

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Kelly Keel, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 11, 2023

TO: All interested persons.

RE: Macedonia Asset LLC
TPDES Permit No. WQ0016182001

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 Waller County Library – Hempstead Branch, 2331 11th Street, Hempstead, 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,

A handwritten signature in black ink that reads "Laurie Gharis". The signature is written in a cursive, flowing style.

Laurie Gharis
Chief Clerk

LG/erg

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
Macedonia Asset LLC
TPDES Permit No. WQ0016182001

The Executive Director has made the Response to Public Comment (RTC) for the application by Macedonia Asset LLC for TPDES Permit No. WQ0016182001 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 (WQ0016182001) and click the "Search" button. The search results will display a link to the RTC.

Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov.

Additional Information

For more information on the public participation process, you may contact the Office of the Public Interest Counsel at (512) 239-6363 or call the Public Education Program, toll free, at (800) 687-4040.

A complete copy of the RTC (including the mailing list), the complete application, the draft permit, and related documents, including comments, are available for review at the TCEQ Central Office in Austin, Texas. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Waller County Library – Hempstead Branch, 2331 11th Street, Hempstead, Texas.



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas reduciendo y previniendo la contaminación

11 de septiembre de 2023

TO: Todas las personas interesadas.

RE: Macedonia Asset LLC
TPDES Permiso No. WQ0016182001

Decisión del Director Ejecutivo.

El director ejecutivo ha tomado la decisión de que la solicitud de permiso mencionada anteriormente cumple con los requisitos de la ley aplicable. **Esta decisión no autoriza la construcción u operación de ninguna instalación propuesta.** Esta decisión será considerada por los comisionados en una reunión pública programada regularmente antes de que se tome cualquier medida sobre esta solicitud, a menos que todas las solicitudes de audiencia o reconsideración de casos impugnados hayan sido retiradas antes de esa reunión.

Se adjuntan a esta carta las instrucciones para ver en Internet la Respuesta del Director Ejecutivo al Comentario Público (RTC). Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a chiefclk@tceq.texas.gov. Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios públicos, están disponibles para su revisión en la Oficina Central de TCEQ. Además, una copia de la solicitud completa, el borrador del permiso y la decisión preliminar del director ejecutivo están disponibles para ver y copiar en la Biblioteca del Condado de Waller – Sucursal de Hempstead, 2331 11th Street, Hempstead, Texas.

Si no está de acuerdo con la decisión del director ejecutivo y cree que es una "persona afectada" como se define a continuación, puede solicitar una audiencia de caso impugnado. Además, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Los procedimientos para la evaluación de la comisión de las solicitudes de audiencia/solicitudes de reconsideración se encuentran en 30 Código Administrativo de Texas, Capítulo 55, Subcapítulo F. A continuación, se presenta una breve descripción de los procedimientos para estas dos solicitudes.

Cómo solicitar una audiencia de caso impugnado.

Es importante que su solicitud incluya toda la información que respalde su derecho a una audiencia de caso impugnado. Su solicitud de audiencia debe demostrar que cumple con los requisitos legales aplicables para que se le conceda su solicitud de audiencia. La consideración de la comisión de su solicitud se basará en la información que usted proporcione.

La solicitud debe incluir lo siguiente:

- (1) Su nombre, dirección, número de teléfono durante el día y, si es posible, un número de fax.
- (2) El nombre del solicitante, el número de permiso y otros números enumerados anteriormente para que su solicitud pueda procesarse adecuadamente.
- (3) Una declaración que exprese claramente que está solicitando una audiencia de caso impugnado. Por ejemplo, la siguiente declaración sería suficiente: "Solicito una audiencia de caso impugnado".
- (4) Si la solicitud es realizada por un grupo o asociación, la solicitud debe identificar:
 - (A) una persona por nombre, dirección, número de teléfono durante el día y, si es posible, el número de fax, de la persona que será responsable de recibir todas las comunicaciones y documentos para el grupo.;
 - (B) los comentarios sobre la solicitud presentada por el grupo que constituyen la base de la solicitud de audiencia; y
 - (C) por nombre y dirección física, uno o más miembros del grupo que de otro modo tendrían derecho a solicitar una audiencia por derecho propio. Los intereses que el grupo busca proteger deben estar relacionados con el propósito de la organización. Ni la reclamación alegada ni la reparación solicitada deben requerir la participación de los miembros individuales en el caso.

Además, su solicitud debe demostrar que usted es una **"persona afectada"**. Una persona afectada es aquella que tiene un interés justiciable personal relacionado con un derecho, deber, privilegio, poder o interés económico legal afectado por la solicitud. Su solicitud debe describir cómo y por qué se vería afectado negativamente por la instalación o actividad propuesta de una manera que no sea común al público en general. Por ejemplo, en la medida en que su solicitud se base en estas preocupaciones, debe describir el impacto probable en su salud, seguridad o usos de su propiedad que puedan verse afectados negativamente por la instalación o las actividades propuestas. Para demostrar que tiene un interés personal justiciable, debe indicar, tan específicamente como pueda, su ubicación y la distancia entre su ubicación y la instalación o actividades propuestas.

Su solicitud debe plantear cuestiones de hecho controvertidas que sean relevantes y materiales para la decisión de la comisión sobre esta solicitud que fueron planteadas **por usted** durante el período de comentarios públicos. La solicitud no puede basarse únicamente en cuestiones planteadas en los comentarios que haya retirado.

Para facilitar la determinación por parte de la comisión del número y alcance de los asuntos que se remitirán a la audiencia, usted debe: 1) especificar cualquiera de las respuestas del director ejecutivo a **sus** comentarios que usted disputa; 2) la base fáctica de la disputa; y 3) enumerar cualquier cuestión de derecho en disputa.

Cómo solicitar la reconsideración de la decisión del Director Ejecutivo.

A diferencia de una solicitud de audiencia de caso impugnado, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Una solicitud de

reconsideración debe contener su nombre, dirección, número de teléfono durante el día y, si es posible, su número de fax. La solicitud debe indicar que está solicitando la reconsideración de la decisión del director ejecutivo, y debe explicar por qué cree que la decisión debe ser reconsiderada.

Fecha límite para la presentación de solicitudes.

La oficina del Secretario Oficial debe **recibir** una solicitud de audiencia de caso impugnado o reconsideración de la decisión del director ejecutivo a más tardar **30 días calendario** después de la fecha de esta carta. Puede enviar su solicitud electrónicamente a www.tceq.texas.gov/agency/decisions/cc/comments.html o por correo a la siguiente dirección:

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

Procesamiento de solicitudes.

Las solicitudes oportunas para una audiencia de caso impugnado o para la reconsideración de la decisión del director ejecutivo se remitirán al Programa de Resolución Alternativa de Disputas de TCEQ y se incluirán en la agenda de una de las reuniones programadas regularmente de la comisión. Las instrucciones adicionales que explican estos procedimientos se enviarán a la lista de correo adjunta cuando se haya programado esta reunión.

Cómo obtener información adicional.

Si tiene alguna pregunta o necesita información adicional sobre los procedimientos descritos en esta carta, llame al Programa de Educación Pública, al número gratuito, 1-800-687-4040.

Atentamente,



Laurie Gharis
Secretaria Oficial

LG/erg

Recinto

RESPUESTA DEL DIRECTOR EJECUTIVO AL COMENTARIO DEL PÚBLICO
para
Macedonia Asset LLC
TPDES Permiso No. WQ0016182001

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de Macedonia Asset LLC del permiso de TPDES No.

WQ0016182001. Puede ver e imprimir el documento visitando la Base de Datos Integrada de los Comisionados de TCEQ en el siguiente enlace:

<https://www.tceq.texas.gov/goto/cid>

Para ver el RTC en el enlace anterior, ingrese el número de identificación TCEQ para esta solicitud (WQ0016182001) y haga clic en el botón "Buscar". Los resultados de la búsqueda mostrarán un enlace al RTC.

Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a chiefelk@tceq.texas.gov.

Información adicional

Para obtener más información sobre el proceso de participación pública, puede comunicarse con la Oficina del Asesor de Interés Público al (512) 239-6363 o llamar al Programa de Educación Pública, al número gratuito, (800) 687-4040.

Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios, están disponibles para su revisión en la Oficina Central de TCEQ en Austin, Texas. Además, una copia de la solicitud completa, el borrador del permiso y la decisión preliminar del director ejecutivo están disponibles para ver y copiar en la Biblioteca del Condado de Waller – Sucursal de Hempstead, 2331 11th Street, Hempstead, Texas.

MAILING LIST / LISTA DE CORREO
for / para
Macedonia Asset LLC
TPDES Permit No. WQ0016182001 / TPDES Permiso No. WQ0016182001

FOR THE APPLICANT /
PARA EL SOLICITANTE:

Josh Milne, Managing Partner
Macedonia Asset LLC
6315B Farm-to-Market Road 1488
Private Mailbox No. 192
Magnolia, Texas 77354

Shelley Young, P.E.
WaterEngineers, Inc.
17230 Huffmeister Road, Suite A
Cypress, Texas 77429

INTERESTED PERSONS /
PERSONAS INTERESADAS:

See attached list.
Ver lista adjunta.

FOR THE EXECUTIVE DIRECTOR /
PARA EL DIRECTOR EJECUTIVO
via electronic mail /
por correo electrónico:

Ryan Vise, Deputy Director
Texas Commission on Environmental
Quality
External Relations Division
Public Education Program MC-108
P.O. Box 13087
Austin, Texas 78711-3087

Aubrey Pawelka, Staff Attorney
Texas Commission on Environmental
Quality
Environmental Law Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087

Melinda Luxemburg, Technical Staff
Texas Commission on Environmental
Quality
Water Quality Division MC-148
P.O. Box 13087
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL /
PARA ABOGADOS DE INTERÉS
PÚBLICO
via electronic mail /
por correo electrónico:

Garrett T. Arthur, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK /
PARA EL SECRETARIO OFICIAL
via electronic mail
por correo electrónico:

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

ARCEMONT , RHONDA C
27040 HEGAR RD
HOCKLEY TX 77447-9782

BARKER , MCKINLEY REECE
25458 CAMELOT LN
HOCKLEY TX 77447-6103

CRAMER , STEVE
19310 SAN SOLOMON SPRINGS CT
CYPRESS TX 77433-4076

FOSDICK , JOHN J
23540 MACEDONIA RD
HOCKLEY TX 77447-6002

GALLIEN , MRS CAROLLE L
24777 MACEDONIA RD
HOCKLEY TX 77447-6483

GRAHAM , MRS CARRIE E
25745 CATHY DR
HOCKLEY TX 77447-6395

HAMALA , BARBARA G
24521 CREEK BEND RD
HOCKLEY TX 77447-5180

HENDERSON , MR MARK
24030 HEGAR RD
HOCKLEY TX 77447-6437

JORDAN , RHONDA
26047 MAGNOLIA RD
HOCKLEY TX 77447-5249

MCDONALD , GUY
24228 CLEAR CREEK CT
HOCKLEY TX 77447-5014

MCDONALD , ROBIN
24228 CLEAR CREEK CT
HOCKLEY TX 77447-5014

METCALFE , MELANIE
25441 SNOW RD
HOCKLEY TX 77447-6679

MITCHELL , LORI
25253 MACEDONIA RD
HOCKLEY TX 77447-6485

MITCHELL JR , RICHARD
25253 MACEDONIA RD
HOCKLEY TX 77447-6485

OESTREICH JR , MR MELVIN
25105 TENN OAKS RD
HOCKLEY TX 77447-6072

PORTILLO , REBECCA
24229 CLEAR CREEK CT
HOCKLEY TX 77447-5014

REYES , TERESA
25069 LAKESIDE DR
HOCKLEY TX 77447-5036

SHIREY , MARY WILLENE
24609 WILLOW LN
HOCKLEY TX 77447-5225

SONSEL , LUCAS
28401 AGARITA RD
HOCKLEY TX 77447-2333

STEVENS , NICK
26648 JOSEPH RD
HOCKLEY TX 77447-6111

TAYLOR , WILLIAM
PO BOX 73192
HOUSTON TX 77273-3192

THORNHILL , VANESSA
28401 AGARITA RD
HOCKLEY TX 77447-2333

VENNARD , KIMBERLY
25084 JOSEPH RD
HOCKLEY TX 77447-5311

WRIGHT , BRIAN
15126 MORNING PINE LN
HOUSTON TX 77068-3808

TCEQ PERMIT NO. WQ0016182001

APPLICATION BY	§	BEFORE THE
MACEDONIA ASSET LLC FOR	§	TEXAS COMMISSION ON
TPDES PERMIT NO. WQ0016182001	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENTS

I. INTRODUCTION

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 Macedonia Asset LLC (Applicant) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016182001. 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. The Office of the Chief Clerk received timely comments from the persons in Attachment No. 1. This response addresses all timely public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about TCEQ can be found on TCEQ's website at <http://www.tceq.texas.gov>.

A. Terms, Acronyms, or Abbreviations Used in this Response to Comments

- **§:** Section
- **SH:** State Highway
- **ED:** TCEQ's Executive Director
- **CR:** County Road
- **DO:** Dissolved Oxygen
- **No.:** Number
- **WQ:** Water Quality
- **CCI:** Comprehensive Compliance Investigation
- **TSS:** Total Suspended Solids
- **EPA:** United States Environmental Protection Agency
- **LUE:** Living Equivalent Unit
- **SNC:** Significant Noncompliance
- **CFU:** Colony Forming Units
- **OCE:** TCEQ's Office of Compliance and Enforcement
- **ALU:** Aquatic Life Use
- **CCN:** Certificate of Convenience and Necessity
- **OCC:** TCEQ's Office of the Chief Clerk
- **MPN:** Most Probable Number
- **TWC:** Texas Water Code
- **CWA:** Clean Water Act
- **RWA:** Receiving Water Assessment
- **MGD:** Million Gallons per Day

- **WQD:** TCEQ's Water Quality Division
- **USGS:** The United States' Geological Survey agency
- **NORI:** Notice of Receipt & Intent to Obtain a Water Quality Permit
- **THSC:** Texas Health and Safety Code
- **NAPD:** Notice of Application & Preliminary Decision
- **NOPM:** Notice of Public Meeting
- ***E. coli*:** *Escherichia coli*-bacteria
- **NH₃-N:** Ammonia Nitrogen
- **CBOD₅:** Five-day Carbonaceous Biochemical Oxygen Demand
- **Limits:** Effluent Limitations/discharge limits
- **WWTP:** Wastewater Treatment Plant
- **WQMP:** State of Texas Water Quality Management Plan
- **TPDES:** Texas Pollutant Discharge Elimination System
- **USFWS:** United States' Fish and Wildlife Service
- **Outfall:** Discharge point/location
- **TSWQS:** Texas Surface Water Quality Standards – 30 TAC Chapter 307
- **30 TAC:** Title 30 of the Texas Administrative Code
- **Effluent:** Treated wastewater discharging out of WWTF
- **Influent:** Untreated wastewater flowing into a WWTF
- **DO limit:** Minimum Dissolved Oxygen Criterion
- **WQ Uses:** A waterbody's designated WQ uses from Appendix A, TSWQS
- **Applicant:** Macedonia Asset LLC
- **217 Rules:** 30 TAC Chapter 217-Design Criteria for Domestic WWTFs
- **Discharge:** A flow of treated wastewater emanating from a WWTF
- **WQD staff:** TCEQ Staff from the Water Quality Division
- **TCEQ Rules:** Title 30 of the Texas Administrative Code
- **Commission:** Texas Commission on Environmental Quality (TCEQ)
- **Tier I Review:** The TSWQS Tier I Antidegradation Review
- **Tier II Review:** The TSWQS Tier II Antidegradation Review
- **Modeling Team:** WQD's Water Quality Assessment Team
- **The Application:** Macedonia Asset LLC's application for a TPDES permit
- **Standards Team:** WQD's Water Quality Standards Implementation Team
- **Proposed permit:** Draft-TPDES permit No. WQ0016182001
- **Proposed facility:** The Applicant's proposed WWTF
- **Proposed discharge:** The discharge emanating from the proposed facility.
- **Appendix A, TSWQS:** Appendix A of 30 TAC § 307.10
- **CWA § 303(d) List:** Texas' inventory of threatened or impaired waterbodies listed in the Clean Water Act § 303(d) for 2020
- **TCEQ's IPs:** TCEQ's Implementation Procedures for the Texas Surface Water Quality Standards-June 2010

II. BACKGROUND

A. *Application Request*

The Applicant has applied to the TCEQ for new TPDES Permit No. WQ0016182001 to authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 80,000 gallons per day.

B. Description of Facility and Discharge Route

If the proposed permit is issued, the proposed wastewater treatment facility (WWTF) will be located at 24895 Macedonia Road, Hockley, in Waller County, Texas 77447. The treated effluent will be discharged to Threemile Creek, thence to Brushy Creek, thence to Spring Creek in Segment No. 1008 of the San Jacinto River Basin.

C. ED's Technical Review of an Application

The basis for the ED's Technical Review of a TPDES permit application comes from the Texas Legislature's passage of Chapter 26 (Water Quality Control) of the TWC into law, which gives the TCEQ primary authority over water quality (WQ) in Texas. Chapter 26 combines the TCEQ's WQ authority with federally delegated CWA regulatory authority for the TPDES program, which controls discharges of pollutants into Texas' surface waterbodies, otherwise defined by the TWC as "Water in the State." To implement TCEQ's WQ control regime, Chapter 26 grants the TCEQ the authority to issue permits (and amendments) for the discharge of waste or pollutants into, or adjacent to Water in the State, so long as the parameters established through the ED's Technical Review of the discharge, comply with the TWC, TCEQ rules, and the TSWQS. However, the TCEQ may refuse to issue a permit when the ED's Technical Review finds that issuing the permit would violate the provisions of any state or federal law or rules or regulations derived from those laws, or when it finds that issuing the permit would interfere with the TCEQ's WQ control regime.

Thus, the WQD staff performing the ED's Technical Review, are responsible for evaluating a discharge's impacts on the receiving waterbodies and their designated WQ uses within the proposed discharge route starting at the outfall, and providing proper limits to protect those WQ uses as the TSWQS require. To ensure compliance with the TSWQS, WQD staff follow the prescribed methodology in the TCEQ's IPs for drafting a permit, its limits, requirements, and conditions.

With a goal of maintaining a level of WQ sufficient to protect the existing WQ uses of the receiving surface waterbodies of the proposed discharge, WQD staff on the Standards and Modeling Teams review the application according to the TSWQS and the TCEQ's IPs and perform multiple WQ-specific analyses.

The first component of the ED's Technical Review involves the Standards Team reviewing, within three miles of the route of the proposed discharge, the classifications, designations, and descriptions of the receiving surface waterbodies in the state. An RWA, along with other available information allowed the Standards Team to determine the ALUs in the proposed discharge's area of impact and assign the corresponding DO criterion specified in the TCEQ's IPs and the TSWQS.

The designated WQ uses for Segment No. 1008, as stated in the 2018 TSWQS-Appendix A, are primary contact recreation, public water supply, and "high" ALU, with a corresponding DO criterion of 5.0 mg/l. Brushy Creek is also assigned a "high" ALU,

with a corresponding DO criterion of 5.0 mg/l. The DO criterion for Threemile Creek and Brushy Creek is 5.0 mg/l DO and both waterbodies have “high” ALUs.

According to the TSWQS and the TCEQ's IPs, for every new discharge the Standards Team performs an Antidegradation Review of the proposed discharge into its receiving waterbodies, in this case, Threemile Creek and Brushy Creek in Segment No. 1008 of the San Jacinto River Basin.

The Standards Team reviewed the application in conformity with the TSWQS (30 TAC §§ 307.4 (h) and (l)) because the proposed discharge is directly to an unclassified water body, Threemile Creek, and then performed a Tier I Review on the receiving waterbodies and determined that there is no expectation of impairment of existing WQ uses because the proposed discharge has limits designed to maintain numerical and narrative criteria to protect existing WQ uses.

Additionally, because the Standards Team's ALU determinations were “high” for Threemile Creek and Brushy Creek, a Tier 2 antidegradation review was performed. The Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Threemile Creek and Brushy Creek, which have been identified as having high aquatic life use. Existing uses will be maintained and protected because the proposed permit's WQ-related effluent limitations, as established by the Modeling Team's DO analyses, will maintain and protect the existing instream uses.

The second component of the ED's Technical Review involves the Modeling Team performing WQ modeling runs, or DO analyses, using a mathematical model; in this case, an “default QUAL-TX model.” Conventional effluent limitations such as DO, CBOD₅, and NH₃-N are based on stream standards and waste load allocations for WQ-limited streams as established in the TSWQS and the WQMP.

Based on the Modeling Team's DO analyses, limits of 10 mg/l CBOD₅, 3.0 mg/l NH₃-N, and 6.0 mg/l DO, based on a 30-day average, are predicted to be necessary to ensure that DO will be maintained above the criterion established by the Standards Team for Threemile Creek and Brushy Creek (5.0 mg/l DO).

Coefficients and kinetics used in the model are a combination of site specific, standardized default, and estimated values. The proposed permit requires that the discharge's pH must be in the range of 6.0 to 9.0 standard units and includes limits of 15 mg/l TSS and 63 colony-forming units (CFU) or most probable number (MPN) of *Escherichia coli* (*E coli*) per 100 milliliters (ml), based on a 30-day average. The effluent must contain a total chlorine residual of at least 1.0 mg/l and must not exceed a total chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The effluent limits and conditions in the proposed permit meet requirements for secondary treatment and disinfection according to 30 TAC Chapter 309 (Subchapter A: Effluent Limits) and comply with the TSWQS (30 TAC §§ 307.1-.10, *eff.* 3/1/2018) and

the EPA-approved portions of the TSWQS (*eff.* 3/6/2014). In a case such as this, end-of-pipe compliance with pH limits between 6.0 and 9.0 standard units reasonably assures instream compliance with pH criteria in the TSWQS when the discharge authorized is from a minor facility and the unclassified waterbodies have “minimal” or “limited” ALUs. This technology-based approach reasonably assures instream compliance with TSWQS due to relatively smaller discharge volumes authorized by these permits. TCEQ sampling conducted throughout Texas indicating instream buffering quickly restores pH levels to ambient conditions informs this conservative approach.

Segment No. 1008 is not currently listed on the State's inventory of impaired and threatened waters (the 2020 CWA § 303(d) list). However, Brushy Creek is currently listed as impaired on the 2020 303(d) list for elevated bacteria levels in water (recreation use) from the Spring Creek confluence upstream to a point 5.6 kilometers (3.5 miles) upstream of Farm-to-Market Road 1488 (Assessment Unit 1008J_01). One finalized Total Maximum Daily Load (TMDL) Project is available for this segment: *Fifteen Total Maximum Daily Loads for Indicator Bacteria in Watersheds Upstream of Lake Houston For Segment Numbers 1004E, 1008, 1008H, 1009, 1009C, 1009D, 1009E, 1010, and 1011* (Project No. 82). Addendums to the original Project No. 82 TMDL subsequently added additional assessment units (AUs) to the original TMDL project. On April 6, 2011, the TCEQ adopted Fifteen TMDLs for Indicator Bacteria in Watersheds Upstream of Lake Houston. The TMDL addresses elevated levels of bacteria in nine classified and unclassified segments (Stewarts Creek - 1004E; Spring Creek - 1008; Willow Creek - 1008H; Cypress Creek - 1009; Faulkey Gully - 1009C; Spring Gully - 1009D; Little Cypress Creek - 1009E; Caney Creek - 1010; and Peach Creek - 1011) in this watershed.

This project takes a watershed approach, so all AUs in the TMDL segments and in several additional unclassified segments (Mill Creek - 1008A; Upper Panther Branch - 1008B; Lower Panther Branch - 1008C ; Metzler Creek - 1008D; Bear Branch - 1008E; Walnut Creek - 1008I; Brushy Creek - 1008J; Arnold Branch - 1008K; Mink Branch - 1008L; Sulphur Branch - 1008M; Dry Creek - 1009A; Dry Gully - 1009B; Mound Creek - 1009F; Dry Gully - 1009G; Dry Creek - 1010A; White Oak Creek - 1010B; and Spring Branch - 1010C) are also subject to this TMDL. The waste load allocation (WLA) for wastewater treatment facilities was established as the permitted flow for each facility multiplied by one-half the geometric mean criterion for bacteria. Future growth from existing or new permitted sources is not limited by these TMDLs as long as the sources do not exceed the limits of one-half the bacteria geometric mean criterion for *Escherichia coli* (*E. coli*). To ensure that effluent limitations for this discharge are consistent with the WLAs provided in the TMDL, a concentration based effluent limitation for *E. coli* of 63 CFU or MPN per 100 ml has been included in the draft permit.

Additionally, the discharge from the proposed permit is not expected to impact 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. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. With respect to the presence of endangered or threatened species, the proposed permit does not require EPA's review.

Through the Technical Review, the WQD provides the proper limits to maintain and protect the existing instream uses. For that reason, the ED has determined that the proposed permit, if issued, meets all statutory and regulatory requirements and is protective of the environment, WQ, and human health. Considering the TCEQ's WQ control regime, all determinations, reviews, or analyses related to the ED's Technical Review of the application for the proposed permit can be reexamined and subsequently modified upon receipt of newer information or information that conflicts with the bases employed in the applicable review or analysis.

D. Procedural Background

The TCEQ received the application on June 22, 2022, and declared administratively complete on July 20, 2022. The Applicant published the NORI in Harris County, Texas in English in *The Waller Times* on July 27, 2022. The ED completed the technical review of the application on August 31, 2022. The Applicant next published the NAPD in Harris County, Texas in English in *The Waller Times* on October 12, 2022. The public comment period ended on November 11, 2022.

Because this application was received after September 1, 2015, and because it was declared administratively complete after September 1, 1999, it is subject to both the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999, and the procedural requirements and rules implementing Senate Bill 709, 84th Legislature, 2015, which are implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55.

E. Access to Rules, Laws, and Records

- Administrative Code: www.sos.state.tx.us/tac/ (select TAC Viewer on the right, then Title 30 Environmental Quality)
- Texas statutes: www.statutes.capitol.texas.gov
- TCEQ website: www.tceq.texas.gov (for downloadable rules in WordPerfect or Adobe PDF formats, select "Rules, Policy, & Legislation," then "Current TCEQ Rules," then "Download TCEQ Rules").
- Federal rules: Title 40 of the Code of Federal Regulations (C.F.R.)
http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40tab_02.tpl
- Federal environmental laws: <http://www.epa.gov/lawsregs/>
- **Environmental or citizen complaints may be filed electronically at:**
<https://www.tceq.texas.gov/compliance/complaints/index.html> (select "use our

online form”) or by sending an email to the following address:
complaint@TCEQ.Texas.gov.

Commission records for the Proposed facility are available for viewing and copying at TCEQ’s main office in Austin at 12100 Park 35 Circle, Building F, 1st Floor in the OCC, for the current application until final action is taken). Some documents located at the OCC may also be found in the TCEQ Commissioners’ Integrated Database at www.tceq.texas.gov/goto/cid.

The permit application has been available for viewing and copying at Waller County Library – Hempstead Branch, located at 2331 11th Street, Hempstead, Texas, since publication of the NORI. The final permit application, proposed permit, statement of basis/technical summary, and the ED’s preliminary decision were available for viewing and copying at the same location since publication of the NAPD.

If individuals wish to file a complaint about the proposed facility concerning its compliance with the provisions of its permit or with TCEQ rules, the TCEQ’s OCE should be contacted. Specifically, the Houston Regional Office (Region 12) in Houston, Texas may be contacted at (713) 767-3500 or the statewide toll-free number at 1-888-777-3186 to address potential permit violations. In addition, complaints may be filed electronically by using the methods described above at the seventh bullet under “Access to Rules, Laws, and Records.” If an inspection by the TCEQ finds that the Applicant is not complying with all requirements of the proposed permit, or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.

III. COMMENTS AND RESPONSES

A. General Comments by persons listed per comment number in Attachment No. 2.

COMMENT 1:

The persons listed in Attachment No. 2 under Comment 1 expressed opposition to the proposed facility.

RESPONSE 1:

The ED acknowledges these comments. Specific topics of concern are discussed in detail in the following responses.

COMMENT 2:

The persons listed in Attachment No. 2 under Comment 2 expressed concerns about the proposed development and the impact to the neighborhood relating to crime, traffic, and/or property values.

RESPONSE 2:

The TCEQ was charged by the Texas Legislature to maintain the quality of water in Texas, consistent with public health and enjoyment; thus, TCEQ’s jurisdiction in a wastewater permit application is limited to water quality issues, and it does not have

authorization to consider issues such as a new development, traffic, or property values.

However, the permit does not limit the ability of an individual to seek legal remedies against Macedonia Asset LLC regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

Furthermore, the TCEQ does not have jurisdiction to review the effect, if any, the discharge might have on property values in reviewing a municipal wastewater discharge permit application. 30 TAC § 305.122(d) states that the issuance of the permit does not authorize any injuries to persons or property, an invasion of other property rights, or any infringement of state or local statutes or regulations.

Moreover, the wastewater permit does not allow the permit holder to create or maintain a nuisance that interferes with a landowner's use and enjoyment of his or her property. The permit does not limit the ability of a landowner to seek relief from a court in response to activities that interfere with a landowner's use and enjoyment of his or her property.

Additionally, the TCEQ initiates community outreach to educate the general public about pollution prevention and water conservation. This information can be found at the TCEQ's website at www.tceq.texas.gov or the Take Care of Texas Program at <http://takecareoftexas.org/>. Concerns regarding personal safety or security should be directed to local law enforcement or the Waller County Sheriff's Office at 979-826-7600.

COMMENT 3:

The persons listed in Attachment No. 2 under Comment 3 expressed concerns about smells and nuisance odors from the proposed wastewater treatment plant.

RESPONSE 3:

All wastewater treatment facilities have the potential to generate odors. To control and abate odors the TCEQ rules require domestic WWTPs to meet buffer zone requirements for the abatement and control of nuisance odor according to 30 TAC § 309.13(e), which provides three options for applicants to satisfy the nuisance odor abatement and control requirements. The applicant can comply with the rule by: 1) ownership of the buffer zone area; 2) restrictive easement from the adjacent property owners for any part of the buffer zone not owned by the applicant; or 3) providing nuisance odor control.

According to its application, the Applicant intends to comply with the requirement to abate and control nuisance odor by legal restrictions prohibiting the construction of residences within the buffer zone. This requirement is incorporated in the draft permit. These legal restrictions are in accordance with 30 TAC § 309.13(e)(3).

Therefore, nuisance odor should be minimal 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.

Further, the Applicant proposes in its application that the Woodside Manor WWTP will be an activated sludge process plant operated in the conventional aeration mode. The activated sludge process is the most frequently used biological wastewater treatment process for treating domestic wastewater, and the use of the conventional aeration variation has been known to produce highly treated effluent with low biosolids production. When properly treated by the proposed wastewater treatment process, the effluent is not expected to have an offensive odor.

If anyone experiences nuisance odor conditions or any other suspected incidents of noncompliance with the permit or TCEQ rules, they may be reported to TCEQ by calling toll-free 1-888-777-3186, or the TCEQ Region 12 Office in Houston at (713) 767-3500. Citizen complaints may also be filed on-line at <http://www2.tceq.texas.gov/oce/complaints/index.cfm>.

As discussed in **Response 2**, the permit does not limit the ability of an individual to seek legal remedies against the applicant 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 4:

The persons listed in Attachment No. 2 under Comment 4 expressed concerns about the threat of flooding events due to the proposed development and proposed discharge.

RESPONSE 4:

The TCEQ does not have jurisdiction to address flooding in the wastewater permitting process. 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.

The draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

For any flooding concerns, members of the public may wish to contact the applicable floodplain management office. The TCEQ Resource Protection Team can aid in identifying and contacting the local floodplain administrator and can be contacted by calling (512) 239-4691. Additionally, the FEMA has programs designed to mitigate damage caused by flooding.

COMMENT 5:

Mark Henderson expressed concerns about the proposed discharge route and requested it go somewhere else.

RESPONSE 5:

TCEQ does not have the authority to mandate a different discharge location or wastewater treatment plant location if the Applicant's proposed location and discharge route comply with the TWC Chapter 26 and 30 TAC Chapter 309, relating to "Domestic Wastewater Effluent Limitations and Plant Siting." The TCEQ does not have jurisdiction over zoning.

If the Applicant updates its application with a different location or a different discharge route, the Executive Director will reevaluate the discharge route to make sure that the draft permit contains appropriate limits and conditions for the revised discharge location or route. Additionally, new landowners may need to be notified of a change of the facility location or the discharge route.

COMMENT 6:

Robin McDonald, Steve Cramer, and Guy McDonald expressed concern that a proper environmental study has not been done.

RESPONSE 6:

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. To meet this requirement, federal agencies must prepare detailed statements which include an *Environmental Assessment* and either a *Finding of No Significant Impact* or *Environmental Impact Statement*. 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.

COMMENT 7:

The persons listed in Attachment No. 2 under Comment 8 expressed concern regarding unauthorized discharges.

RESPONSE 7:

The proposed permit prohibits unauthorized discharge of wastewater or any other waste and includes appropriate requirements. For example, a permittee must maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, or retention of inadequately treated wastewater. In addition, the plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the TCEQ. These permit provisions are designed to help prevent unauthorized discharges of raw sewage. Except as allowed by 30 TAC § 305.132, the Applicant will be required to report an unauthorized discharge to the

TCEQ within 24 hours. Finally, the applicant will be subject to potential enforcement action for failure to comply with TCEQ rules or the permit.

COMMENT 8:

The persons listed in Attachment No. 2 under Comment 8 expressed concern regarding the proper monitoring, safety, and/or operation of the WWTP.

RESPONSE 8:

To help ensure that the proposed WWTP is effectively managed, the draft permit describes the conditions under which the WWTP must operate. The proposed WWTP must be designed, operated, and maintained consistent with applicable TCEQ rules. The draft permit includes provisions for monitoring effluent, reporting requirements (including test procedures, instrument calibration, records management, and notification), and operational requirements (including process control, provision of adequate power supply, and flow monitoring). For example, Operational Requirement No. 1, requires the permittee to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained at all times; Operational Requirement No. 9, which requires that the domestic wastewater treatment plant be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30; and Other Requirement No. 1, requires the permittee to employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration according to the requirements of 30 TAC Chapter 30, Occupational Licenses and Registrations, and in particular 30 TAC Chapter 30, Subchapter J, Wastewater Operators and Operations Companies. These provisions ensure that the WWTP is properly operated and maintained.

If the permit is issued, the WWTP will also be subject to routine compliance investigations, as well as other types of investigations depending on the circumstances. The TCEQ, through its Office of Compliance and Enforcement, helps ensure compliance with state and federal regulations and the terms and conditions of the permit by way of routine compliance investigations and complaint investigations, and review of self-reported monitoring data. The Houston Regional Office will conduct on-site investigations. The Central Office, through the Monitoring Division, reviews the self-reported data for compliance with the permitted effluent limits and other permit conditions.

Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with the terms of any permit or other environmental regulation by contacting the Region 12 Office in Houston at (713) 767-3500, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. The TCEQ investigates all complaints received. If the facility is found to be out of compliance with the terms and conditions of its permit, it may be subject to investigation and possible enforcement action.

Citizens may also gather data to show that a permittee is not in compliance with TCEQ rules. For more information on citizen-collected evidence, please contact the Regional Office. In addition, complaints may be filed online: <https://www.tceq.texas.gov/compliance/complaints>.

B. Comments about Water Quality by persons listed per comment number in Attachment No. 2

COMMENT 9:

The persons listed in Attachment No. 2 under Comment 9 expressed concern regarding adverse impacts to surface water and the ecosystem.

RESPONSE 9:

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 legislative responsibility to protect water quality in the State of Texas and to authorize wastewater discharge TPDES permits under TWC Chapter 26, and 30 TAC Chapters 305, 307 and 309, including specific statutes regarding wastewater treatment systems under 30 TAC Chapters 217 and 309.

The proposed draft permit was developed in accordance with the TSWQS to be protective of water quality, provided that the applicant 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). 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."

Specifically, the methodology is designed to ensure that no source will be allowed to discharge any wastewater that: 1) results in instream aquatic toxicity; 2) causes a violation of an applicable narrative or numerical state water quality standard; 3) results in the endangerment of a drinking water supply; or 4) results in aquatic bioaccumulation that threatens human health.

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. 1008 is primary contact recreation, which consists of activities that involve a significant risk of ingesting water, such as wading and swimming.¹ 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 Threemile Creek.

¹ *Id.* § 307.3(47).

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 the proposed flow of 80,000 gallons per day into consideration when screening the discharges for compliance with the Standards. This 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 Threemile Creek and Brushy Creek, which have been identified as having high aquatic life uses. 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 the receiving waters and the ecosystem. This includes the effluent limits for *E. coli* that will require the Applicant to disinfect the treated wastewater in a manner that will maintain the receiving waters' primary contact recreation use. Furthermore, effluent limitations in the draft permit for the conventional effluent parameters (i.e. CBOD₅, NH₃-N, TSS, and minimum DO) are based on stream standards and waste load allocations for water quality-limited streams as established in the TSWQS and the State of Texas Water Quality Management Plan (WQMP).

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 have any objections to the issuance of the draft permit.

COMMENT 10:

The persons listed in Attachment No. 2 under Comment 10 expressed concern regarding 80,000 gallons of highly chlorinated water into Threemile Creek.

RESPONSE 10:

The rules in 30 TAC § 309.3(g)(1) (Effluent Limitations and Plant Siting) 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 from the ED. For this facility, the Applicants have chosen chlorine disinfection. Chlorine is 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. The permit limitation for maximum total chlorine residual is 4.0 mg/l to be monitored five times per week.

Furthermore, treated effluent is required to meet the TSWQS in 30 TAC Chapter 307. The TSWQS and other applicable rules are protective of aquatic life, human health, and the environment, including the designated uses of the receiving waters. The draft permit meets the TSWQS requirements, and the ED does not anticipate that constituents in the discharge will have an adverse effect on the receiving water or its designated uses if the facility is operated in accordance with the terms of the draft permit.

COMMENT 11:

Guy McDonald expressed concern regarding groundwater protection. Rhonda Jordan and Vanessa Thornhill expressed concern for drinking water.

RESPONSE 11:

TWC § 26.001(5) defines “water” or “water in the state” to mean groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

30 TAC § 309.13(c) establishes setback distances from a wastewater treatment plant unit and a public or private water well and states “[a] wastewater treatment plant unit may not be located closer than 500 feet from a public water well as provided by § 290.41(c)(1)(B) of this title (relating to Water Sources) nor 250 feet from a private water well.” 30 TAC § 290.41(c)(1)(C) requires a minimum horizontal distance of 500 feet from a public water well site, spring, or other similar sources of public drinking water to wastewater holding ponds and 30 TAC § 290.41(c)(1) requires a minimum horizontal distance of 150 feet from a private water well to wastewater holding ponds.

TCEQ’s rules do not require a separation distance between a creek receiving treated wastewater that complies with TSWQS and water well, private or domestic. The Executive Director’s review of an application for a TPDES permit focuses on controlling the discharge of pollutants into water in the state, which includes groundwater and both navigable and non-navigable water bodies.

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 TWC 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.”

If the permit is issued, the treated effluent will be discharged to Threemile Creek, thence to Brushy Creek, thence to Spring Creek in Segment No. 1008 of the San Jacinto River Basin. The unclassified receiving water use is high aquatic life use for Threemile

Creek and Brushy Creek. The designated uses for Segment No. 1008 are primary contact recreation, public water supply, and high aquatic life use.

The TCEQ's Water Quality Division has determined that the effluent limits in the draft permit are consistent with the TSWQS and are therefore protective of surface water quality. This level of surface water protection will also ensure protection of groundwater quality and its known uses. In addition, the WQD has determined that the draft permit is in accordance with the TSWQS, 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 WQD 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.

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 12:

The persons listed in Attachment No. 2 under Comment 12 expressed concern regarding effects of the proposed discharge during drought conditions or periods of low stream flow and lack of dilution.

RESPONSE 12:

The potential impact of the proposed discharge on instream dissolved oxygen levels is evaluated under hot and dry, low-flow summertime conditions, which are typically the most restrictive conditions in regard to DO levels. Critical low-flow, as defined in 30 TAC § 307.3(a)(16), is a “low-flow condition that consists of the seven-day, two-year flow (7Q2),” which is the lowest seven-day average discharge with a

recurrence interval of two years. The criteria of the TSWQS (30 TAC Chapter 307) are applicable even during critical low-flow; therefore, critical low-flow is considered when evaluating the appropriate effluent limits for the proposed discharge.

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.

COMMENT 13:

The persons listed in Attachment No. 2 under Comment 13 expressed concern regarding the native species that inhabit the discharge route, the protection of wildlife, and/or livestock.

RESPONSE 13:

The proposed draft permit was developed in accordance with the TSWQS to be protective of water quality, provided that the applicant 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* (June 2010) is designed to ensure compliance with the TSWQS (30 TAC Chapter 307). Specifically, the methodology is designed to ensure that no source will be allowed to discharge any wastewater that: 1) results in instream aquatic toxicity; 2) causes a violation of an applicable narrative or numerical state water quality standard; 3) results in the endangerment of a drinking water supply; or 4) results in aquatic bioaccumulation that threatens human health.

The 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.² 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 II(C), Threemile Creek and Brushy Creek have high aquatic life use. All these water bodies along the discharge route are also presumed to have primary contact recreation. The effluent limits in the draft permit, including the daily average bacteria limit of 63 CFU or MPN of *E. coli* per 100 ml, 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. If the draft permit will protect aquatic life and human health, it will also protect wildlife and livestock

² *Id.* § 307.7(b)(5).

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, wildlife, or native species of Threemile Creek and Brushy Creek.

The effluent limitations in the draft permit were derived from screening calculations performed in accordance with the IPs that use the critical condition information and segment water quality data to determine consistency with the TSWQS. These Standards were developed through a stakeholder process with EPA approval. The critical conditions were also developed consistent with the 2010 IPs and TCEQ protocols. The effluent limits in the draft permit are set to maintain and protect the existing instream uses.

In this case, the designated uses for Segment No. 1008 are primary contact recreation, public water supply, and high aquatic life use. The ED determined that these uses should be protected if the facility is operated and maintained as required by the proposed permit and regulations.

The Texas Parks and Wildlife Department (TPWD) is the state agency that oversees and protects wildlife and their habitat. It can be contacted by calling 1-800-792-1112 or by mail at 4200 Smith School Road, Austin, Texas 78744. The TPWD received notice of the applicants permit application.

COMMENT 14:

Nick Stevens expressed concern regarding chemicals in the effluent.

RESPONSE 14:

The Woodside Manor WWTP will be an activated sludge process plant operated in the conventional mode. Treatment units will include a bar screen, an anoxic/selector zone, two aeration basins, one final clarifier, two sludge digesters, and a chlorine contact chamber. The only chemical addition to the treatment process is chlorine for disinfection purposes. The rules regarding disinfection are discussed elsewhere in this document. The permit limits given in the draft permit intend to maintain the existing uses of the surface waters and preclude degradation; this includes 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 by grab sample. No other chemical treatment was indicated in the application.

Moreover, 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 15:

Brian Wright expressed concern regarding the condition of the receiving stream, specifically that Threemile Creek is full of debris and cannot handle a constant flow on a daily basis.

RESPONSE 15:

A Receiving Water Assessment (RWA) is performed by TCEQ staff to collect data on the physical, chemical, and biological components of a receiving water. The RWA are often performed during the “critical period” of the year – July 1 to September 30 – when minimum stream flows, maximum temperatures, and minimum DO concentrations typically occur in Texas. The effluent parameters of a proposed TPDES permit must be protective of the receiving water during such “critical period” conditions, even when the condition of the receiving stream includes debris.

COMMENT 16:

The persons listed in Attachment No. 2 under Comment 16 expressed concerns about negative impacts on human health and the environment.

RESPONSE 16:

The TSWQS require that discharges not degrade the 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 Threemile Creek and Brushy Creek have characteristics that support high aquatic life use and require 5 mg/L minimum DO. As discussed in Response 9, 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 Threemile Creek and Brushy Creek, which have 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 the Applicant 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.

As has been discussed above, ED staff engaged in a technical review of the 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. As specified in the TSWQS, water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, and domestic animals resulting from contact with water, consumption of aquatic organisms, consumption of water, or any combination of the three. Water in the state must also 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. The draft permit includes provisions to ensure that the TSWQS will be maintained.

IV. 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.

Respectfully submitted,

Texas Commission on Environmental
Quality

Kelly Keel
Interim Executive Director

Charmaine Backens, Deputy Director
Environmental Law Division



Aubrey Pawelka, Staff Attorney
Environmental Law Division
State Bar No. 24121770
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
(512) 239-0622 (phone)
aubrey.pawelka@tceq.texas.gov

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON

Attachment No. 1
Macedonia Asset LLC, WQ0016182001

A Arcemont, Rhonda	J Jordan, Rhonda	S Shirey, Mary Willene Stevens, Nick Sonsel, Lucas
B Barker, McKinley	K	
C Cramer, Steve	L	T Taylor, William Thornhill, Vanessa
D	M McDonald, Guy McDonald, Robin Metcalf, Melanie Mitchell, Lori Mitchell, Richard	U
E		V Vennard, Kimberly
F Fosdick, John J.	N	W Wright, Brian
G Gallien, Carolle L. Graham, Carrie E.	O Oestreich, Melvin	X
H Hamala, Barbara G. Henderson, Mark	P Portillo, Rebecca	Y
I	Q	Z
	R Reyes, Teresa	

Attachment No. 2
Macedonia Asset LLC, WQ0016182001

Comment 1

Arcemont, Rhonda
Barker, McKinley
Cramer, Steve
Fosdick, John J.
Gallien, Carolle L.
Graham, Carrie E.
Hamala, Barbara G.
Henderson, Mark
Jordan, Rhonda
McDonald, Guy
Oestreich, Melvin
Portillo, Rebecca
Reyes, Teresa
Shirey, Mary Willene
Stevens, Nick
Sonsel, Lucas
Taylor, William
Thornhill, Vanessa
Vennard, Kimberly

Comment 2

Barker, McKinley
Gallien, Carolle L.
Graham, Carrie E.

Comment 3

Gallien, Carolle L.
Henderson, Mark
Mitchell, Lori
Mitchell, Richard
Portillo, Rebecca
Reyes, Teresa
Sonsel, Lucas

Comment 4

Arcemont, Rhonda
Graham, Carrie E.
Hamala, Barbara G.
Henderson, Mark
Reyes, Teresa

Wright, Brian

Comment 7

Cramer, Steve
Gallien, Carolle L.
McDonald, Guy
Sonsel, Lucas
Taylor, William

Comment 8

Graham, Carrie E.
McDonald, Guy
Mitchell, Lori
Mitchell, Richard
Sonsel, Lucas

Comment 9

Cramer, Steve
Gallien, Carolle L.
Hamala, Barbara G.
McDonald, Guy
Mitchell, Lori
Mitchell, Richard
Portillo, Rebecca
Sonsel, Lucas
Stevens, Nick

Comment 10

Barker, McKinley
Gallien, Carolle L.
McDonald, Guy
Metcalf, Melanie
Reyes, Teresa
Stevens, Nick
Sonsel, Lucas
Thornhill, Vanessa

Comment 12

Barker, McKinley
Cramer, Steve
Gallien, Carolle L.
Hamala, Barbara G.
McDonald, Guy
Mitchell, Lori
Mitchell, Richard
Oestreich, Melvin
Portillo, Rebecca
Reyes, Teresa
Sonsel, Lucas
Thornhill, Vanessa

Comment 13

Arcemont, Rhonda
Barker, McKinley
Gallien, Carolle L.
Jordan, Rhonda
Metcalf, Melanie
Oestreich, Melvin
Portillo, Rebecca
Reyes, Teresa
Stevens, Nick
Sonsel, Lucas
Thornhill, Vanessa
Vennard, Kimberly

Comment 16

Barker, McKinley
Cramer, Steve
Graham, Carrie E.
Jordan, Rhonda
McDonald, Guy
Stevens, Nick
Sonsel, Lucas
Thornhill, Vanessa