

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 19, 2023

TO: All interested persons.

RE: Preserve Hutto, LLC
TPDES Permit No. WQ0016145001

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** This decision will be considered by the commissioners at a regularly scheduled public meeting before any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter are instructions to view the Executive Director's Response to Public Comment (RTC) on the Internet. Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov. A complete copy of the RTC (including the mailing list), complete application, draft permit and related documents, including public comments, are available for review at the TCEQ Central Office. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Austin Public Library, North Village Branch, 2505 Steck Avenue, Austin, Texas.

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

How to Request a Contested Case Hearing.

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

The request must include the following:

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

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

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

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

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

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

Deadline for Submitting Requests.

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

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

Processing of Requests.

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

How to Obtain Additional Information.

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

Sincerely,



Laurie Gharis
Chief Clerk

LG/erg

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
Preserve Hutto, LLC
TPDES Permit No. WQ0016145001

The Executive Director has made the Response to Public Comment (RTC) for the application by Preserve Hutto, LLC for TPDES Permit No. WQ0016145001 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 (WQ0016145001) 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 Austin Public Library, North Village Branch, 2505 Steck Avenue, Austin, Texas.

Jon Niermann, *Presidente*
Emily Lindley, *Comisionada*
Bobby Janecka, *Comisario*
Kelly Keel, *Director Ejecutivo interino*



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas reduciendo y previniendo la contaminación

19 de septiembre de 2023

TO: Todas las personas interesadas.

RE: Preserve Hutto, LLC
TPDES Permiso No. WQ0016145001

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 Austin Public Library, North Village Branch, 2505 Steck Avenue, Austin, 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
Preserve Hutto, LLC
TPDES Permiso No. WQ0016145001

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de Preserve Hutto, LLC del permiso de TPDES No. WQ0016145001. 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 (WQ0016145001) 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 chiefclk@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 Austin Public Library, North Village Branch, 2505 Steck Avenue, Austin, Texas.

MAILING LIST / LISTA DE CORREO

for / para

Preserve Hutto, LLC

TPDES Permit No. WQ0016145001 / TPDES Permiso No. WQ0016145001

FOR THE APPLICANT /
PARA EL SOLICITANTE:

Richard Owen, Authorized Signatory
Preserve Hutto, LLC
3200 Southwest Freeway, Suite 1870
Houston, Texas 77027

Jerry Ince, P.E., Senior Project Engineer
Ward Getz and Associates, PLLC
2500 Tanglewilde Street, Suite 120
Houston, Texas 77063

INTERESTED PERSONS /
PERSONAS INTERESADAS:

See attached list.

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

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

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

Deba Dutta, 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

ALDER , CHARLIE
1320 HUNTINGTON TRL
ROUND ROCK TX 78664-9316

BLAKEY , KAREN
1328 HUNTINGTON TRL
ROUND ROCK TX 78664-9316

BLISS , H
1321 HUNTINGTON TRL
ROUND ROCK TX 78664-9316

BLISS , KENNETH R
1321 HUNTINGTON TRL
ROUND ROCK TX 78664-9316

BORHAN , MEL
149 ELLINGER RD
GEORGETOWN TX 78626-2756

BOWMAN , PATRICIA A
PO BOX 5066
ROUND ROCK TX 78683-5066

CASPER , DANIELLE
208 E NAKOMA
ROUND ROCK TX 78664-9311

COBURN , JOSH
20812 PRESTWICK DR
HUTTO TX 78634-5550

DALE , KIMBERLY
149 WILTSHIRE DR
HUTTO TX 78634-5553

DIMEGO , MR MICHAEL
1325 QUAIL RAVINE
ROUND ROCK TX 78664-9314

DIMEGO , MRS VICKY
1325 QUAIL RAVINE
ROUND ROCK TX 78664-9314

FREELAND , JOE
MATHEWS & FREELAND LLP
STE 4-240
8140 N MOPAC EXPY
AUSTIN TX 78759-8837

GREENE , MR JAMES J
1353 MEADOWILD DR
ROUND ROCK TX 78664-9322

GREENE , MRS SUE E
1353 MEADOWILD DR
ROUND ROCK TX 78664-9322

GRUENER , JACOB
501 LADY SWISS LN
HUTTO TX 78634-5777

HALLAK , MOHAMMED
2012 OAK VISTA DR
PFLUGERVILLE TX 78660-9475

HAMPSON , BARBARA
1321 QUAIL RAVINE
ROUND ROCK TX 78664-9314

HEINTZE , KIM
2108 MAPLE VISTA DR
PFLUGERVILLE TX 78660-9454

HUBRATH , JEAN
1400 AUGUSTA BEND DR
HUTTO TX 78634-5273

LINDHOLM , JANENE COUVILLION
1903 PALM VISTA DR
PFLUGERVILLE TX 78660-9462

MAASS , JEFFERY
1405 CHRIS LN
PFLUGERVILLE TX 78660-7520

MCMILLIN , MEGAN
1404 MEADOWILD CV
ROUND ROCK TX 78664-9334

OBRIEN , LEE D
20912 PRESTWICK DR
HUTTO TX 78634-5389

PATEL , ANAND
MURFEE ENGINEERING COMPANY
BLDG D
1101 S CAPITAL OF TEXAS HWY
WEST LAKE HILLS TX 78746-6445

RIKER , MARTIN L
1204 HUNTINGTON TRL
ROUND ROCK TX 78664-9335

SCOGIN , JUDY
1357 MEADOWILD DR
ROUND ROCK TX 78664-9322

SCOGIN , TRAVIS
1357 MEADOWILD DR
ROUND ROCK TX 78664-9322

VAN DYKE , MR IAN M
1013 BETHPAGE DR
HUTTO TX 78634-5385

VAN DYKE , MS ROSITA A
1013 BETHPAGE DR
HUTTO TX 78634-5385

YOUNG , SUSY
1337 QUAIL RAVINE
ROUND ROCK TX 78664-9300

TPDES Permit No. WQ0016145001

APPLICATION FROM PRESERVE	§	BEFORE THE TEXAS
HUTTO, LLC FOR NEW TEXAS	§	
POLLUTANT DISCHARGE	§	COMMISSION ON
ELIMINATION SYSTEM PERMIT NO.	§	
WQ0016145001	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR’S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ) files this Response to Public Comment on the application by the Preserve Hutto, LLC (Preserve Hutto) for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016145001 and the Executive Director’s Preliminary Decision. As required by Title 30, section (§) 55.156 of the Texas Administrative Code (TAC), before a permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Executive Director received comments from Charlie Alder, Karen Blakey, H. Bliss, Kenneth R. Bliss, Patricia A. Bowman, Danielle Casper, Josh Coburn, Kimberly Dale, Michael DiMego, Vicky DiMego, James J. Green, Sue E. Green, Jacob Gruener, Mohammed Hallak, Barbara Hampson, Kim Heintze, Jean Hubrath, Janene Couvillion, Lindholm, Megan McMillin, Jeffery Maass, Lee D. O’Brian, Martin L. Riker, Judy Scogin, Travis Scogin, Ian M. Van Dyke, Rosita A. Van Dyke, and Susy Young. Additionally, Anand Patel provided comments on behalf of Williamson County WSIDD 3, and Joe Freeland provided comments on behalf of the City of Hutto.

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 www.tceq.texas.gov.

I. BACKGROUND

A. Description of Facility

Preserve Hutto applied to the TCEQ for a new TPDES permit to authorize the discharge of treated domestic wastewater at a daily average flow limit not to exceed 0.048 million gallons per day (MGD). The proposed wastewater treatment facility will serve the Preserve at Star Ranch. The Preserve at Star Ranch Wastewater Treatment Facility will be an activated sludge process plant operated in the extended aeration mode. Treatment units will include a bar screen, two aeration basins, a final clarifier, two sludge digesters, and a chlorine contact chamber. The facility has not been constructed.

Sludge generated from the treatment facility will be hauled by a registered transporter and disposed of at Mount Houston Road Municipal Utility District, Permit No. WQ0011154001, in Harris County, to be digested, dewatered, and then disposed of with the bulk of the sludge from the plant accepting the sludge. The draft permit also authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

The effluent limitations and monitoring requirements for those parameters that are limited in the draft permit are as follows:

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The daily average flow of effluent shall not exceed 0.048 million gallons per day, nor shall the average discharge during any two-hour period (2-hour peak) exceed 133 gallons per minute. The effluent limits in the draft permit are:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			
	Daily Avg mg/l (lbs/day) Report	7-day Avg mg/l N/A	Daily Max mg/l Report	Single Grab mg/l N/A
Flow, MGD				
Carbonaceous Biochemical Oxygen Demand (5-day)	5 (2.0)	10	20	30
Total Suspended Solids	5 (2.0)	10	20	30
Ammonia Nitrogen	2 (0.81)	5	10	15
Total Phosphorus	1 (0.40)	2	4	6
<i>E. coli</i> , colony-forming units or most probable number per 100 ml	126	N/A	N/A	399

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. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per month by grab sample. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil. The effluent shall contain a minimum dissolved oxygen of 4.0 mg/l and shall be monitored once per week by grab sample.

B. Procedural Background

The permit application was received on April 8, 2022, and declared administratively complete on June 14, 2022. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published in English in the *Austin Chronicle* on June 24, 2022; and in Spanish in *La Prensa Comunidad* on June 28, 2022. The Executive Director completed the technical review of the application on September 14, 2022. The Notice of Application and Preliminary Decision (NAPD) was published in English in the *Austin Chronicle* on November 4, 2022; and in Spanish in *La Prensa Comunidad* on October 28, 2022. The Notice of the Public Meeting was published in the *Austin Chronicle* on April 07, 2023. A public meeting was held on May 11, 2023. The public comment period ended at the conclusion of the public meeting.

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), both

implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55. This application is subject to those changes in the law.

C. Access to Rules, Laws, and Records

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

- to access the Secretary of State website: <https://www.sos.state.tx.us>;
- for TCEQ rules in 30 TAC: <https://www.sos.texas.gov/tac> (select “TAC Viewer” on the right, then “Title 30 Environmental Quality”);
- for Texas statutes: <http://www.statutes.legis.state.tx.us/>;
- to access the TCEQ website: <https://www.tceq.texas.gov/rules/index.html> (for downloadable rules in Microsoft Word or Adobe PDF formats, select “Rules,” then “Current Rules and Regulations,” then “Download TCEQ Rules”);
- for Federal rules in Title 40 of the Code of Federal Regulations: <http://www.ecfr.gov.tpl>; and
- for Federal environmental laws: <http://www.epa.gov/lawsregs/>.

The permit application, Executive Director’s preliminary decision, and draft permit are available for viewing and copying at the Austin Public Library, North Village Branch, 2505 Steck Avenue, Austin, Texas.

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

II. COMMENTS

Comment 1:

Karen Blakey, H. Bliss, Kimberly Dale, Michael Dimego, Vicky Dimego, Ian Van Dyke, Jacob Gruener, Mohammed Hallak, Kim Heintze, Janene Lindholm, Jeffery Maass, James Green, Sue Green, and Travis Scogin expressed general opposition to the proposed WWTF.

Response 1:

The Executive Director acknowledges these comments.

Comment 2:

Karen Blakey, H. Bliss, Kenneth R. Bliss, Patricia A. Bowman, Danielle Casper, Michael DiMego, Vicky DiMego, James J. Greene, Sue E. Greene, Barbara Hampson, Lee O’Brien, Anand Patel, Martin L. Riker, Susy Young, and Ian M. Van Dyke requested the TCEQ hold a public meeting.

Response 2:

The TCEQ held a public meeting on May 11, 2023, in Pflugerville, Texas.

Comment 3:

Karen Blakey asked what the permit is for.

Response 3:

The Preserve Hutto, LLC applied to the TCEQ for a new TPDES permit authorizing the discharge of treated domestic wastewater at a daily average flow limit not to exceed 0.048 million gallons per day (MGD). The proposed wastewater treatment facility will serve the Preserve at Star Ranch.

Comment 4:

Martin Riker requested clarification of the size of the facility because the first letter referenced 0.45 MGD, however the publicly available draft permit references 0.60 MGD. Similarly, Judy Scogin asked if the discharge of 48,000 gallons per day is initially or permanently. Judy Scogin also asked how many gallons per day the WWTF can treat.

Response 4:

If the permit is issued, the facility will be authorized to discharge treated domestic wastewater at a daily average flow not to exceed 0.048 MGD which is 48,000 gallons per day. If Preserve Hutto decides to increase their permitted flow, it will need to submit an application for a major amendment and justify the need for the additional flow. An application for a major amendment requires new notice and opportunity for public involvement.

Comment 5:

Judy Scogin asked what type of disinfection will be used.

Response 5:

The rules in 30 TAC § 309.3(g)(1) require that disinfection of domestic wastewater must be protective of both public health and aquatic life. For this facility, Preserve Hutto chose chlorine disinfection. Chlorination may be via gaseous, liquid, or tablet forms. Chlorine is the one of the most practical and effective means of disinfection because it can kill disease-causing bacteria and nuisance organisms and can eliminate certain noxious odors during disinfection. The draft permit requires the effluent 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). The chlorine residual shall be monitored five times per week by grab sample.

Comment 6:

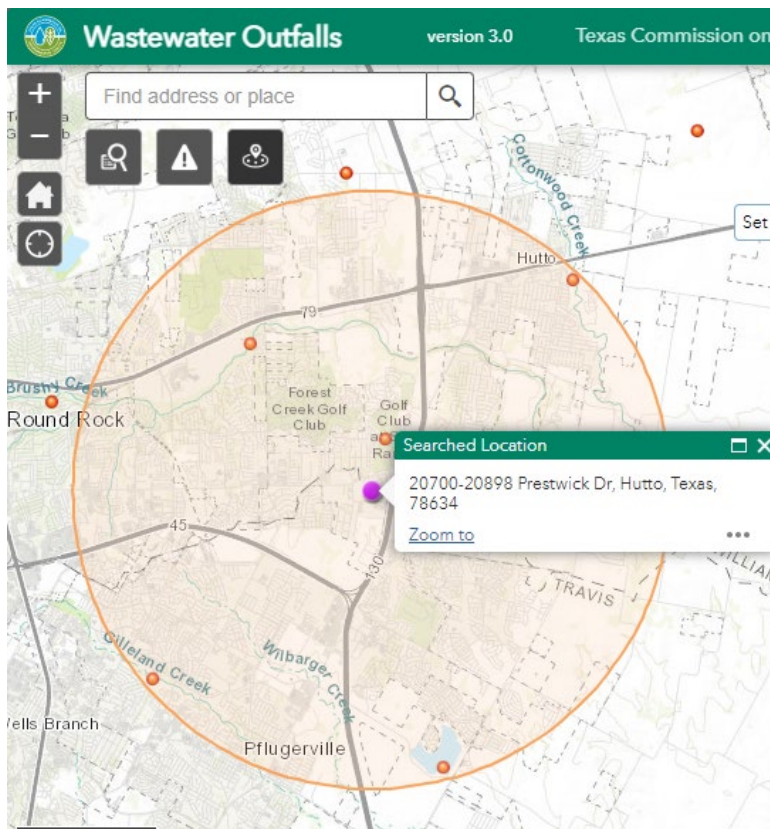
Martin Riker asked what type of WWTF the applicant proposed and if there are similar WWTFs located in similar neighborhoods in Texas, and if so where are they located.

Response 6:

The Preserve at Star Ranch Wastewater Treatment Facility will be an activated sludge process plant operated in the extended aeration mode. Treatment units will

include a bar screen, two aeration basins, a final clarifier, two sludge digesters, and a chlorine contact chamber. The activated sludge process is the most frequently used biological wastewater treatment process for treating domestic wastewater, and the use of the extended aeration variation has been known to produce highly treated effluent with low biosolids production. This is the most common type of wastewater treatment facility in Texas and is widely used in Texas.

There are five WWTFs within a five-mile radius of the proposed WWTP. WWTPs in the five-mile radius that use a similar treatment process include: SWWC Utilities LLC (2 plants), City of Hutto, City of Round rock, and City of Pflugerville. See the image below showing the outfalls of the wastewater treatment facilities within a 5-mile radius of the proposed facility (purple dot).



Comment 7:

Judy Scogin asked what ecological and environmental studies have been conducted to ensure that there are no wetlands or springs.

Response 7:

As part of the permit application Preserve Hutto was required to provide information regarding the immediate receiving waters (stream, freshwater swamp or marsh, lake, pond, man-made channel or ditch, open bay, tidal stream or marsh). According to the application, the discharge will be to an unnamed tributary, then to Wilbarger Creek, then to the Colorado River Above La Grange in segment 1434 of the

Colorado River Basin. Preserve Hutto was not required to provide any specific ecological or environmental studies to evaluate wetlands or springs.

Additionally, the draft permit contains buffer zone requirements. Preserve Hutto shall comply with the requirements of 30 TAC § 309.13(a) through (d). In addition, by ownership of the required buffer zone area, Preserve Hutto shall comply with the requirements of 30 TAC § 309.13(e). Per § 309.13 (b), a wastewater treatment plant unit may not be located in wetlands. According to § 309.13 (c), a wastewater treatment plant unit may not be located closer than 500 feet from a public water well, nor 250 feet from a private water well.

Comment 8:

Martin Riker asked what the impact of the WWTF will be on the tributary and the Wilbarger Creek watershed.

Response 8:

The treated effluent from the WWTF should not have a negative impact on the tributary or on Wilbarger Creek. According to the application, the effluent will be discharged via pipe to an unnamed tributary, thence to Wilbarger Creek, thence to Colorado River Above La Grange in Segment No. 1434 of the Colorado River Basin. The unclassified receiving water use is limited aquatic life use for the unnamed tributary. The designated uses for Segment No. 1434 are primary contact recreation, public water supply, and exceptional aquatic life use. The effluent limitations in the draft permit will maintain and protect the existing instream use. In accordance with 30 Texas Administrative Code § 307.5 and the TCEQ's *Procedure to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained.

Comment 9:

Jean Hubrath stated that neither her nor her neighbors were notified of the proposed project. Jean Hubrath also commented that there should be public notice followed by a public comment period before the project moves forward.

Response 9:

The TCEQ's notice rules for a new permit require two mailed notices to landowners named on the adjacent landowner map submitted as part of the application. Both notices are also mailed to all persons on the mailing list maintained by the Office of the Chief Clerk. The adjacent landowner map provided by the applicant must include the property boundaries of landowners surrounding the applicant's property and the property boundaries of all landowners surrounding the discharge point and on both sides of the discharge route for one full stream mile downstream of the discharge point. The landowner map provided by applicant did not indicate Jean Hubrath as being an adjacent landowner. Therefore, Ms. Hubrath was not included on the mailing list. Any person who submits a comment or contested case hearing request prior to the end of the public comment period is automatically added to the mailing list for that permit action.

Additionally, TCEQ's rules require at least two published notices for all TPDES applications. The first notice, the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI), is published and mailed when an application is Administratively Complete. The NORI was published in English in the *Austin Chronicle* on June 24, 2022; and in Spanish in *La Prensa Comunidad* on June 28, 2022. The second notice is prepared when the Executive Director completes the technical review of the application. The Executive Director completed the technical review of the application on September 14, 2022; the Notice of Application and Preliminary Decision (NAPD) was published in English in the *Austin Chronicle* on November 4, 2022; and in Spanish in *La Prensa Comunidad* on October 28, 2022. Finally, because the TCEQ held a public meeting, a third notice, the Notice of the Public Meeting, was published in the *Austin Chronicle* on April 07, 2023. A public meeting was held on May 11, 2023. The public comment period ended at the conclusion of the public meeting.

Comment 10:

Jean Hubrath commented that all new development activities in the area should be disclosed to the neighbors.

Response 10:

The TCEQ does not require coordination efforts between the applicant and the neighbors. Any questions regarding coordination should be addressed to the applicant's representative Mr. Jerry Ince, P.E., at 832-344-6604.

Comment 11:

Judy Scogin asked what areas and neighborhoods will be served by the WWTF.

Response 11:

The proposed wastewater treatment facility will serve the Preserve at Star Ranch.

Comment 12:

Judy Scogin asked if the WWTF will be publicly or privately funded and if there are any economic development grants involved.

Response 12:

According to the application, the WWTF will be a private domestic wastewater treatment facility. TCEQ is not aware of any economic development grants as this information is not required in the application.

Comment 13:

Judy Scogin asked how the site was selected and if any governmental entities were involved.

Response 13:

Applicants for TPDES permits are not required to provide information regarding how a site for a WWTP is selected. If any part of the proposed facility is in an

incorporated city, the applicant must provide correspondence with the city as part of the application. According to the application, Preserve Hutto provided copies of letters dated March 31, 2022, sent to Travis County MUD 15, Williamson County Water Sewer Irrigation and Drainage District 3, Williamson County MUD 22, City of Hutto, Kelly Lane Utility Co Inc., Lakeside WCID 2A, B, C, and D, SWWC Utilities, City of Round Rock, City of Cedar Park, and City of Austin to inquire if they have capacity to accept the flow proposed in the application. However, they were not involved in selecting the site. The Executive Director has no information on whether any of these entities were involved in the selection of the site.

Comment 14:

Kim Heintze and Jeffery Maass expressed concern that the discharge will negatively impact cattle that drink from the creek downstream of the outfall.

Response 14:

The draft permit was prepared in accordance with 30 TAC § 307.5 and the TCEQ Procedures for the Implementation of the Texas Surface Water Quality Standards (IPs; June 2010). The Texas Surface Water Quality Standards (TSWQS) provide that surface waters cannot be toxic to aquatic or terrestrial organisms. While the TSWQS and the IPs do not specifically designate criteria for the protection of cattle or livestock, they do designate criteria for the protection of aquatic life that should preclude negative impacts to the health and performance of cattle or wildlife.

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

Comment 15:

Kimberly Dale, Mohammed Hallak, Jeffery Maass, and Travis Scogin expressed a general concern over the proposed location of the WWTF. Similarly, Karen Blakey, Mohammed Hallak, and Jacob Gruener expressed concern regarding the proposed location of the WWTF because it is between an elementary school and a neighborhood. Karen Blakey also noted that the facility will be in Pflugerville, but will affect Hutto and Round Rock, and will impact nearby businesses, homes, and an elementary school. Judy Scogin asked how the location was chosen. Rosita Van Dyke suggested the WWTF be located on the other side of Star Ranch, near the toll road, so that fewer people will be impacted.

Response 15:

TCEQ does not have the authority to mandate a discharge location or wastewater treatment plant location if the proposed location and discharge route comply with the applicable statutory and regulatory requirements.¹

¹ See, Texas Water Code Chapter 26 and 30 Texas Administrative Code Chapter 309.
Executive Director's Response to Public Comment
Preserve Hutto, LLC
TPDES Permit No. WQ0016145001

Comment 16:

Jacob Gruener and Megan McMillin expressed concern over odors from the facility negatively impacting the children that attend the nearby elementary school. Rosita Van Dyke stated that the odors will make it harder for children to learn. Williamson County WSIDD 3 noted that there could be odor issues with the homes by the buffer zone boundary. Karen Blakey expressed concern that the WWTF will cause odors in her neighborhood. James and Sue Green, Megan McMillin, Martin Riker, expressed general odor concerns. Vicky Dimego stated that it is unacceptable for Pflugerville to allow a WWTF at the edge of the city limits when the odors will carry to Round Rock and Hutto.

Response 16:

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. An 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 applicant; or 3) providing nuisance odor control.

According to its application, Preserve Hutto intends to comply with the requirement to abate and control nuisance of odor by locating the treatment units at least 150 feet from the nearest property line. This requirement is incorporated in the draft permit. Therefore, nuisance odor is not expected to occur as a result of the permitted activities at the facility provided Preserve Hutto operates the facility in compliance with TCEQ's rules and the terms and conditions of the draft permit.

Comment 17:

Martin Riker asked if there are plans for odor mitigation.

Response 17:

According to the application, Preserve at Hutto does not have a specific odor mitigation plan; however, as discussed above, all wastewater treatment units will be located at least 150 feet from the nearest property line.

Comment 18:

Joshua Coburn and Mohammed Hallak expressed concern over how the WWTF will affect their family and children's health.

Response 18:

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, 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 Water Quality Division 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. Therefore, the permit limits given in the draft permit intended to maintain the existing uses of the surface waters. The effluent limitations are calculated based upon the human health criteria to protect drinking water and fish consumption listed within Table 2 of 30 TAC Chapter 307. The human health criteria are derived in accordance with EPA guidance. To ensure that public health and safety and the environment are protected, TCEQ's rules require treated effluent to be disinfected prior to discharge, 30 TAC § 309.3(g)(1). To reduce pathogenic organisms in its effluent, the applicant has chosen to use chlorination as a means of disinfection. To ensure the effluent will be properly disinfected, the draft permit requires that the applicant must chlorinate its effluent. The applicant indicated that the disinfection will be effected in a chlorine contact chamber. The chlorine residual after the chlorine contact chamber must be at least 1.0 mg/L after a minimum detention time of 20 minutes. To ensure the effluent has been properly disinfected, the draft permit also includes an effluent limit for bacteria of 126 CFU or MPN of *E. coli* per 100 ml as a daily average.

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.

However, because the State is authorized to use the bed and banks to transport water, and the TCEQ has the authority to authorize a discharge of treated domestic wastewater into water in the state through a TPDES permit, the applicant for a TPDES permit does not need permission from downstream landowners to use the watercourse running through their property, nor do downstream landowners have to be paid because of a permitted discharge.

Comment 19:

Kimberly Dale stated that the airborne matter from the facility can cause several illnesses. Similarly, Judy Scogin asked what assurance the neighbors have that there will not be any negative or harmful impacts to air, life, or health due to pathogenic airborne microorganisms and odors.

Response 19:

Wastewater Treatment Plants do not contribute significant amounts of air contaminants to the atmosphere, and thus, do not negatively impact human health and the environment. The Executive Director has determined that the draft permit meets all regulatory and statutory requirements for the protection of human health and the environment. The draft permit was developed to protect aquatic life and human health in accordance with the TSWQ, and was established to be protective of human health and the environment provided the applicant operates and maintains the facility according to TCEQ rules and the requirements in the draft permit.

Maintaining an adequate dissolved oxygen concentration in the early stages of wastewater treatment helps to minimize sulfide generation, which is the most common cause of odor. The treatment process proposed by Preserve Hutto supplies oxygen

from the air into the wastewater for biodegradation of the organic contaminants in the wastewater through aeration. Oxygen also turns the sulfide compounds into odorless sulfates.

The Texas Clean Air Act provides that certain facilities may be exempt from the requirements of an air quality permit if, upon review, it is found that those facilities will not make a significant contribution of air contaminants to the atmosphere and that human health and the environment will be protected. According to the TCEQ rules in 30 TAC § 106.532, wastewater treatment plants have undergone this review and are permitted by rule, provided the wastewater treatment plant only performs the functions listed in the rule. In its application, the applicant indicated that the treatment process of the proposed wastewater treatment facility would use the activated sludge process. This treatment process will not make a significant contribution of air contaminants to the atmosphere pursuant to the Texas Health and Safety Code's (THSC) Texas Clean Air Act § 382.057 and § 382.05196, and is therefore permitted by rule.

Comment 20:

Kimberly Dale, Mohammed Hallak, Megan McMillin, and Lee O'Brien noted that the facility will reduce property values in the area. Megan McMillin also asked what will be done to compensate landowners for the negative impact to property values.

Response 20:

Property value concerns are outside of TCEQ's jurisdiction. However, the draft permit does not limit any landowner's ability to seek private action against Preserve Hutto.

Comment 21:

Jeffery Maass commented that because the proposed discharge is to a dry creek, there will not be any flow to dilute accidental and emergency discharges.

Response 21:

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 dissolved oxygen 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.

An unauthorized discharge is a violation of the permit for which an enforcement action can be brought by the TCEQ against Preserve Hutto. The draft

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 TCEQ. All of these permit provisions are designed to help prevent unauthorized discharges of raw sewage. Except as allowed by 30 TAC § 305.132, Preserve Hutto will be required to report an unauthorized discharge to the TCEQ within 24 hours. Finally, Preserve Hutto will be subject to potential enforcement action for failure to comply with TCEQ rules or the permit.

Comment 22:

Rosita Van Dyke stated that the closest creek to the WWTF is Brushy Creek, which is about a mile away.

Response 22:

Brushy Creek is north of the facility; however, the discharge from the facility will flow in a southeast direction. The discharge is via pipe to an unnamed tributary, thence to Wilbarger Creek, thence to Colorado River above La Grange in Segment No. 1434 of the Colorado River Basin.

Comment 23:

Jeffery Maass expressed concern regarding humans and animals interacting with accidental and emergency discharges.

Response 23:

An unauthorized discharge is a violation of the permit which may subject Preserve Hutto to an enforcement action. The draft permit prohibits unauthorized discharge of wastewater or any other waste and includes appropriate requirements to help prevent unauthorized discharges. 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 TCEQ. These permit provisions are designed to help prevent unauthorized discharges of raw sewage. Except as allowed by 30 TAC § 305.132, applicant will be required to report an unauthorized discharge to the TCEQ within 24 hours. Finally, applicant will be subject to potential enforcement action for failure to comply with TCEQ rules or the permit.

Comment 24:

Jeffery Maass expressed concern of the number of inaccuracies and misrepresentations in the application.

Response 24:

The Executive Director performed an administrative review of the application to ensure that all required information was provided. The Executive Director determined that the application is administratively complete on June 14, 2022. Additional information was requested on June 2, 2022, and received on June 13, 2022.

The Executive Director also performed a technical review of the application to ensure that Preserve Hutto adequately addressed all required technical issues to show that wastewater from the facility will be treated to required standards. The Executive Director prepared a draft permit with effluent limits and operational requirements that will help ensure protection of existing uses for the receiving water bodies. Based on review of the application, the Executive Director determined that the application was technically complete on September 15, 2022.

As provided by state law, a permittee is subject to administrative, civil and criminal penalties, as applicable, for negligently or knowingly violating the Clean Water Act, Texas Water Code §§ 26, 27, and 28, and the Texas Health and Safety Code § 361, including but not limited to knowingly making any false statement, representation, or certification on any report, record, or other document submitted or required to be maintained under the draft permit, including monitoring reports or reports of compliance or noncompliance, or falsifying, tampering with or knowingly rendering inaccurate any monitoring device or method required by this permit or violating any other requirement imposed by state or federal regulations.

Comment 25:

Jeffery Maass commented that the WWTF is not needed because the developer could tie into the WWTF operated by Williams County WSID. Similarly, Williamson County WSIDD 3 stated that SWWC agreed to provide wastewater service to the Preserve, which would align with TCEQ's mission of regionalization.

Response 25:

Texas Water Code (TWC) § 26.081 enumerates the state's regionalization policy. Section 26.081 states that the policy should "encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state." In furtherance of that policy TWC § 26.0282 authorizes the TCEQ, when considering the issuance of a permit to discharge waste, to deny or alter the terms and conditions of a proposed permit based on need and the availability of existing or proposed area-wide or regional waste collection, treatment, and disposal systems.

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

to a permitted wastewater treatment facility or collection system located within three miles versus the cost of the proposed facility or expansion. 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.

According to Preserve Hutto's application, there are existing wastewater treatment facilities within a three-mile radius of the proposed facility site location; however, none of the permitted domestic wastewater treatment facilities currently have the capacity to accept or are willing to expand to accept the volume of wastewater proposed in the Preserve Hutto application.

Additionally, according to Preserve Hutto's application, certified letters were mailed by the applicant to Travis County MUD 15; Williamson County Water Sewer Irrigation and Drainage District 3; Williamson County MUD 22; City of Hutto; Kelly Lane Utility Co Inc.; Lakeside WCID 2A, B, C, and D; SWWC Utilities; City of Round Rock; City of Cedar Park; and City of Austin to determine if they have to accept or are willing to expand to accept the volume of wastewater proposed in this application. Mr. Samuel Ray, P.E., Director of Engineering, City of Hutto, responded via email that "The City of Hutto does not have any wastewater infrastructure in that area." Preserve Hutto did not receive any other responses to its inquiry.

Comment 26:

Janene Lindholm commented that there is not enough impervious cover to absorb the water from the hardscaping in the development, and the runoff will enter Shallow Creek.

Response 26:

The treated effluent will be discharged via pipe to an unnamed tributary, thence to Wilbarger Creek, thence to Colorado River Above La Grange in Segment No. 1434 of the Colorado River Basin. The Executive Director's review of an application for a TPDES permit does not include a stormwater, or hydrologic or hydraulic analysis of the receiving water course.

Comment 27:

Martin Riker asked if there are any plans to mitigate the visual impact of the facility.

Response 27:

TCEQ does not require information regarding mitigation of the visual impact of the facility as part of the wastewater permitting application process, and this information was not submitted by the applicant. The TCEQ does not have the authority to address these types of issues as part of the wastewater permitting process. TWC Chapter 26 and applicable wastewater regulations do not authorize the TCEQ to consider issues such as aesthetics, noise, light pollution, ecotourism, or property value. However, 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 28:

Williamson County WSIDD 3 commented that as proposed, the discharge pipe would cross district property, which will require the Preserve to obtain an easement from the district.

Response 28:

The TCEQ was given the authority to issue TPDES permits for the discharge of waste or pollutant into or adjacent to water in the state. If the permit is issued, it does not grant the permittee the right to use private or public property for the conveyance of wastewater along the discharge route. Also, the permit does not authorize any invasion of personal rights or any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire all property rights necessary to use the discharge route. Also, 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.

However, because the State is authorized to use the bed and banks to transport water, and the TCEQ has the authority to authorize a discharge of treated domestic wastewater into water in the state through a TPDES permit, the applicant for a TPDES permit does not need permission from downstream landowners to use the watercourse running through their property, nor do downstream landowners have to be paid because of a permitted discharge.

Comment 29:

Megan McMillin and Williamson County WSIDD 3 noted that the draft permit is not available for viewing in a public location. Similarly, Judy Scogin asked if the public comment period will be extended because the application packet was not in the library.

Response 29:

TCEQ received the Preserve Hutto application on April 8, 2022. The Executive Director performed an administrative review of the application and mailed a Notice of Receipt of Application and Intent to Obtain a Permit (NORI) to Preserve Hutto on June 27, 2022; application was made available for public viewing at Austin Public Library, North Village Branch, 2505 Steck Avenue, Austin, Texas. Upon completion of the technical review of the application, TCEQ prepared a draft permit. The Executive Director's preliminary decision, draft permit, and Notice of Application and Preliminary Decision (NAPD) were mailed out to the applicant on October 6, 2022. Since then, all of the documents were made available by the applicant for viewing and copying at the same public viewing location.

After learning that the required documents were no longer available at the library, Preserve Hutto put another copy at the North Village Branch library. The Public comment period ended at the conclusion of the public meeting.

Comment 30:

Karen Blakey asked how the WWTF site was selected.
Executive Director's Response to Public Comment
Preserve Hutto, LLC
TPDES Permit No. WQ0016145001

Response 30:

TCEQ's rules do not require an applicant for a TPDES permit to provide information regarding how the location of a proposed WWTF was chosen.

Comment 31:

James and Sue Green expressed a general concern over pollution.

Response 31:

The Executive Director performed a technical review of the application to ensure that the wastewater from Preserve Hutto will be treated to required standards. The effluent limits proposed in the draft permit will ensure protection of existing uses for the receiving water.

Comment 32:

James and Sue Green expressed a general concern over traffic issues. Karen Blakey asked about the impact on traffic and improvements. Martin Riker asked where the residents will park and if the development will have a pool, and if there are plans for the improvement of the streambed and bridge over Priem Lane. Jeffery Maass commented that the developer intends on profit by selling the development.

Response 32:

The TCEQ does not have the authority to address these types of issues as part of the wastewater permitting process. TWC Chapter 26 and applicable wastewater regulations do not authorize the TCEQ to consider issues such as traffic, improvement of waterways, or property values. However, 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.

Concerns regarding personal safety or security should be directed to local law enforcement.

Comment 33:

James and Sue Green asked if the project is for low-income housing.

Response 33:

According to Preserve Hutto, the WWTF will serve the Preserve at Star Ranch Development. The applicant provided the required information regarding sources of wastewater (for example, subdivision, trailer park, schools), however the applicant was not required to provide any additional details regarding the affordability of homes in the development.

Comment 34:

Judy Scogin asked how the WWTF will impact the power grid.

Response 34:

The TCEQ does not have the authority to address the impact to the power grid in the wastewater permitting process.

Comment 35:

Megan McMillin asked that the applicant be transparent in its plans for the site and its impact on the neighbors and the elementary school.

Response 35:

The Executive Director acknowledges the comment.

Comment 36:

Megan McMillin asked if any research has been done regarding the potential negative impacts of a WWTF close to an elementary school playground.

Response 36:

The Executive Director is not aware of any specific studies about the potential negative impacts of a WWTF close to an elementary school playground; however, the draft permit was developed to maintain the water quality consistent with public health and enjoyment, propagation, and protection of terrestrial and aquatic life.

Comment 37:

Joshua Coburn and Janene Lindholm expressed concern over flooding.

Response 37:

TPDES permits establish terms and conditions that are intended to provide water quality pollution control. Therefore, the Executive Director's review of an application for a TPDES permit focuses on controlling the discharge of pollutants into water in the state. TCEQ does not have the authority to regulate flooding in the wastewater permitting process unless there is an associated water quality concern. The draft permit includes effluent limits and other requirements that it must meet even during rainfall events and periods of flooding. Additionally, according to the application, the proposed facility is located above the 100-year flood plain.

Comment 38:

The City of Hutto commented that the location of the proposed WWTF is inside Hutto's certified sewer service area and Hutto has the ability to provide service to the development. Hutto also noted that the applicant does not have a sewer CCN to serve the area, and therefore the owner of the proposed WWTF cannot legally provide retail sewer utility service. The City of Hutto also commented that the statement in the application that the location of the proposed WWTF is not within the certificated service area of another utility is not accurate and that the applicant's justification to build a new WWTP is insufficient to satisfy TCEQ's regionalization policy.

Response 38:

According to Preserve Hutto's application the applicant mailed certified letter to the City of Hutto on March 31, 2022, to determine if the City of Hutto has the capacity to accept or is willing to expand to accept the volume of wastewater proposed in Preserve Hutto's application. Mr. Samuel Ray, P.E., Director of Engineering responded via email that "The City of Hutto does not have any wastewater infrastructure in that area. I would recommend reaching out to Round Rock, Pflugerville regarding public service in this area."

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT


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


Respectfully submitted,

Texas Commission on Environmental
Quality

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Environmental Law Division


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