



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 12, 2023

TO: Persons on the attached mailing list.

RE: Megatel Homes, L.L.C  
TPDES Permit No. WQ0016162001

### **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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 is a copy of the Executive Director's Response to Public Comment. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central Office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at Mansfield Public Library, 104 South Wisteria Street, Mansfield, 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

MAILING LIST  
for  
Megatel Homes, L.L.C.  
TPDES Permit No. WQ0016162001

FOR THE APPLICANT:

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INTERESTED PERSONS:

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FOR THE EXECUTIVE DIRECTOR  
via electronic mail:

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Texas Commission on Environmental  
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FOR THE CHIEF CLERK  
via electronic mail:

Laurie Gharis, Chief Clerk  
Texas Commission on Environmental  
Quality  
Office of Chief Clerk MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

TPDES PERMIT NO. WQ0016162001

APPLICATION BY	§	BEFORE THE
MEGATEL HOMES, L.L.C.	§	TEXAS COMMISSION
FOR TPDES PERMIT NO.	§	ON
WQ0016162001	§	ENVIRONMENTAL QUALITY

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EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

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The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to public comment on Megatel Homes, L.L.C.'s (Applicant or Megatel) application for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016162001, and on the ED's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section (§) 55.156, before this permit is issued, the ED prepares a response to all timely, relevant, and material, or significant comments. The Office of the Chief Clerk received timely comments from E. Allen Taylor, Jr. on behalf of the City of Mansfield.

This Response addresses all timely filed public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at <http://www.tceq.texas.gov>.

**Background**

***Description of Facility***

Megatel Homes, L.L.C. has applied for a new permit to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.20 million gallons per day (MGD) in the Interim I phase, a daily average flow not to exceed 0.40 MGD in the Interim II phase, and an annual average flow not to exceed 1.0 MGD in the Final phase. The plant site will be located approximately 1 mile southwest of the

intersection of Bedford Street and North Farm-to-Market Road 157, in Johnson County, Texas. The proposed wastewater treatment facility will serve a residential subdivision located approximately 2.25 miles west of the intersection of Highway 287 and Highway 360, near the City of Mansfield (the City).

The facility will be a suspended growth single-stage nitrification activated sludge process plant operated in the conventional mode. Treatment units in the Interim I phase will include an onsite lift station, manual bar screens, two aeration basin, a secondary clarifier, a chlorine contact chamber, and two aerobic digesters. Treatment units in the Interim II phase will include an onsite lift station, manual bar screens, flow splitting weirs, two aeration basins, a secondary clarifier, a chlorine contact chamber, and two aerobic digesters. Treatment units in the Final phase will include an onsite lift station, mechanical bar screens, two aeration basin, two secondary clarifiers, a chlorine contact chamber, a dechlorination system, and two aerobic digesters.

The effluent limitations in all three phases of the draft permit, based on a 30-day average, are 10 milligrams per liter (mg/l) five-day carbonaceous biochemical oxygen demand (CBOD<sub>5</sub>), 15 mg/l total suspended solids (TSS), 3.0 mg/l ammonia nitrogen (NH<sub>3</sub>-N), 126 colony forming units (CFU) or most probable number (MPN) of *Escherichia coli* (*E. coli*) per 100 milliliters (ml), and 4.0 mg/l minimum dissolved oxygen (DO). In the Interim I and II phases, the effluent shall contain a total chlorine residual of at least 1.0 mg/l and shall not exceed a total chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow) and shall be monitored five times per week by grab sample. In the Final phase of the draft permit, the effluent shall contain a total chlorine residual of at least 1.0 mg/l after a detention time of at least 20 minutes (based on peak flow) and shall be monitored daily by grab

sample. The Applicant shall dechlorinate the chlorinated effluent to less than 0.1 mg/l total chlorine residual and shall monitor total chlorine residual daily by grab sample after the dechlorination process.

The treated effluent will be discharged to Reece Branch, then to Mountain Creek, then to Joe Pool Lake in Segment No. 0838 of the Trinity River Basin. The unclassified receiving water use is limited aquatic life use for Reece Branch and high aquatic life use for Mountain Creek. The designated uses for Segment No. 0838 are primary contact recreation, public water supply, and high aquatic life use. The 2020 Clean Water Act § 303(d) list, the State's inventory of impaired and threatened waters, does not currently list Segment No. 0838.

In accordance with 30 TAC § 307.5 and the June 2010 TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (IPs), TCEQ staff performed an antidegradation review of the receiving waters. 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 Mountain Creek, which has been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

### **Procedural Background**

The TCEQ received the application for a new TPDES permit on May 4, 2022, and declared it administratively complete on June 8, 2022. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) on June 11, 2022, in the *Dallas Morning News*. The application was determined technically complete on

September 22, 2022. The Applicant published the Notice of Application and Preliminary Decision (NAPD) on October 21, 2022, in *Dallas Morning News*. The comment period for this application closed on November 21, 2022. This application was filed on or 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), which are implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55.

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

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

- to access the Secretary of State website: <https://www.sos.state.tx.us>;
- for TCEQ rules in Title 30 of the Texas Administrative Code (TAC): <https://www.sos.state.tx.us/tac/> (select “View the current Texas Administrative Code” on the right, then “Title 30 Environmental Quality”);
- for Texas statutes: <https://statutes.capitol.texas.gov/>;
- to access the TCEQ website: [www.tceq.texas.gov](http://www.tceq.texas.gov) (for downloadable rules in Adobe PDF format, select “Rules” then “Download TCEQ Rules”);
- for Federal rules in Title 40 of the Code of Federal Regulations: [www.ecfr.gov](http://www.ecfr.gov);
- and
- for Federal environmental laws: <http://www.epa.gov/lawsregs/>.

Commission records for this facility are available for viewing and copying 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 be located on the Commissioners’ Integrated Database at <https://www14.tceq.texas.gov/epic/eCID/>. The application for this facility has been available for viewing and copying at the Mansfield Public Library, 104 South Wisteria Street, Mansfield, Texas, since publication of the



NORI. The draft permit, the Statement of Basis/Technical Summary, and the ED's Preliminary Decision have been available since publication of the NAPD.

## COMMENTS AND RESPONSES

### **COMMENT 1:**

The City of Mansfield expressed concerns about regionalization and stated that the land area for which the permit is sought lies within the statutorily created extraterritorial jurisdiction of the City. In response to correspondence from Megatel Homes, L.L.C. on February 18, 2022, the City informed Megatel Homes, L.L.C. on July 5, 2022, that the City was willing and had the capacity to provide wastewater service to Megatel Homes, L.L.C.

### **RESPONSE 1:**

Texas Water Code (TWC) § 26.081 enumerates the state's regionalization 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." 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.<sup>1</sup> Applicants requesting a new permit or certain major amendments are required to review a three-mile area

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<sup>1</sup> Domestic Technical Report 1.1 (TCEQ Form 10054), Section 1, Item B, page 21.

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. Finally, applicants are 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. Per the information provided in the application, there were no existing permitted domestic wastewater treatment facility or a collection system located within three (3) miles of the proposed facility.

However, in a series of letters and emails submitted to the ED, Megatel attempted to seek a definite answer as to the City's ability to provide water and wastewater services to them. Initially on February 18, 2022, the Applicant requested service from Johnson County MUD No. 1 (Johnson County) that was being created by the TCEQ. On March 1, 2022, a Megatel engineer specifically asked a City staff member about obtaining service, and the City's response was that the area in question "was very far from any water or sewer infrastructure and City utility service would require significant infrastructure...". Several months later, on July 5, 2022, the City responded to the Applicant's petition for services and showed some interest to meet with Megatel. On July 15, 2022, Johnson County requested that the City identify where and how the City had capacity and what the costs would be but received no response. On the same day, Megatel also asked the City for additional information regarding their available

capacity and ability to provide utility services as well as the cost basis and funding for the proposed facilities. Megatel also requested that the City provide a draft utility service contract for the City to provide water and wastewater services for the development tract.

On November 7, 2022, Megatel again asked if the City would be able to provide them services, any agreement, necessary fees, and a timeline for response. A reminder for the City's response was sent on November 11, 2022. The City responded on November 28, 2022, with some information regarding water supply, but not about wastewater. Megatel responded on December 6, 2022, with some water usage data, but again asked for confirmation of the City's ability to provide water and wastewater services. In addition, the City attempted to incorporate the project within their sewer CCN, but on February 16, 2023, Megatel requested to opt out and have their property excluded stating that, as landowners, they did not receive the required notice of the City's CCN application. Subsequently, arrangements were made to provide sewer service to the development tracts without the City.

The TCEQ's policy on regionalization does not require the agency to automatically deny a wastewater treatment plant application or to compel an Applicant to connect to the facility just because a plant or a collection system is located within three miles of a proposed facility. The ED has approved new or major amendments to increase flow in situations where the Applicant is able to provide an economic justification demonstrating that connecting to the existing facility will be expensive.

Because of the continued lack of responsive information from the City of Mansfield (over an extended length of time and after many attempts to elicit that information) as to their capacity to provide services to Megatel, the Applicant was not

able to adequately arrive at the total amount of expenditures needed and therefore, they were not able to pursue this route for wastewater services. Accordingly, the ED concludes that the Applicant's TPDES permit in this case is consistent with the Commission's regionalization policy.

**COMMENT 2:**

The City expressed concern that the discharge of treated water at the proposed location would negatively impact the environment by negatively impacting the stream segment and the surrounding area both at the discharge site and downstream.

**RESPONSE 2:**

TCEQ's Water Quality Division has determined that the draft permit is in accordance with the Texas Surface Water Quality Standards (TSWQS), which ensures that the effluent discharge is protective of aquatic life, human health, and the environment. The TSWQS in 30 TAC Chapter 307 require that discharges may not degrade the receiving waters and may not result in situations that impair existing, attainable or designated uses, and that surface waters not be toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals.

The review process for surface water quality is conducted by the Standards Implementation Team and Water Quality Assessment Team surface water modelers. The effluent limits in the draft permit are set to maintain and protect the existing instream uses. The ED determined that these uses should be protected if the facility is operated and maintained as required by the proposed permit and regulations. Additionally, the treated effluent will be disinfected prior to discharge to protect human health.

The effluent limitations in the draft permit will maintain and protect the existing instream uses and comply with the TSWQS and 30 TAC §§ 307.1 - 307.10. The

proposed draft permit includes effluent limitations and monitoring requirements to ensure that the proposed wastewater treatment plant meets water quality standards for the protection of surface water quality, even during periods of low flow, according to TCEQ rules and policies.

The treated effluent will be discharged to Reece Branch, then to Mountain Creek, then to Joe Pool Lake in Segment No. 0838 of the Trinity River Basin. The unclassified receiving water use is limited aquatic life use for Reece Branch and high aquatic life use for Mountain Creek. The designated uses for Segment No. 0838 are primary contact recreation, public water supply, and high aquatic life use. The 2020 Clean Water Act § 303(d) list, the State's inventory of impaired and threatened waters, does not currently list Segment No. 0838.

In accordance with 30 Texas Administrative Code Section 307.5 and the June 2010 TCEQ's IPs, TCEQ staff performed an antidegradation review of the receiving waters. 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 Mountain Creek, which has been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

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

**CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT**

No changes to the draft permit have been made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Erin E. Chancellor  
Interim Executive Director

Guy Henry, Deputy Director  
Environmental Law Division



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Celia Castro, Staff Attorney  
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REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**CERTIFICATE OF SERVICE**

I certify that on May 8, 2023, the Executive Director's Response to Public Comment for Permit No. WQ0016162001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



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Celia Castro, Staff Attorney  
Environmental Law Division  
State Bar No. 03997350