

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 18, 2023

TO: All interested persons.

RE: Montgomery County Municipal Utility District No. 125
TPDES Permit No. WQ0014989001

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 Charles B. Stewart - West Branch Library, 202 Bessie Price Owen Drive, Montgomery, 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.

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- (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/cb

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
Montgomery County Municipal Utility District No. 125
TPDES Permit No. WQ0014989001

The Executive Director has made the Response to Public Comment (RTC) for the application by Montgomery County Municipal Utility District No. 125 for TPDES Permit No. WQ0014989001 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 (WQ0014989001) 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 Charles B. Stewart - West Branch Library, 202 Bessie Price Owen Drive, Montgomery, Texas.



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas reduciendo y previniendo la contaminación

18 de septiembre de 2023

TO: Todas las personas interesadas.

RE: Montgomery County Municipal Utility District No. 125
TPDES Permiso No. WQ0014989001

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 Charles B. Stewart – West Branch Library, 202 Bessie Price Owen Drive, Montgomery, 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/cb

Recinto

RESPUESTA DEL DIRECTOR EJECUTIVO AL COMENTARIO DEL PÚBLICO
para
Montgomery County Municipal Utility District No. 125
TPDES Permiso No. WQ0014989001

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de Montgomery County Municipal Utility District No. 125 del permiso de TPDES No. WQ0014989001. 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 (WQ0014989001) 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 Charles B. Stewart – West Branch Library, 202 Bessie Price Owen Drive, Montgomery, Texas.

MAILING LIST / LISTA DE CORREO
for / para
Montgomery County Municipal Utility District No. 125
TPDES Permit No. WQ0014989001/ TPDES Permiso No. WQ0014989001

FOR THE APPLICANT /
PARA EL SOLICITANTE:

Andrew Laycock, President
Montgomery County MUD No. 125
1980 Post Oak Boulevard, Suite 1380
Houston, Texas 77056

Jacob Miller, P.E., Project Engineer
Pape-Dawson Engineers, Inc.
10350 Richmond Avenue, Suite 200
Houston, Texas 77042

Rutika Nanivadekar, E.I.T., Engineer II
Pape-Dawson Engineers, Inc.
10350 Richmond Avenue, Suite 200
Houston, Texas 77042

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

Todd Galiga, Senior Attorney
Texas Commission on Environmental
Quality
Environmental Law Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087

Bradford Eckhart, Legal Assistant
Texas Commission on Environmental
Quality
Environmental Law Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087

Ruiqiang Zong, 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

HILL , MARC
1770 SAINT JAMES PL STE 115
HOUSTON TX 77056-3405

WHITE IV , MR JAMES JEFFERSON
10964 LAKE FOREST DR
CONROE TX 77384-3248

TPDES PERMIT NO. WQ0014989001

APPLICATION BY	§	BEFORE THE
Montgomery County Municipal	§	TEXAS COMMISSION
Utility District No. 125	§	ON
FOR TPDES PERMIT NO.	§	ENVIRONMENTAL QUALITY
WQ0014989001	§	

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the application by the Montgomery County Municipal Utility District No. 125 (Applicant), to renew Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0014989001 and on the ED's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section (§) 55.156, before an application is approved, the ED prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk received a timely hearing request with comments from James Jefferson White IV.

This response addresses all such public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.gov.

I. Background

A. Description of Facility

The Applicant has applied to the TCEQ for renewal of the existing permit that authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 0.24 million gallons per day (MGD) in the Interim I phase, a daily average flow not to exceed 0.48 MGD in the Interim II phase, and a daily average flow not to exceed 0.96 MGD in the Final phase. The proposed wastewater treatment facility will serve Montgomery County Municipal Utility District (MUD) No. 125 and MUD 200. The facility has not been constructed.

The Montgomery County MUD 125 Wastewater Treatment Facility will be an activated sludge process plant operated in extended aeration mode in the Interim I

phase, and complete mix mode in the Interim II and Final phases. Treatment units in the Interim I phase will include a bar screen, one aeration basin, a final clarifier, one sludge holding tank, and a chlorine contact chamber. Treatment units in the Interim II phase will include a bar screen, six aeration basins, two final clarifiers, two sludge holding tanks, and two chlorine contact chambers. Treatment units in the Final phase will include a bar screen, two aeration basins, two final clarifiers, two sludge holding tanks, and two chlorine contact chambers.

The treated effluent will be discharged to a man-made ditch, thence to an unnamed tributary, thence to a pond, thence to an unnamed tributary, thence to Lake Creek in Segment No. 1015 of the San Jacinto River Basin. The unclassified receiving water uses are minimal aquatic life use for the man-made ditch and the unnamed tributaries and limited aquatic life use for the unnamed pond. The designated uses for Segment No. 1015 are primary contact recreation, public water supply, and high aquatic life use.

The effluent limitations in the Interim I, Interim II, and Final phases of the draft permit, based on a 30-day average, are 10 mg/l five-day carbonaceous biochemical oxygen demand (CBOD₅), 15 mg/l total suspended solids (TSS), 3 mg/l ammonia-nitrogen (NH₃-N), 63 colony-forming units (CFU) or most probable number (MPN) of *E. coli* per 100 ml, and 4.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

B. Procedural Background

The Applicant submitted the application to renew the existing permit on June 3, 2022. The application was declared administratively complete on August 12, 2022. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on August 24, 2022, in the *Cypress Creek Mirror*, in English, and on August 25, 2022, in the *El Perico*, in Spanish. The technical review of the application was completed on November 17, 2022. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on March 15, 2023, in the *Cypress Creek Mirror*, in English, and on March 09, 2023, in the *El Perico*, in Spanish. The comment period ended on April 14, 2023. This application was received on or after September 1, 2015,

and is subject to procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999, and Senate Bill 709, 84th Legislature, 2015, both implemented by the Commission's rules at 30 TAC Chapters 39, 50, and 55.

C. Access to Rules, Laws, and Records

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

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

The permit application, ED's preliminary decision, and draft permit are available for viewing and copying at Charles B. Stewart - West Branch Library, 202 Bessie Price Owen Drive, Montgomery, Texas. Commission records for this facility are available for viewing and copying at the TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of the Chief Clerk, for the current application until final action is taken).

II. Comments and Responses

Comment 1:

James Jefferson White IV requested a contested case hearing for this application.

Response 1:

The ED acknowledges the request for a contested case hearing. The ED considered all timely comments and prepared this response to all relevant, material, or significant public comments. This RTC will be mailed to everyone who either submitted public comments or requested to be added to the mailing list for this

application. That mail will include instructions on requesting a contested case hearing and on requesting a reconsideration of the ED's decision. Following the close of the applicable comment and request periods, the ED will forward the application, any requests for reconsideration, and any requests for a contested case hearing to the TCEQ Commissioners for the Commissioners' consideration at a scheduled Commission meeting. The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn. So, if a hearing is granted, the scope of the hearing will be limited to disputed issues of fact or mixed questions of fact and law relating to relevant and material water quality concerns that the requestor submitted during the comment period. The TCEQ Commissioners will make the final decision regarding this application regardless of whether the application goes to hearing.

Comment 2:

Mr. White commented that he owns the property at 21905, 21899, and 21893 Stillwater Boulevard, Montgomery, Texas 77316. It is downstream and directly across FM149 from the wastewater plant applied for in Permit WQ0014989001 (EPA I.D. No. TX0132845). This property includes a large pond that is specifically mentioned in the discharge route for this water treatment plant. He expressed concerns about water quality in the pond from the almost 1 MGD treated wastewater regarding overall utility, water clarity, and wildlife living in the pond.

Response 2:

The requirements in the draft permit are established to protect human health and the environment if the applicant operates and maintains the facility according to TCEQ's rules and the draft permit's requirements. The application review process includes TCEQ's determination of the receiving water's uses, and effluent limits are set to protect those uses.

The treated effluent will be discharged to a man-made ditch, thence to an unnamed tributary, thence to a pond, thence to an unnamed tributary, thence to Lake Creek in Segment No. 1015 of the San Jacinto River Basin. The designated uses for the man-made ditch and the unnamed tributaries are limited aquatic life use. The unnamed pond is also designated as limited aquatic life use. Segment No. 1015 is

designated for primary contact recreation, public water supply, and high aquatic life uses.

The Texas Surface Water Quality Standards (TSWQS) in 30 TAC Chapter 307 require that discharges may not degrade the receiving waters and may not result in situations that impair existing, attainable, or designated uses. TSWQS further requires that surface waters are not toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals.

The TCEQ Water Quality Division determined that the draft permit complies with the TSWQS. The TSWQS ensures that effluent discharges are protective of human life, human health, and the environment. Additionally, the draft permit requires that treated effluent is disinfected before it may be discharged. The effluent must be chlorinated in a chlorine contact chamber to a chlorine residual of 1.0 mg/L with a minimum detention time of 20 minutes. The proposed draft permit requires the chlorine residual be monitored five times per week via grab sample. Further, the draft permit contains effluent limitations on bacteria, which ensure the effluent is properly disinfected. TPDES permits establish terms and conditions intended to control pollution and provide for water quality. Therefore, the TCEQ's review of a TPDES permit application focuses on controlling the discharge of pollutants into the water of the State.

The TCEQ Executive Director determined that the existing uses should be protected if the facility is operated and maintained as required by the proposed permit and regulations. The ED made a preliminary determination that the draft permit, if issued, meets all statutory and regulatory requirements.

Comment 3:

Mr. White recommended that treated wastewater should be discharged via pipe to a diluted water source, rather than allowing it to flow through his private property and private pond.

Response 3

The TCEQ does not have jurisdiction over zoning. If the applicant's proposed location and discharge route comply with TWC Chapter 26 and 30 TAC Chapter 309 (relating to "Domestic Wastewater Effluent Limitations and Plant Siting"), then TCEQ

does not have the authority to mandate a different discharge location or wastewater treatment plant location.

If the applicant updates its application with a different location or a different discharge route, then the ED will reevaluate the changed portion to make sure that the draft permit contains appropriate limits and conditions for the revised discharge location or route. New landowners may need to be notified of a change in the facility's location or the discharge route. The TCEQ was granted authority to issue TPDES permits for the discharge of pollutants or waste into or adjacent to water in the State. If the permit is granted, the permittee is not granted the right to use public or private property for the conveyance of wastewater along the discharge route. The permit does not authorize any invasion of personal rights or any violation of federal, State, or local laws or regulations. It is the permittee's responsibility to acquire all property rights necessary to use the discharge route. 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 animal life, vegetation, property, or human health or welfare. Similarly, nearby landowners are not prohibited from using common law remedies in response to activities 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 beds and banks of watercourses to transport water, and because the TCEQ has the authority to authorize a discharge of treated domestic wastewater into water in the State through a TPDES permit, the TPDES permit applicant need not seek permission from downstream landowners to use the watercourses running through their property, nor must the applicant pay downstream landowners because of a permitted discharge.

Comment 4:

Mr. White expressed concern about decreasing his property value due to the wastewater plant. He also commented that he and his family will no longer be able to use the pond for their own recreation and quiet enjoyment.

Response 4:

The TCEQ does not have 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, noise, light pollution, ecotourism, or property values.

However, the permit does not limit an individual's ability to seek legal remedy against the applicant for any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or any other cause of action in response to activities that interfere with the normal use and enjoyment of property.

Changes Made to the Draft Permit in Response to Comments

No changes were made to the draft permit in response to comments.

Respectfully submitted,

Texas Commission on Environmental Quality

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Interim Executive Director

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