain dangerous constituents given the permit parameters provided in the application.

Response 8

As has been discussed above, ED staff engaged in a technical review of Mr. Blackburn's application to ensure the draft permit has the effluent limits it needs to be protective of human health and the environment for a domestic wastewater discharge. The *E. coli* and total residual chlorine limits will help ensure the effluent has been properly disinfected. The TSS limits will help control turbidity in the receiving waters. As discussed in Response 5, the BOD₅ and dissolved oxygen limits will help ensure the effluent contains a sufficient amount of dissolved oxygen to support aquatic life in the receiving waters. The pH limit will help maintain the receiving waters' natural pH levels. As discussed in Response 4, ED staff determined that nutrients limits are not required at this time. Essentially, the draft permit contains all the effluent limits that ED staff deemed necessary based on their technical review of this application. The ED notes that TCEQ reevaluates the need for new or additional effluent limits whenever a permittee submits a renewal application, as well as a major amendment application if the requested amendment relates to the permit's effluent limits.

Comment 9

The Bartlett Ranch Owners expressed concern that the application violates TCEQ's regionalization policy because Mr. Blackburn is a co-applicant for another new TPDES permit for a wastewater treatment facility that would be located less than one-half mile from this application's proposed treatment facility.

Response 9

The TCEQ's regionalization policy comes from section 26.081 of the Texas Water Code, which implements "the state policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state." The idea of encouraging and promoting regional systems is also found in section 26.003 of the Texas Water Code. Section 26.0282 of the Texas Water Code further provides that, "[i]n considering the issuance, amendment, or renewal of a permit to discharge waste, the commission may deny or alter the terms and conditions of the proposed permit, amendment, or renewal based on consideration of need, including the expected volume and quality of the influent and the availability of existing or proposed areawide or regional waste collection, treatment, and disposal systems not designated as such by commission order This section is expressly directed to the control and treatment of conventional pollutants normally found in domestic wastewater."

To exercise this policy, section 1.B in Domestic Technical Report 1.1 of TCEQ's wastewater permit application requires the applicant for a new permit to provide information concerning other wastewater treatment facilities that exist near the applicant's proposed treatment facility site. The applicant is required to state whether any portion of the applicant's proposed service area is located in an incorporated city, whether its proposed service area is located within another utility's certificate of convenience and necessity area, and whether there is a facility or any sewer collection lines located within the three-mile area surrounding the proposed facility site. The

application does not require the applicant to provide information regarding facilities that do not currently exist.

In his application, Mr. Blackburn stated that no portion of his service area will be in a city or overlap the certificate of convenience and necessity area of another utility. He did state there is another wastewater treatment facility located within three miles of the proposed treatment facility site, which he identified in exhibit XII of the application as belonging to Oak Creek RV Park. By a letter dated August 25, 2021, Mr. Blackburn contacted Oak Creek RV Park and asked if it wanted to provide wastewater treatment service to a proposed development. In its response dated August 27, 2021, Oak Creek RV Park indicated it did not wish to provide service. Having submitted all the required information, Mr. Blackburn complied with the regionalization requirements in the application.

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
Executive Director

Charmaine Backens, Deputy Director
Environmental Law Division

By: 

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