

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

October 16, 2023

TO: All interested persons.

RE: Vale Building Group LLC
TPDES Permit No. WQ0016212001

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 Weir City Hall, 2205 South Main Street, Weir, Texas.

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

How to Request a Contested Case Hearing.

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

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.

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

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

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

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

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

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

Deadline for Submitting Requests.

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

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

Processing of Requests.

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

How to Obtain Additional Information.

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

Sincerely,

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

Laurie Gharis
Chief Clerk

LG/cb

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
Vale Building Group LLC
TPDES Permit No. WQ0016212001

The Executive Director has made the Response to Public Comment (RTC) for the application by Vale Building Group LLC for TPDES Permit No. WQ0016212001 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 (WQ0016212001) 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 Weir City Hall, 2205 South Main Street, Weir, Texas.



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas reduciendo y previniendo la contaminación

16 de octubre de 2023

TO: Todas las personas interesadas.

RE: Vale Building Group LLC
TPDES Permiso No. WQ0016212001

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 Weir City Hall, 2205 South Main Street, Weir, 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
Vale Building Group LLC
TPDES Permit No. WQ0016212001

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de Vale Building Group LLC del permiso de TPDES No. WQ0016212001. 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 (WQ0016212001) 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 Weir City Hall, 2205 South Main Street, Weir, Texas.

MAILING LIST / LISTA DE CORREO
for / para
Vale Building Group LLC
TPDES Permit No. WQ0016212001/ TPDES Permiso No. WQ0016212001

FOR THE APPLICANT /
PARA EL SOLICITANTE:

Joshua Welch, Project Manager
Vale Building Group LLC
1165 North Patterson Avenue
Florence, Texas 76527

Aaron Rojas, Professional Engineer
MRB Group
8834 North Capital of Texas Highway
Suite 220
Austin, Texas 78759

INTERESTED PERSONS /
PERSONAS INTERESADAS:

John J. Carlton
The Carlton Law Firm, P.L.L.C.
4301 Westbank Drive, Suite B130
Austin, Texas 78746

Erin R. Selvera
The Carlton Law Firm, P.L.L.C.
4301 Westbank Drive, Suite B130
Austin, Texas 78746

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

Abdur Rahim, 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

TPDES PERMIT NO. WQ0016212001

APPLICATION BY THE
VALE BUILDING GROUP, LLC FOR
TPDES PERMIT NO. WQ0016212001

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment on the application by Vale Building Group LLC (Vale) for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016212001 and on the Executive Director's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code (30 TAC) Section (§) 55.156, before a permit is issued, the Executive Director prepares a response to all timely, relevant, and material, or significant comments. The Office of the Chief Clerk received timely comments from John Carlton and Erin Selvera on behalf of Jonah Water Special Utility District (Jonah). This response addresses all timely public comments received, whether withdrawn or not. For 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 on the TCEQ web site at <http://www.tceq.texas.gov>.

BACKGROUND

Description of Facility

Vale applied for new TPDES permit No. WQ0016212001 to authorize a discharge of treated domestic wastewater at a daily average flow limit of 0.322 million gallons per day (MGD) from the Weir Subdivision Waste Water Treatment Facility (Weir Subdivision WWTF). If the permit is issued the Weir Subdivision WWTF will be located approximately 1,615 feet northwest of the intersection of County Road 194 and Farm-to-Market Road 1105 in Williamson County, Texas, 78626.

If the permit is issued, the Weir Subdivision WWTF will be an activated sludge process plant operated in the extended aeration mode. Treatment units will include a bar screen, two aeration basins, a RAS mix basin, two final clarifiers, two aerobic sludge digesters, and two chlorine contact chambers. The facility has not been constructed. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 0.322 million gallons per day (MGD).

The treated effluent will be discharged to an unnamed tributary, thence to Weir Branch, thence to the San Gabriel/North San Gabriel River in Segment No. 1248 of the Brazos River Basin. The unclassified receiving water uses are limited aquatic life use for the unnamed tributary and Weir Branch. The designated uses for Segment No. 1248 are primary contact recreation, public water supply, aquifer protection, and high aquatic life use. In accordance with 30 Texas Administrative Code Section 307.5 and the TCEQ's *Procedures 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. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in the San Gabriel/North San Gabriel River, which has been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

A nutrient screening was conducted on the receiving water, San Gabriel/North Fork San Gabriel River. Based on the relatively high nutrient screening score, clear shallow water, sparse riparian corridor, and other site-specific characteristics, a phosphorus limit of 0.5 mg/L will help to prevent algal growth downstream in the San Gabriel/North San Gabriel River. To preclude eutrophication of the San Gabriel/North San Gabriel River, the Total Phosphorus limits of 0.5 mg/L was recommended.

The effluent limitations in 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), 3.0 mg/l ammonia-nitrogen (NH₃-N), 0.5 mg/l total phosphorus (TP), 126 CFU or MPN of *E. coli* per 100 ml, and 4.0 mg/l minimum dissolved oxygen (DO). 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.

Additionally, the pH must not be less than 6.0 standard units nor greater than 9.0 standard units and must be monitored once per week by grab sample. There must be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil. The effluent in the draft permit must contain a chlorine residual of at least 1.0 mg/l and must not exceed a total chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow) and must be monitored five times per week by grab sample at each chlorine contact chamber. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

Segment No. 1248 is not currently listed on the state's inventory of impaired and threatened waters (the 2022 CWA § 303(d) list).

The discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic-dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's biological opinion on the State of Texas authorization of the TPDES (September 14, 1998; October 21, 1998, update). To make this determination for TPDES permits, TCEQ only considered aquatic or aquatic-dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion.

Procedural Background

The TCEQ received the application on September 2, 2022, and declared it administratively complete on October 11, 2022. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published in the *Williamson County Sun* on October 30, 2022. The Executive Director completed the technical review of the application on February 2, 2023, and prepared the draft permit, which if approved, establishes the conditions under which the facility must operate. The Notice of Application and Preliminary Decision (NAPD) was published in *The Sunday Sun* on March 26, 2023. The public comment period ended on April 25, 2023.

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. Senate Bill 709 amended the requirements for comments and contested case hearings. This application is subject to those changes in the law.

The Executive Director determined that the draft permit, if issued, meets all statutory and regulatory requirements and is protective of the environment, water quality, and human health. However, if you would like to file a complaint about the Weir Subdivision WWTF concerning its compliance with the provisions of its permit or with TCEQ rules, you may contact the TCEQ Regional Office (Region 11) in Austin, Texas at (512) 339-2929 or the statewide toll-free number at 1-888-777-3186 to address potential permit violations. In addition, complaints may be filed electronically by using the methods described above in the fourth subsection of Background Information (Access to Rules, Laws, and Records). If an inspection by the Regional Office finds that the Vale is not complying with all the requirements of the permit, or that the Weir Subdivision WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

Access to Rules, Laws, and Records

- All administrative rules: Secretary of State Website: www.sos.state.tx.us
- TCEQ rules: Title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac/ (select TAC Viewer on the right, then Title 30 Environmental Quality)
- Texas statutes: www.statutes.capitol.texas.gov
- TCEQ website: www.tceq.texas.gov (for downloadable rules in WordPerfect or Adobe PDF formats, select “Rules, Policy, & Legislation,” then “Current TCEQ Rules,” then “Download TCEQ Rules”);
- Federal rules: Title 40 of the Code of Federal Regulations (C.F.R.) http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40tab_02.tpl
- Federal environmental laws: <http://www.epa.gov/lawsregs/>
- Environmental or citizen complaints may be filed electronically at: <https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html> (select “use our online form”) or by sending an email to the following address: complaint@TCEQ.texas.gov

Commission records for the Weir Subdivision WWTF are available for viewing and copying at TCEQ’s main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk, for the current application until final action is taken). Some documents located at the Office of the Chief Clerk may also be located in the TCEQ Commissioners’ Integrated Database at www.tceq.texas.gov/goto/cid. The permit application has been available for viewing and copying at Weir City Hall, 2205 South Main Street, Weir, Texas, since publication of the NORI. The final permit application, draft permit, statement of basis/technical summary, and the Executive Director’s preliminary decision have been available for viewing and copying at the same location since publication of the NAPD.

COMMENTS AND RESPONSES

Comment 1:

Jonah commented that the proposed facility is located on the border between Weir Water Works’ Certificate of Convenience and Necessity (CCN) and Jonah’s district boundary and water CCN territory.

Response 1:

In Section 1 of Domestic Technical Report 1.1 in the application, Vale stated that no portion of its proposed service area is located within another utility's CCN. However, the Executive Director learned that the proposed facility may be located within Jonah Water SUD No. 10970 and contacted Vale. On July 6, 2023, the TCEQ received correspondence from Vale that it is working with Jonah to build and maintain the plant. According to the correspondence, Jonah will withdraw its comments once the agreement is signed.

Comment 2:

Jonah expressed concern that the City of Weir serves its customers from a well located approximately 0.76 miles from the outfall. According to Jonah, the effluent will flow within approximately 90 feet of the well head and within the 150-foot sanitary control easement.

Response 2:

The legislature has determined that “the goal of groundwater policy in this state is that the existing quality of groundwater is not degraded. This goal of non-degradation does not mean zero-contaminant discharge.”¹ Chapter 26 of the Texas Water Code further states, “discharges of pollutants, disposal of wastes, or other activities subject to regulation by state agencies be conducted in a manner that will maintain present uses and not impair potential uses of groundwater or pose a public health hazard.”²

The Water Quality Division has determined that the draft permit is in accordance with the Texas Surface Water Quality Standards, which ensures that the effluent discharge is protective of aquatic life, human health, and the environment. The review process for surface water quality is conducted by the Standards Implementation Team and Water Quality Assessment Team surface water modelers. The Water Quality Division has determined that if the surface water quality is protected, then the groundwater quality in the vicinity will not be impacted by the discharge. Therefore, the permit limits given in the draft permit intended to maintain the existing uses of the surface waters and preclude degradation will also protect groundwater.

Further, 30 TAC § 309.13(c) states that a wastewater treatment plant unit may not be located closer than 500 feet from a public water well nor 250 feet from a private water well. The Executive Director determined that the applicant has complied with the buffer zone requirements.

Comment 3:

Jonah expressed concern that the effluent from the Wier WWTF may contaminate the well head during a flood event.

Response 3:

According to section 26.401(b) of the Texas Water Code, the Texas Legislature has determined that “it is the goal of groundwater policy in this state that the existing quality of groundwater not be degraded.” Under subsection (c)(1), it is the State of Texas’s policy that “discharges of pollutants, disposal of wastes, or other activities subject to regulation by state agencies be conducted in a manner that will maintain present uses and not impair potential uses of groundwater or pose a public health

¹ Texas Water Code § 26.401(b)

² Texas Water Code § 26.401(c)(2)

hazard.” The Executive Director determined that if surface water quality will be protected, groundwater quality in the vicinity will also be protected. The applicant will be required to meet all water quality requirements in the draft permit, even during flood events.

Comment 4:

Jonah expressed concern about increases in algal growth and blooms.

Response 4:

Executive Director staff reviewed the potential for a discharge to create instream eutrophic conditions using the procedures outlined in the Standards Implementation Procedures (IPs) (RG-194). The IPs define the factors considered when determining nutrient limits. For this application, a typical nutrient screening was conducted during the review. The variables considered were flow, water clarity, instream dilution, substrate type, stream geomorphology, stream flow, consistency with permits in the area, vegetation, and listings on the State Inventory 305(b) list. Based on the nutrient screening conducted, total phosphorus effluent limits were not warranted for this permit action. As written, the draft permit will sufficiently control nutrient levels in the discharge.

Comment 5:

Jonah expressed concern that the proposed facility will have a negative impact on human health of the local community within Jonah’s CCN. Jonah expressed concern that the discharge will cause unsanitary or unsafe water quality conditions in these creek beds, tributaries, Weir Branch, and the San Gabriel River.

Response 5:

As specified in the methodologies from the TCEQ Implementation Procedures (IPs), TPDES permits issued by the TCEQ must maintain water in the state 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. Relatedly, municipal facilities that do not have industrial contributors would not have toxins in their effluent. In addition, permits must prevent 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. The design of the proposed permit ensures these water quality standards will be supported.

The Executive Director prepared a draft permit with provisions to ensure that the proposed discharge will be protective of human health, aquatic life, livestock, domestic animals, and the environment. Likewise, the proposed permit’s effluent limits will protect the uses and quality of the waterbodies in the route of the proposed discharge for the benefit of the aquatic life and terrestrial wildlife that depend on it. The Executive Director determined that the proposed permit complies with the TSWQS, ensuring that the effluent discharged is protective of human health.

Comment 6:

Jonah commented that the proposed facility does not comply with TCEQ’s regionalization policy and disputes that Vale has demonstrated that obtaining wastewater service from Jonah would be cost prohibitive.

Response 6:

The Executive Director considers regionalization when an applicant files an application for a new permit or an application for a major amendment to an existing permit to increase flow. If there is a wastewater treatment facility or collection system within three miles of the proposed facility, the applicant is required to provide information to the Executive Director as to whether the nearby facility has sufficient existing capacity to accept the additional volume of wastewater proposed in the application. If such a facility exists and it is willing to accept the proposed waste, the applicant must provide an analysis of expenditures required to connect to the existing wastewater treatment facility. Additionally, the applicant is required to provide copies of all correspondence with the owners of the existing facilities within three miles of the proposed facility regarding connecting to their systems. The TCEQ's policy on regionalization does not require the agency to deny a wastewater discharge application on the basis that there is a pending application for a regional plant within three miles of a proposed facility. Additionally, the fact that a facility or collection system is located within three miles of a proposed facility is not an automatic basis to deny an application.

On April 13, 2022, Vale mailed certified letters requesting service to the City of Georgetown Pecan Branch WWTF and on February 22, 2023, to The Vantage Austin LLC which are located within a 3-mile radius of the proposed WWTF. According to Vale, there has been no response from the City of Georgetown Pecan Branch WWTF and The Vantage Austin. As noted in Response 1, the applicant has indicated that it is working to reach an agreement with Jonah Water Special Utility District.

CHANGES MADE TO THE PERMIT IN RESPONSE TO COMMENT

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

Respectfully submitted,

Texas Commission on Environmental Quality

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