

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*

March 3, 2023

TO: All interested persons.

RE: Walton Texas, LP  
TPDES Permit No. WQ0015918001

### **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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 Comments (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 Martindale City Hall, 409 Main Street, Martindale, 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 COMMENTS**  
**for**  
**Walton Texas, LP**  
**TPDES Permit No. WQ0015918001**

The Executive Director has made the Response to Public Comments (RTC) for the application by Walton Texas, LP for TPDES Permit No. WQ0015918001 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 (WQ0015918001) 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 Martindale City Hall, 409 Main Street, Martindale, Texas.

MAILING LIST  
for  
Walton Texas, LP  
TPDES Permit No. WQ0015918001

FOR THE APPLICANT:

David L. Peter, Vice President  
Walton Global Holdings  
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David Fusilier, Senior Project Engineer  
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INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR  
via electronic mail:

Ryan Vise, Deputy Director  
Texas Commission on Environmental  
Quality  
External Relations Division  
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Harrison Cole Malley, 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  
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Quality  
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SEGUIN TX 78155-5819

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THE CITY OF MARTINDALE  
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MARTINDALE TX 78655-0365

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PO BOX 151675  
AUSTIN TX 78715-1675

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HILL COUNTRY ALLIANCE  
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COLLEGE STATION TX 77845-5139

BOOKIDIS , PAULA  
9445 HOPELAND DR  
AUSTIN TX 78749-5201

BROOKS , PAM  
4409 MATHER  
KYLE TX 78640-9292

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12876 HIGHWAY 142  
MARTINDALE TX 78655-4128

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APT H  
3809 MENCHACA RD  
AUSTIN TX 78704-6630

DAVIS , KELLY DEANNE  
SAVE OUR SPRINGS ALLIANCE  
STE D401  
4701 W GATE BLVD  
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PO BOX 215  
MARTINDALE TX 78655-0215

DEVINEY , ROBERT  
CITY OF MARTINDALE  
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MARTINDALE TX 78655-0365

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107 AUSTIN ST  
MARTINDALE TX 78655-5800

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PO BOX 538  
MARTINDALE TX 78655-0538

FLORES , ARLIS  
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MARTINDALE TX 78655

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206 MAIN ST  
MARTINDALE TX 78655-3834

FONVILLE , STEVEN C  
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SHAVANO PARK TX 78231-1516

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SAN ANTONIO TX 78212-2616

GLAVY , MR NATHAN M  
GREATER EDWARDS AQUIFER ALLIANCE  
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GOYNES , TOM  
TEXAS RIVERS PROTECTION ASSOCIATION  
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AUSTIN TX 78704-4519

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SAN MARCOS TX 78666-4766

HOHN , JOHN  
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MARTINDALE TX 78655-2574

JENNINGS , BILL  
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MARTINDALE TX 78655-3010

JENNINGS , JOHN WILLIAM  
3563 SE RIVER RD  
MARTINDALE TX 78655-3010

JENNINGS , MR STAR  
1502 DRAKE AVE  
AUSTIN TX 78704-2441

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MARTINDALE TX 78655-3819

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MARTINDALE TX 78655

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SAN MARCOS TX 78666-2001

LASSER , JON  
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MARTINDALE TX 78655-3910

LOYA , BLANCA  
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SAN MARCOS TX 78666-7911

MCCLABB , MIKE  
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MARTINDALE TX 78655-3822

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OHLENDORF , MICHAEL W  
1845 FM 1977  
MARTINDALE TX 78655-3974

OHLENDORF , MICHAEL & NANCY  
1845 FM 1977  
MARTINDALE TX 78655-3974

OHLENDORF , NANCY  
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MARTINDALE TX 78655-3974

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BEDFORD TX 76021-7969

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LOCKHART TX 78644-4505

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TEXAS RIVERS PROTECTION ASSOCIATION  
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MARTINDALE TX 78655-3008

ROCKEYMOORE , REBECCA TAYLOR  
SALUD MASSAGE & HEALING ARTS  
308 SALTILLO ST  
SAN MARCOS TX 78666-7828

ROSE , VICTORIA  
SAVE OUR SPRINGS ALLIANCE  
STE D401  
4701 W GATE BLVD  
AUSTIN TX 78745-1479

STROUD , MRS TAMARA  
LOT 602  
50 SQUIRREL RUN  
SAN MARCOS TX 78666-8132

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125 AUGUSTA DR  
WOODCREEK TX 78676-2515

TILLEY , RAY & RAY DON  
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SAVE BARTON CREEK ASSOCIATION  
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TEMPLE TX 76501-3489

ZAFFIRINI , THE HONORABLE JUDITH STATE  
SENATOR  
THE SENATE OF TEXAS DISTRICT 21  
PO BOX 12068  
AUSTIN TX 78711-2068

ZAFFIRINI , THE HONORABLE JUDITH STATE  
SENATOR  
THE SENATE OF TEXAS DISTRICT 21  
PO BOX 627  
LAREDO TX 78042-0627

**TPDES PERMIT NO. WQ0015918001**

**APPLICATION BY WALTON  
TEXAS, LP FOR TPDES PERMIT  
NO. WQ0015918001**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

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

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The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comments (RTC) on the application by Walton Texas, LP (Applicant) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015918001. As required by Title 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. A virtual public meeting was held on this application on May 11, 2022. The Office of the Chief Clerk received timely comments from the persons in Attachment 1. This response addresses all timely public comments received, whether or not withdrawn.

This application is subject to the requirements in Senate Bill (SB) 709, effective September 1, 2015. SB 709 amended the requirements for comments and contested case hearings. One of the changes required by SB 709 is that the Commission may not find that a "hearing requestor is an affected person unless the hearing requestor timely submitted comments on the permit application." Texas Water Code (TWC) § 5.115(a-1)(2)(B).

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 TCEQ can be found at the following website: [www.tceq.texas.gov](http://www.tceq.texas.gov).

**I. BACKGROUND**

**A. Description of Facility**

The Applicant has applied to TCEQ for new TPDES Permit No. WQ0015918001 to authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 420,000 gallons per day.

The wastewater treatment facility (WWTF) will be located approximately 2,100 feet northeast of the intersection of State Highway 80 and State Highway 142, in Caldwell County, Texas 78655. The discharge route will be from the plant site to Hemphill Creek; thence to Morrison Creek; thence to the San Marcos River.

During the period beginning upon the date of issuance and lasting through the completion of expansion to the 0.21 million gallons per day (MGD) facility, the permittee is authorized to discharge subject to the following interim I effluent limitations:



The daily average flow of effluent shall not exceed 0.0525 million gallons per day (MGD), nor shall the average discharge during any two-hour period (2-hour peak) exceed 146 gallons per minute (gpm).

During the period beginning upon the completion of expansion to the 0.21 MGD facility and lasting through the completion of expansion to the 0.42 MGD facility, the permittee is authorized to discharge subject to the following interim II effluent limitations:

The daily average flow of effluent shall not exceed 0.21 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 583 gpm.

During the period beginning upon the completion of expansion to the 0.42 MGD facility and lasting through the date of expiration, the permittee is authorized to discharge subject to the following final effluent limitations:

The daily average flow of effluent shall not exceed 0.42 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 1,167 gpm.

## **B. Procedural Background**

The permit application was received on September 8, 2020, and declared administratively complete on December 23, 2020. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published in English in the *Austin American Statesmen* on January 11, 2021, and in Spanish in *El Mundo Newspaper* on January 14, 2021. The ED completed the technical review of the application on June 22, 2021. A Combined Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) and Notice of Application and Preliminary Decision (NAPD) was published in English in the *Austin American Statesmen* on October 4, 2021, and in Spanish in *El Mundo Newspaper* on September 30, 2021. A notice of public meeting was published in English in *Austin American Statesmen* on March 9, 2022. A public meeting was held on April 11, 2022, via webcast. The public comment period ended on April 11, 2022.

This application was filed after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill (HB) 801, 76th Legislature (1999), and Senate Bill (SB) 709, 84th Legislature (2015), both implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55. This application is subject to those changes in the law.

## **C. 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 30 TAC: [www.sos.state.tx.us/tac/](http://www.sos.state.tx.us/tac/) (select “TAC Viewer” on the right, then “Title 30 Environmental Quality”);
- for Texas statutes: <http://www.statutes.legis.state.tx.us/>;

- to access the TCEQ website: <https://www.tceq.texas.gov/rules/index.html> (for downloadable rules in Microsoft Word or Adobe PDF formats, select “Rules,” then “Current Rules and Regulations,” then “Download TCEQ Rules”);
- for Federal rules in Title 40 of the Code of Federal Regulations: <http://www.epa.gov/lawsregs/search/40cfr.html>; and
- for Federal environmental laws: <http://www.epa.gov/lawsregs/>.

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 <https://www14.tceq.texas.gov/epic/eCID/>.

The permit application, ED’s preliminary decision, and draft permit are available for viewing and copying at Martindale City Hall, 409 Main Street, Martindale, Texas.

The proposed permit does not limit anyone’s ability to seek legal remedies from the Applicant regarding any potential trespass, nuisance, or other cause of action in response to the proposed facility’s activities that may result in injury to human health or property or interfere with the normal use and enjoyment of property.

## II. COMMENTS

**COMMENT 1:** Frank L Caldwell, Jared Anable on behalf of the City of Martindale, Sydney Beckner on behalf of Hill Country Alliance (HCA), Kurt Waldhauser, Tamara Stroud, Jacob Hendrickson, Shirley M Ogletree, Rebecca Taylor Rockeymoore, Star Jennings, Blanca Loyla, Sara Hoygrape, Pam Brooks, Victoria Rose, David A. Price and Virginia Parker on behalf of San Marcos River Foundation (SMRF), David Price and Victoria Rose on behalf of Texas River Protection Association (TRPA), Susan Ohlendorf, Thomas Ohlendorf, Robert Carl Ohlendorf, Michael W. Ohlendorf, Nancy Ohlendorf, Stacey Nicole Lake, Joy Jungers, Tracy Harp, and Bill Jennings expressed concern for flooding issues that could be caused by the discharge of effluent from the plant into Hemphill Creek, thence to Morrison Creek.

**RESPONSE 1:** The TCEQ does not have jurisdiction to regulate flooding or erosion issues in the context of a wastewater discharge permit. The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state’s rivers, lakes and coastal waters. However, to the extent that an issue related to flooding also involves water quality, Walton Texas, LP is required to comply with all the numeric and narrative effluent limitations and other conditions in the proposed permit at all times, including during flooding conditions. The proposed Cotton Center Wastewater Treatment Facility (WWTF) shall be subject to plans and specifications review prior to construction. Part of this review will include adherence to 30 TAC § 217.35, relating to “One Hundred-Year Flood Plain Requirements.” The draft permit requires that the facility design must provide protection from inundation during a 100-year flood event. For flooding concerns, please contact the local floodplain administrator for this area. If you need help finding

the local floodplain administrator, please call the TCEQ Resource Protection Team at (512) 239-4691.

**COMMENT 2:** Kurt Waldhauser, Tamara Stroud, Jacob Hendrickson, Shirley M Ogletree, Rebecca Taylor Rockey Moore, Star Jennings, Blanca Loyla, Sara Hoygrape, Pam Brooks, SMRF, TRPA, Susan Ohlendorf, Thomas Ohlendorf, Robert Carl Ohlendorf, Michael W. Ohlendorf, Nancy Ohlendorf, Stacey Nicole Lake, and Joy Jungers expressed concerns about odor and air pollution caused by the presence of this facility.

**RESPONSE 2:** 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 Texas Admin Code (TAC) § 309.13(e)

According to its application, Walton Texas, LP is required to comply with the requirements of 30 TAC § 309.13(a) through (d). In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC § 309.13(e).

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. Members of the public may report violations of the draft permit, including nuisance odors, to the TCEQ regional office at 512-339-2929.

**COMMENT 3:** John William Jennings, Joy Jungers, Kurt Waldhauser, Tamara Stroud, Jacob Hendrickson, Shirley M Ogletree, Rebecca Taylor Rockey Moore, Star Jennings, Blanca Loyla, Pam Brooks, SMRF, TRPA, Susan Ohlendorf, Thomas Ohlendorf, Robert Carl Ohlendorf, Michael W. Ohlendorf, Nancy Ohlendorf, Stacey Nicole Lake, Steven C. Fonville along with John Hohn and Richard Gallegos on behalf of Martindale Water Supply Corporation (MWSC), Michael Holmes, Rodney Purswell, Jon Lasser, and Joy Jungers expressed general concerns about impacts to water quality in the receiving waters, human health, wildlife and livestock.

**RESPONSE 3:** 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. The Texas Surface Water Quality Standards, in specific Chapter 307.6 (4), specifies that water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, or domestic animals, resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. The Water Quality Standards Implementation Team reviewed this permit and designated the appropriate measures where necessary in accordance with this guidance.

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, as well as terrestrial and aquatic life. Noncompliance with the permit may result in enforcement action against the permittee.

**COMMENT 4:** Kurt Waldhauser, Tamara Stroud, Jacob Hendrickson, Shirley M Ogletree, Rebecca Taylor Rockeymoore, Star Jennings, Billy Turner, Blanca Loyla, Sara Hoygrape, Pam Brooks, SMRF, TRPA, Susan Ohlendorf, Thomas Ohlendorf, Robert Carl Ohlendorf, Michael W. Ohlendorf, Nancy Ohlendorf, Stacey Nicole Lake, Joy Jungers, and Tracy Harp commented on the effect the proposed facility will have on noise, light, traffic pollution, and ecotourism.

**RESPONSE 4:** The TCEQ does not have the authority to address these types of issues as part of the wastewater permitting process. TWC Chapter 26 and applicable wastewater regulations do not authorize the TCEQ to consider issues such as aesthetics, light, traffic pollution, noise, or ecotourism. However, the permit does not limit the ability of an individual to seek legal remedies against Walton Texas, LP regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

**COMMENT 5:** Joy Jungers, Arlis Flores, Cyndie Colburn, Michael Holmes, Jon Lasser, Robert Carl Ohlendorf, Nathan M. Glavy and Annalisa Peace on behalf of Greater Edwards Aquifer Alliance, Kurt Waldhauser, Tamara Stroud, Jacob Hendrickson, Shirley M Ogletree, Rebecca Taylor Rockeymoore, Star Jennings, Blanca Loyla, Sara Hoygrape, Pam Brooks, SMRF, TRPA, Susan Ohlendorf, Thomas Ohlendorf, Robert Carl Ohlendorf, Michael W. Ohlendorf, Nancy Ohlendorf, Stacey Nicole Lake, and Joy Jungers expressed general concerns that San Marcos River water quality might be reduced by the introduction of treated effluent and will effect existing uses as well as aquatic species.

**RESPONSE 5:** The current uses for the Lower San Marcos River, as outlined by the 2018 TSWQS, are primary contact recreation, high aquatic life use, and public water supply which corresponds with 5.0 mg/L dissolved oxygen. The Water Quality Standards Implementation Team reviewed this permit application in accordance with the TSWQS which states that water quality should be protected and maintained to preclude adverse effects to the instream uses and water quality. The information submitted with the application in conjunction with TCEQ resources was used to make an antidegradation determination.

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

**COMMENT 6:** Justin C. Adkins requested the timeline for any incoming housing or property development and the anticipated growth rate of the development.

**RESPONSE 6:** Walton Texas, LP's application has provided information regarding the development schedule in Attachment T5 of the application. Attachment T5 in the application shows development of single-family homes, multi-family homes, as well as school and commercial units being developed from 2022 to 2031. By 2031 they propose to build 575 single-family homes, 475 multi-family homes, and 260 school and commercial units.

**COMMENT 7:** SMRF, Frank L Caldwell, and TRPA expressed concern that the applicant did not consider regionalization issues for providing wastewater services to the proposed service area.

**RESPONSE 7:** Texas Water Code § 26.081 enumerates the state's regionalization policy. Section 26.081 states that the policy should "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." In furtherance of that policy TWC § 26.0282 authorizes the TCEQ, when considering the issuance of a permit to discharge waste, to deny or alter the terms and conditions of a proposed permit based on need and the availability of existing or proposed area-wide or regional waste collection, treatment, and disposal systems.

Domestic Technical Report 1.1 of the application requires information concerning regionalization of wastewater treatment plants. Applicants requesting a new permit or certain major amendments are required to review a three-mile area surrounding the proposed facility to determine if there is a wastewater treatment plant or sewer collection lines within the area that the permittee can utilize. Applicants are required to contact those facilities to inquire if they currently have the capacity or are willing to expand to accept the volume of wastewater proposed. If an existing wastewater facility does have the capacity and is willing to accept the proposed wastewater, the applicant must submit an analysis of expenditures required to connect to a permitted wastewater treatment facility or collection system located within three miles versus the cost of the proposed facility or expansion. Applicants are also required to provide copies of all correspondence with the owners of existing plants within three miles of the proposed plant regarding regionalization with their system.

Additionally, applicants are required to identify if any portion of the service area is located inside another utility's Certificate of Convenience and Necessity (CCN) area. If they are, a justification for the proposed facility and a cost analysis of expenditures that includes the cost of connecting to the CCN facilities versus the cost of the proposed facility or expansion must be provided in the application.

For the Cotton Center WWTF, there are no existing wastewater treatment facilities or collection systems within a three-mile radius of the proposed facility's site location, nor is the proposed facility's site location within another utility's CCN area.

**COMMENT 8:** Mr. Bill Jennings expressed concern about where the sludge from the facility will be deposited and the composition of the sludge.

**RESPONSE 8:** The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal, and Transportation. The draft permit also authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids that have not been classified as hazardous waste separated from wastewater by unit processes.

**COMMENT 9:** Bill Jennings expressed concerns about how far downstream will the effluent flow and how much flow is expected to increase with the discharge for Hemphill Creek and downstream.

**RESPONSE 9:** If the draft permit is issued, the facility will be authorized to discharge treated domestic wastewater at a daily average flow not to exceed 52,500 gallons per day in the Interim I phase, a daily average flow not to exceed 210,000 gallons per day in the Interim II phase, and a daily average flow not to exceed 420,000 gallons per day in the Final phase, from the plant site to Hemphill Creek, thence to Morrison Creek, thence to the Lower San Marcos River in Segment 1808 of San Marcos River Basin.

The distance the effluent will flow is going to vary based on instream flow, seasonality, and how much the facility is discharging. The Implementation Procedures require an evaluation of dissolved oxygen impacts for a facility this size, up to 1.1 miles at a minimum; however, the first 3 miles are typically evaluated as a default minimum. From the initial point of discharge the effluent flows within Hemphill Creek for 1.16 miles, then flows down Morrison Creek for more than three miles. Both Hemphill Creek and Morrison Creek were evaluated for potential impacts.

**COMMENT 10:** Bill Jennings requested information about the source of water for the Cotton Center WWTF.

**RESPONSE 10:** According to the information contained in the application, the proposed WWTF will treat domestic wastewater generated from the property Walton Texas L.P. plans to develop.

**COMMENT 11:** Bill Jennings requested information about how the receiving waters information was used in the Dissolved Oxygen modeling as well as a monitoring plan for the receiving waters.

**RESPONSE 11:**

The receiving water information provided in the application is used by the Standards Implementation Team as a resource to help staff determine the stream classification such as perennial, intermittent with pools, or intermittent. The information provided is used in conjunction with maps, pictures, and site visits where necessary. Once the stream type is determined, an aquatic life use is assigned along with corresponding dissolved oxygen criteria. The modelers then use this information in the model to ensure oxygen demanding constituents do not exceed the stream's dissolved oxygen availability.

In this case, Hemphill and Morrison Creeks both received a 3.0 mg/L DO criterion. The dissolved oxygen model is then run and compared to this value to ensure that the discharge's contributions of oxygen-demanding constituents will not cause a violation of the 3.0 mg/L criterion. In this case, the effluent limits in the draft permit were determined to be sufficient to maintain this criterion. Sampling, analysis, and reporting for compliance of the permit provisions shall be performed in accordance with the Monitoring and Reporting Requirements section and the Definitions and Standard Permit Conditions section of the draft permit.

**COMMENT 12:** Frank L Caldwell, City of Martindale, GEAA, HCA, Kurt Waldhauser, Tamara Stroud, Jacob Hendrickson, Shirley M Ogletree, Rebecca Taylor Rockeymoore, Star Jennings, Billy Turner, Blanca Loyla, Sara Hoygrape, Pam Brooks, SMRF, TRPA, Susan Ohlendorf, Thomas Ohlendorf, Robert Carl Ohlendorf, Michael W. Ohlendorf, Nancy Ohlendorf, Malcolm Johnson, Stacey Nicole Lake, Brian Zabcik on behalf of Save Barton Creek Association (SBCA), Tracy Harp, and Cyndie Colburn expressed concern that if the total phosphorus (TP) limit is not 0.5 mg/L or less, it may lead to potential algal blooms which would cause decreased oxygen levels along the discharge route and could harm aquatic organisms.

**RESPONSE 12:** Consistent with the Procedures to Implement the Texas Surface Water Quality Standards (2010) (IPs), all new and amended permits are evaluated for impacts due to total phosphorus. The total phosphorus screening indicated that best professional judgement should be exercised in determining whether a limit was warranted or not. Based on the substrate type, canopy, stream type, water clarity, and knowledge of the area, concerns for nutrients, and consistency with other permits in the area, it was determined that nutrient limits were not warranted. On November 5, 2021, by letter, the applicant requested that a 1 mg/L total phosphorus limit be implemented into the permit, which makes the permit more stringent. The Standards Implementation Team honored this request and implemented the limit.

**COMMENT 13:** Joy Jungers expressed a general concern about the compounding effects of multiple facilities discharging into Hemphill Creek.

**RESPONSE 13:** As part of the dissolved oxygen modeling review, new discharges are evaluated to determine if including other permitted facilities' discharges to examine cumulative effects is necessary. This includes considerations such as size of the

subject permit and any nearby facilities' discharge characteristics including effluent limits, permitted flow quantity, and the distance separating the discharges. The end results of the nearest upstream model, including TPDES Permit Nos. WQ0015293001 and WQ0016112001, indicated that the upstream contributions to the flow in Hemphill Creek from those facilities would assimilate to approximately ambient levels prior to the proposed discharge location. Additionally, this facility does not share a common discharge route with any other discharges prior to entering the San Marcos River, meaning it will undergo assimilation and dilution downstream prior to any potential interference from other discharges. Accordingly, it is not expected that there will be a cumulative impact on the receiving waters with respect to dissolved oxygen.

**COMMENT 14:** Shawn Manley expressed concerns about whether the impact from this discharge has been studied and documented; specifically, an impact study regarding the floodplains of the area.

**RESPONSE 14:** The National Environmental Policy Act (NEPA) requires federal agencies to integrate environmental values into their decision-making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. However, these requirements pertain to a proposed federal action. An environmental impact statement and compliance with NEPA are not required as part of the TPDES wastewater permitting process.

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

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

**COMMENT 15:** Robert Deviney, Frank L Caldwell, GEAA, and MWSC have made public hearing requests.

**RESPONSE 15:** The ED acknowledges their requests.

**COMMENT 16:** Frank L Caldwell, City of Martindale, Robert Carl Ohlendorf, Nathan M. Glavy and GEAA, Kurt Waldhauser, Tamara Stroud, Jacob Hendrickson, Shirley M Ogletree, Rebecca Taylor Rockey Moore, Star Jennings, Billy Turner, Blanca Loyla, Sara Hoygrape, Pam Brooks, SMRF, TRPA, Susan Ohlendorf, Thomas Ohlendorf, Robert Carl Ohlendorf, Michael W. Ohlendorf, Nancy Ohlendorf, Malcolm Johnson, Stacey Nicole Lake, Joy Jungers, Tracy Harp, Don Ray Tilley, SBCA, Mike McClabb on behalf of the



City Council of Martindale, HCA, and Tom Goynes requests the TCEQ to require the applicant to dispose of the treated effluent via reuse instead of discharge.

**RESPONSE 16:** TCEQ's rules applicable to the beneficial reuse of reclaimed water are found in 30 TAC Chapter 210. The TCEQ does not have the authority to require a permittee to obtain a Chapter 210 reuse authorization.

**COMMENT 17:** MWSC, John William Jennings, Joy Jungers, Michael Holmes, Jon Lasser, City of Martindale, Kurt Waldhauser, Tamara Stroud, Jacob Hendrickson, Shirley M Ogletree, Rebecca Taylor Rockey Moore, Star Jennings, Blanca Loyla, Sara Hoygrape, Pam Brooks, SMRF, TRPA, Susan Ohlendorf, Thomas Ohlendorf, Robert Carl Ohlendorf, Michael W. Ohlendorf, Nancy Ohlendorf, Frank L. Caldwell, Malcolm Johnson, Stacey Nicole Lake, Joy Jungers, Tracy Harp, and MSWC raised concern that the quality of ground water wells might be compromised due to potential groundwater leaching from the plant's discharge; specifically, absorption of the discharge flow by three water wells that are a source of public water supply for MSWC that are located within a one-mile radius of the Cotton Center WWTF.

**RESPONSE 17:** 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 states, "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 Water Quality Division has determined that the draft permit is in accordance with the Texas Surface Water Quality Standards, which ensures 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 Water Quality Division has determined that if the 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 intended to maintain the existing uses of the surface waters and preclude degradation will also protect groundwater.

Further, 30 TAC § 309.13(c) states that a wastewater treatment plant unit may not be located closer than 500 feet from a public water well nor 250 feet from a private water well. Public water supply systems in Texas are regulated by the TCEQ's Water Supply Division. Please contact the Water Supply Division at 512-239-4691 for more information.

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 <http://twon.tamu.edu/media/619641/what-to-do-about-coliform-in-wellwater.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 18:** Kurt Waldhauser, Tamara Stroud, Jacob Hendrickson, Shirley M Ogletree, Rebecca Taylor Rockey Moore, Star Jennings, Billy Turner, Susan Ohlendorf, Thomas Ohlendorf, Robert Carl Ohlendorf, Michael W. Ohlendorf, Nancy Ohlendorf, Malcolm Johnson, Tracy Harp, HCA, and SMRF commented that there should be at least a 6 mg/l dissolved oxygen (DO) requirement

**RESPONSE 18:** Five-day carbonaceous biochemical oxygen demand, ammonia-nitrogen, and effluent dissolved oxygen are considered as part of an effluent set to evaluate levels of oxygen-demanding constituents and ensure that the dissolved oxygen levels in the receiving waters are maintained. Based on the dissolved oxygen modeling analysis, it was determined that an effluent limit of 4 mg/L DO requested by the applicant, along with 5 mg/L CBOD5 and 2 mg/L NH3-N, would maintain the DO criterion in Hemphill and Morrison Creeks.

**COMMENT 19:** Kurt Waldhauser, Tamara Stroud, Jacob Hendrickson, Shirley M Ogletree, Rebecca Taylor Rockey Moore, Star Jennings, Billy Turner, Blanca Loyla, Sara Hoygrape, Pam Brooks, SMRF, Susan Ohlendorf, Thomas Ohlendorf, Robert Carl Ohlendorf, Michael W. Ohlendorf, Nancy Ohlendorf, Stacey Nicole Lake, Joy Jungers, and Tracy Harp requests the permit to have a ultra-violet (UV) disinfection requirement rather than chlorine disinfection because chlorine could potentially be harmful to aquatic life.

**RESPONSE 19:** The rules in 30 TAC § 309.3(g)(1) require that disinfection of domestic wastewater must be protective of both public health and aquatic life, however the rules do not require a specific method of disinfection. A permittee may disinfect domestic wastewater through use of 1) chlorination, 2) ultra-violet light, or 3) an equivalent method of disinfection with prior approval of the Executive Director. For this facility, Walton Texas, LP has chosen chlorine disinfection. Chlorination may be via gaseous, liquid, or tablet forms. Chlorine is the one of the most practical and effective means of disinfection because it can kill disease-causing bacteria and nuisance organisms and can eliminate certain noxious odors during disinfection. Whichever form is used, the design criteria for chemical disinfection by chlorine, including safety requirements, in 30 TAC Chapter 217, Subchapter K shall be observed.

The Water Quality Division has determined that the draft permit is in accordance with the Texas Surface Water Quality Standards, which ensures that the effluent discharge is protective of aquatic life, human health, and the environment. Therefore, the permit

limits given in the draft permit intended to maintain the existing uses of the surface waters and preclude degradation also include the residual chlorine concentration in the treated effluent. The permit limitation for maximum total chlorine residual is 4.0 mg/l to be monitored five times per week.

**COMMENT 20:** Kurt Waldhauser, Tamara Stroud, Jacob Hendrickson, Shirley M Ogletree, Rebecca Taylor Rockey Moore, Star Jennings, Billy Turner, Blanca Loyla, Sara Hoygrape, Pam Brooks, SMRF, TRPA, Susan Ohlendorf, Thomas Ohlendorf, Robert Carl Ohlendorf, Michael W. Ohlendorf, Nancy Ohlendorf, Stacey Nicole Lake, SBCA, Tracy Harp, and MWSC are concerned that an ammonia-nitrogen limit is not sufficient and a total nitrogen limit would be required to be protective of MSWC's underground drinking water supply from the alluvium formation.

**RESPONSE 20:** The Water Quality Division has determined that the draft permit is in accordance with the Texas Surface Water Quality Standards, which ensures 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 Water Quality Division has determined that if the 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 intended to maintain the existing uses of the surface waters and preclude degradation will also protect groundwater.

The effluent limit for ammonia nitrogen (NH<sub>3</sub>-N) included in the draft permit was derived during the dissolved oxygen modeling analysis of the proposed discharge. The ammonia nitrogen effluent limit is part of an 'effluent set' of oxygen-demanding constituents that also includes CBOD<sub>5</sub>, in addition to a minimum dissolved oxygen concentration limit for the effluent itself. The proposed discharge is modeled to ensure that instream dissolved oxygen levels will be maintained above the criteria established for the receiving waters, even during the most pessimistic of conditions, typically represented by hot and dry summertime conditions. The effluent limits included in the draft permit are predicted to be adequate to ensure that dissolved oxygen levels will be maintained above the criteria established for Hemphill and Morrison Creeks.

The Standards Implementation Team typically implements total phosphorus limits for discharges to freshwater streams. Total nitrogen limits are typically given for discharges into estuarine environments such as bays and tidal water bodies. Hemphill Creek and Morrison Creek are both central Texas freshwater streams and therefore the type of limit considered for this discharge would be a total phosphorus limit. There are a few cases where nitrogen limits have been implemented on freshwater streams, however these are extenuating circumstances and are on a case-by-case basis.

**COMMENT 21:** Kurt Waldhauser, Tamara Stroud, Jacob Hendrickson, Shirley M Ogletree, Rebecca Taylor Rockey Moore, Star Jennings, Billy Turner, Blanca Loyla, Sara

Hoygrape, Pam Brooks, SMRF, Susan Ohlendorf, Thomas Ohlendorf, Robert Carl Ohlendorf, Michael W. Ohlendorf, Nancy Ohlendorf, Malcolm Johnson, Stacey Nicole Lake, and Tracy Harp are concerned that a Class C operator is not sufficient and the plant would require a Class A operator to function well.

**RESPONSE 21:** The classification of the operator is determined by 30 TAC Chapter 30 Subchapter J. Based on the rules, the facility will require a Class C operator or higher.

**COMMENT 22:** SMRF expressed concern that there are no specific requirements for protecting the facility from a 100-year flood or 500-year flood.

**RESPONSE 22:** The facility is subject to One Hundred-Year Flood Plain Requirements as per 30 TAC § 217.35 and 30 TAC § 309.13. The TCEQ does not prohibit the location of a wastewater treatment facility in a floodplain as long as the facility design adheres to TCEQ rules. As per Other Requirement No. 6 in the draft permit, the proposed Cotton Center Martindale WWTP shall be subject to plans and specifications review prior to construction. Part of this review will include adherence to 30 TAC § 217.35, relating to “One Hundred-Year Flood Plain Requirements.” The draft permit requires that the facility design must provide protection from inundation during a 100-year flood event.

**COMMENT 23:** SMRF and TRPA expressed concern that endangered species exist such as freshwater mussels at the San Marcos River and they may be affected by the discharge from the WWTF.

**RESPONSE 23:** It is true that the San Marcos River is home to several endangered species, however this discharge will not affect any of the species of concern. As provided in the *Procedures to Implement the State Surface Water Quality Standards* (June 2010) the Executive Director reviewed the application for potential impacts to aquatic or aquatic-dependent federally listed endangered or threatened species. The discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service’s (USFWS) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System (TPDES; September 14, 1998; October 21, 1998 update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. Though the Peck’s cave amphipod (*Stygobromus pecki*), Barton Springs Salamander (*Eurycea sosorum*), Fountain Darter (*Etheostoma fonticola*), San Marcos Gambusia (*Gambusia georgei*), San Marcos Salamander (*Eurycea nana*), Texas Wild Rice (*Zizania texana*), Texas Blind Salamander (*Eurycea (Typhlomolge) rathbuni*), Comal Springs Riffle Beetle (*Heterelmis comalensis*), and Comal Springs Dryopoid Beetle (*Stygoparnus comalensis*) can occur in Hays County, they are not known to be present in the segment for this discharge. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion.

**COMMENT 24:** Robert Deviney requested information about the effluent limits in the draft permit.

**RESPONSE 24:** The draft permit authorizes a discharge of treated domestic wastewater at an Interim I volume not to exceed a daily average flow of 0.0525 MGD, an Interim II volume not to exceed a daily average flow of 0.21 MGD and a Final volume not to exceed a daily average flow of 0.42 MGD.

The effluent limitations for the Interim I, Interim II, and Final phase of the draft permit, based on a 30-day average, are 5 mg/l CBOD<sub>5</sub>, 5 mg/l total suspended solids (TSS), 2 mg/l NH<sub>3</sub>-N, 1 mg/l Total Phosphorus (TP), 126 colony forming units (CFU) or most probable number (MPN) of *Escherichia coli* (*E. coli*) per 100 ml, and 4.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

**COMMENT 25:** The City of Martindale and GEAA expressed concern that the facility will not be able to meet the draft permit limits of 5 mg/l CBOD<sub>5</sub>, 5 mg/l total suspended solids (TSS), 2 mg/l NH<sub>3</sub>-N, 1 mg/l Total Phosphorus (TP), 126 colony forming units (CFU) or most probable number (MPN) of *Escherichia coli* (*E. coli*) per 100 ml, and 4.0 mg/l minimum dissolved oxygen (DO).

**RESPONSE 25:** The proposed Cotton Center Martindale Wastewater Treatment Facility is an activated sludge process plant operated in the single stage nitrification mode. Treatment units in the Interim I phase include a bar screen, an aeration basin, a final clarifier, a sludge digester, a chlorine contact chamber, and a tertiary cloth filter system. Treatment units in the Interim II phase include two bar screens, four aeration basins, two final clarifiers, four sludge digesters, two chlorine contact chambers, and two tertiary cloth filter systems. Treatment units in the Final phase include three bar screens, six aeration basins, three final clarifiers, six sludge digesters, three chlorine contact chambers, and three tertiary cloth filter systems. The TCEQ design criteria for a domestic wastewater system under 30 TAC Chapter 217, identify types of treatment technology that can achieve the treatment levels required in the proposed permit.

Other Requirement No. 6 in the proposed permit requires Walton Texas, LP prior to construction of the treatment facility, to submit to the TCEQ Wastewater Permitting Section (MC 148) a summary transmittal letter in accordance with the requirements in 30 TAC § 217.6(d). If requested by the Wastewater Permitting Section, the permittee shall submit plans and specifications and a final engineering design report which comply with 30 TAC Chapter 217, relating to "Design Criteria for Domestic Wastewater Systems". The permittee shall clearly show how the treatment system will meet the permitted effluent limitations required on Page 2, 2a, and 2b of this permit. The Executive Director's staff will ensure that the plant design can adequately treat the domestic wastewater in accordance with the effluent limitations in the proposed permit during the review of the plans and specifications for this facility.

**COMMENT 26:** TRPA, SMRF, and Joy Jungers expressed concerns of potential algal growth would be caused by the plant and would lead to proliferation of cyanotoxins and increased murkiness in water. They also expressed concerns regarding nutrient enrichment and phosphorus leading to algal growth and otherwise degrading water quality, providing studies that outlined their concerns.

**RESPONSE 26:** As stated in comment 13, this permit was evaluated for total phosphorus impacts consistent with the 2010 Implementation Procedures. The primary concern for nutrient enrichment in freshwater streams is due to total phosphorus levels. A total phosphorus screening was conducted and determined best professional judgement should be used to determine whether limits were warranted. Based on stream type, stream clarity, shading, knowledge of the area, concerns for total phosphorus in the segment and consistency with other dischargers in the area, it was determined that limits were not warranted. On November 5, 2021, the applicant requested the implementation of a 1 mg/L total phosphorus limit, and the Standards Implementation Team granted this request.

**COMMENT 27:** Robert Deviney commented that the application has not been delivered to the City of Martindale for viewing.

**RESPONSE 27:** As per the applicant, the original application, Executive Director's preliminary decision, and the draft permit were sent to the City of Martindale on September 27, 2021. After the permit was updated with the more stringent permit limits, another copy of the original application, a new Executive Director's preliminary decision, and the updated draft permit was sent to the City of Martindale on February 18, 2022.

### **III. CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENTS**

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

Walton Texas, LP has requested the ED make their effluent limits more stringent. The effluent limits in the proposed permit originally had 10 mg/l CBOD<sub>5</sub>, 15 mg/l total suspended solids (TSS), 3 mg/l NH<sub>3</sub>-N, and a reporting requirement for Total Phosphorus (TP) in the Interim I phase and 10 mg/l CBOD<sub>5</sub>, 15 mg/l total suspended solids (TSS), 2 mg/l NH<sub>3</sub>-N, and a reporting requirement for Total Phosphorus (TP) in the Interim II and Final phase. The permittee has asked to make their effluent limits 5 mg/l CBOD<sub>5</sub>, 5 mg/l total suspended solids (TSS), 2 mg/l NH<sub>3</sub>-N, and 1 mg/l Total Phosphorus (TP) for all phases of their proposed permit. The ED has made the changes requested by the applicant.

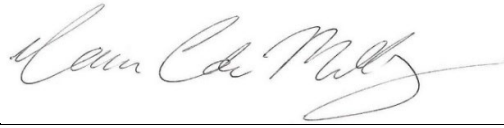
Respectfully submitted,

Texas Commission on Environmental  
Quality

Erin Chancellor  
Interim Executive Director

Charmaine Backens, Acting Director  
Office of Legal Services

Guy Henry, Acting Deputy Director  
Environmental Law Division



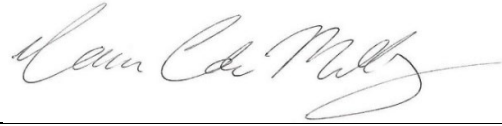
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REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**CERTIFICATE OF SERVICE**

I certify that on February 28, 2023, the “Executive Director’s Response to Public Comment” for Permit No. WQ0015918001 was filed with the Texas Commission on Environmental Quality’s Office of the Chief Clerk.



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Harrison Cole Malley, Staff Attorney  
Environmental Law Division  
State Bar No. 24116710



# Attachment 1

Justin C. Adkins, Jared Anable on behalf of the City of Martindale, Sydney Beckner on behalf of Hill County Alliance, Pam Brooks, Frank L. Caldwell, Cyndie Colburn, Kelly Deanne Davis, Robert Deviney, Arlis Flores, Richard Gallegos, Nathan M. Glavy and Annalisa Peace on behalf of the Greater Edwards Aquifer Alliance, Tracy Harp, Jacob Hendrickson, John Hohn and Steven C Fonville on behalf of the Martindale Water Supply Corporation, Michael Holmes, Sara Hoygrape, Bill Jennings, Star Jennings, John William Jennings, Malcolm Johnson, Joy Jungers, Stacey Nicole Lake, Jon Lasser, Blanca Loya, Mike McClabb, Shirley M Ogletree, Michael W. Ohlendorf, Nancy Ohlendorf, Robert Carl Ohlendorf, Susan Ohlendorf, Thomas Ohlendorf, Shirley M. Ogletree, Virginia Parker, David A. Price on behalf of Texas Rivers Protection Association, Rodney Purswell, Rebecca Taylor Rockeymoore, Victoria Rose on behalf of the San Marcos River Foundation and the Texas Rivers Protection Association, Tamara Stroud, Ray Don Tilley, Billy Turner, Kurt Waldhauser, Brian Zabcik on behalf of Save Barton Creek Association, and Judith Zaffirini.