TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 26, 2023

TO: All interested persons.

RE: Landra Partners, LLC
TPDES Permit No. WQ0016258001

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 Sherman Public Library, 421 North Travis Street, Sherman, 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
Landra Partners, LLC
TPDES Permit No. WQ0016258001

The Executive Director has made the Response to Public Comment (RTC) for the application by Landra Partners, LLC for TPDES Permit No. WQ0016258001 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 (WQ0016258001) 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 Sherman Public Library, 421 North Travis Street, Sherman, Texas.

MAILING LIST
for
Landra Partners, LLC
TPDES Permit No. WQ0016258001

FOR THE APPLICANT:

David Brown, President
Landra Partners, LLC
1999 Bryan Street, Suite 900
Dallas, Texas 75201

Glenn Breisch, P.E.
Wasteline Engineering, Inc.
208 South Front Street
Aledo, Texas 76008

INTERESTED PERSONS:

See Attached List

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

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

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

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

FOR PUBLIC INTEREST COUNSEL
via electronic mail:

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
via electronic mail:

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

LEGGETT , DEWEY
82 WATERVIEW RANCH LLC
2203 FOREST CRK
MCKINNEY TX 75072-4327

MOORE , JEREMY
4191 US HIGHWAY 82
BELLS TX 75414-4600

NEAGU , ERIC V
THE ANTERO GROUP LLC
STE 128
608 E HICKORY ST
DENTON TX 76205-4310

SCHMITZ , MICHAEL
THE ANTERO GROUP LLC
STE 128
608 E HICKORY ST
DENTON TX 76205-4310

TIDWELL , JAMES C
WOLFE TIDWELL & MCCOY LLP
STE 205
320 N TRAVIS ST
SHERMAN TX 75090-5960

NEW TPDES PERMIT NO. WQ0016258001

APPLICATION BY	**§**	**BEFORE THE**
LANDRA PARTNERS, LLC	**§**	**TEXAS COMMISSION**
FOR NEW TPDES PERMIT NO.	**§**	**ON ENVIRONMENTAL**
WQ0016258001	**§**	**QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

I. INTRODUCTION

The Executive Director of the Texas Commission on Environmental Quality, or "ED" and "TCEQ," files this Response to Public Comment on the application by Landra Partners, LLC for new Texas Pollutant Discharge Elimination System Permit, or "TPDES," number WQ0016258001, and on the ED's preliminary decision on the application. Before a permit is issued, the ED is required by Title 30 of the Texas Administrative Code, Section 55.156 to prepare a response to all timely, relevant, and material, or significant comments. The TCEQ's Office of the Chief Clerk, or "OCC," received timely comments from Dewy Leggett, Jeremy Moore, and Eric Neagu on behalf of the City of Bells. This response addresses all comments received by the OCC in writing during the public comment period, whether withdrawn or not. If more information is needed about this permit application or the TPDES permitting process, please call TCEQ's Public Education Program at 1-800-687-4040. General information about the TCEQ can be found on TCEQ's website at **http://www.tceq.texas.gov.**

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

- **§**: Section
- **SH**: State Highway
- **AU**: Aquatic Unit
- **DO**: Dissolved Oxygen
- **No.**: Number
- **WQ**: Water Quality
- **CCI**: Comprehensive Compliance Investigation
- **TSS**: Total Suspended Solids
- **ETJ**: Extra Territorial Jurisdiction
- **CFS**: Cubic feet per second
- **EPA**: United States Environmental Protection Agency
- **LUE**: Living Equivalent Unit
- **CFU**: Colony Forming Units
- **USH**: United States Highway
- **OCE**: TCEQ's Office of Compliance and Enforcement
- **WLE**: Waste Load Evaluation
- **ALU**: Aquatic Life Use, a type of WQ Use
- **CCN**: Certificate of Convenience and Necessity
- **OCC**: TCEQ's Office of the Chief Clerk
- **MPN**: Most Probable Number
- **TWC**: Texas Water Code
- **GPM**: Gallons per minute
- **MGD**: Million Gallons per Day
- **CWA**: Clean Water Act
- **WQD**: TCEQ's Water Quality Division

- **USGS**: The United States' Geological Survey agency
- **NORI**: Notice of Receipt & Intent to Obtain a Water Quality Permit
- **THSC**: Texas Health and Safety Code
- **NAPD**: Notice of Application & Preliminary Decision
- **E. coli**: Escherichia coli-bacteria
- **NH_3-N**: Ammonia Nitrogen
- **$CBOD_5$**: Five-day Carbonaceous Biochemical Oxygen Demand
- **Limits**: Effluent Limitations/discharge limits
- **WWTF**: Wastewater Treatment Facility
- **WQMP**: State of Texas Water Quality Management Plan
- **USFWS**: United States' Fish and Wildlife Service
- **Outfall**: Discharge point/location
- **TSWQS**: Texas Surface Water Quality Standards – 30 TAC Chapter 307
- **30 TAC**: Title 30 of the Texas Administrative Code
- **Effluent**: A discharge of treated wastewater from a WWTF
- **Influent**: Untreated wastewater flowing into a WWTF
- **DO limit**: Minimum Dissolved Oxygen Criterion
- **The City**: The City of Bells, Texas
- **WQ Uses**: The designated WQ uses from the Appendixes of TSWQS
- **Applicant**: Landra Partners, LLC
- **217 Rules**: 30 TAC Chapter 217-Design Criteria for Domestic WWTFs
- **Discharge**: A flow of treated wastewater emanating from a WWTF
- **WQD staff**: TCEQ Staff from the Water Quality Division
- **TCEQ Rules**: Title 30 of the Texas Administrative Code
- **Commission**: Texas Commission on Environmental Quality
- **Tier I Review**: The TSWQS Tier I Antidegradation Review
- **Tier II Review**: The TSWQS Tier II Antidegradation Review
- **Modeling Team**: WQD's Water Quality Assessment Team
- **The Application**: Landra Partners, LLC's application for a TPDES permit
- **Standards Team**: WQD's Water Quality Standards Implementation Team
- **Proposed permit**: Draft-TPDES permit No. WQ0016258001
- **Proposed facility**: The Grayson County WWTF
- **Proposed discharge**: The discharge emanating from the proposed facility.
- **Appendix A, TSWQS**: Appendix A of 30 TAC § 307.10
- **CWA § 303(d) List**: Texas' inventory of threatened or impaired waterbodies listed in the Clean Water Act § 303(d) for 2022
- **TCEQ's IPs**: TCEQ's Implementation Procedures for the Texas Surface Water Quality Standards-June 2010

II. BACKGROUND

A. Application Request

The Applicant applied for new TPDES Permit No. WQ0016258001, authorizing a discharge of treated domestic wastewater at a daily average flow limit of 0.055 MGD from the proposed facility.

B. Description of Facility and Discharge Route

If the proposed permit is ultimately issued, the proposed facility will serve a residential community and will be located approximately 3,600 feet northwest of the intersection of USH 82 and USH 69 in Grayson County, Texas 75414. When constructed

the proposed facility will be an activated sludge process plant, operated in the extended aeration mode with treatment units that include one bar screen, aeration basin, final clarifier, chlorine contact chamber, and sludge digester. Sludge generated from the treatment facility will be hauled by a registered transporter and disposed of at the Colony's Stewart Creek WWTP, a TCEQ-authorized land application site (TPDES Permit No. WQ0011570001) in Denton County. The proposed permit also authorizes the disposal of sludge at a co-disposal landfill, a TCEQ-authorized land application site or WWTF, or a facility that further processes sludge.

The route of the proposed discharge is to an unnamed tributary, then Mill Creek, then Choctaw Creek, and then to the Red River below Lake Texoma in Segment No. 0202 of the Red River Basin.

III. ED's Technical Review of an Application

The basis for the ED's Technical Review, or "Tech Review" of a TPDES application comes from the Texas Legislature's passage of Chapter 26 (Water Quality Control) of the TWC into law, which gives the TCEQ primary authority over WQ in Texas. Chapter 26 combines the TCEQ's WQ authority with federally delegated CWA regulatory authority for the TPDES program, which controls discharges of pollutants, in this case treated domestic wastewater, into Texas' waterbodies, otherwise defined by the TWC as "Water in the State." To implement TCEQ's WQ control regime, Chapter 26 grants the TCEQ the authority to issue permits and amendments for the discharge of waste or pollutants into, or adjacent to Water in the State, if the permit limits and conditions established through the ED's Tech Review for the discharge, comply with the TWC, TCEQ rules, and the TSWQS. Conversely, the TCEQ may refuse to issue a permit when the ED's Tech Review finds that issuing the permit would violate the provisions of any state or federal law or rules or regulations derived from those laws, or when it finds that issuing the permit would interfere with the TCEQ's WQ control regime. The TSWQS, specifically "standards," is defined by the TSWQS as desirable uses such as existing, attainable, designated, or presumed uses, otherwise known as WQ uses, and the narrative and numerical WQ conditions necessary to support and protect those uses in surface waters.

Within the regulatory framework of the TSWQS, a subset WQ uses known as ALUs, govern the DO criterion necessary to protect the aquatic life in a waterbody. DO concentrations are critical for the health of waterbodies and protecting aquatic life, so to ensure protective discharge limits in the proposed permit, DO modeling analyses were performed to evaluate the potential instream DO impacts of discharges into surface waters by the Modeling Team. All discharge scenarios are different and are modeled as part of the ED's Technical review, with the DO-related components included to evaluate the potential overall impact on instream DO levels. Instream DO levels are affected by various factors, including potential direct DO impacts by oxygen-demanding constituents in the proposed discharge, such as $CBOD_5$, NH_3-N, and DO, which are the specific discharge limits determined by the DO modeling analyses.

Thus, the WQD staff performing the ED's Tech Review, are responsible for evaluating a discharge's impacts on the receiving waterbodies and their designated WQ uses within the proposed discharge route starting at the outfall, and providing proper limits to protect those WQ uses as the TSWQS require. Maintaining a level of WQ sufficient to protect the existing WQ uses of the receiving waterbodies of the proposed discharge route, requires WQD staff on the Standards and Modeling Teams to review the data from the application according to the TSWQS and the TCEQ's IPs and use it to

perform multiple WQ-specific analyses, which ensures compliance with the TSWQS because WQD staff follow the prescribed methodology in the TCEQ's IPs for drafting a permit, its limits, requirements, and conditions.

A. The Standards Team

The first analysis of the Tech Review involves the Standards Team reviewing, within the proposed discharge route, the classifications, designations, and descriptions of the receiving waterbodies in the state. Available data allowed the Standards Team to determine the ALUs in the proposed discharge's area of impact, otherwise known as the "impact radius," and assign the corresponding DO criterion specified in the TCEQ's IPs and the TSWQS.

The TCEQ's IPs require the Standards Team to assess the impacts to streams within a certain distance based on the size of the discharge. For this application, the impact radius is 0.60 miles based on the proposed discharge of 0.055 MGD. However, the standard practice of the Standards Team is to assess the first 3.0 miles of streams to ensure the discharge is thoroughly vetted.

The TCEQ's IPs and the TSWQS require the Standards Team to perform an Antidegradation Review for every new discharge and its impact radius. In this case the impact radius of 3.0 miles included unnamed tributary and Mill Creek. The designated WQ uses for Segment No. 0202, as stated in the 2018 TSWQS-Appendix A, are primary contact recreation, public water supply, and a "high" ALU, with a corresponding DO criterion of 5.0 mg/L. Mill Creek is assigned a "limited" ALU, with a corresponding DO criterion of 3.0 mg/L, which is the same for the unnamed tributary that has a "minimal" ALU designation. Choctaw Creek is well outside of the impact radius of 0.60 miles or 3.0 miles from the outfall and therefore was not evaluated.

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

Because the Standards Team determined that the ALUs for Mill Creek and the unnamed tributary were "limited" and "minimal," the Standards Team did not find any waterbodies with "exceptional," "high," or "intermediate" ALUs within the impact radius, no Tier II Antidegradation Review was required nor performed. Likewise, significant degradation of WQ is not expected in waterbodies with "exceptional," "high," or "intermediate" ALUs downstream of the proposed facility for two reasons.

First, there simply wasn't a stream in the impact radius that had "exceptional," "high," or "intermediate" ALUs. Second, degradation of WQ is unlikely to occur because there isn't any water, or aquatic species to affect because the Standards Team determined that the streams in the impact radius were "intermittent," which is defined by the TSWQS as a stream that has a period of zero flow for at least one week during most years. Where flow records are available, a stream with a seven-day, two-year low-flow of less than 0.1 cubic feet per second is considered "intermittent." Per the TCEQ's IPs, most species living in "intermittent" streams are considered "tolerant" species not "sensitive" species, so changes to the water quality or chemistry is unlikely to affect them. According to the TSWQS, the DO criterion for "intermittent" streams is 2.0 mg/l DO, and streams with "limited" ALUs is 3.0 mg/L DO, whereas the DO coming from the proposed facility will contain 4.0 mg/L DO, so no significant degradation will occur in

a stream that is either likely already degraded or has a "minimal" ALU. Similarly, the WQ-related effluent limitations, as established by the Modeling Team's DO analyses, will maintain, and protect the existing instream uses.

B. The Modeling Team

The second analysis of the ED's Tech Review involves the Modeling Team performing WQ modeling runs, or DO analyses, using a mathematical model; in this case, an "uncalibrated QUAL-TX model." Conventional effluent limitations such as DO, $CBOD_5$, and NH_3-N are based on stream standards and waste load allocations for WQ-limited streams as established in the TSWQS and the WQMP.

Based on the Modeling Team's DO analyses, limits of 10 mg/L $CBOD_5$, 3.0 mg/L NH_3-N, and 4.0 mg/L DO for the 0.055 MGD flow phase are predicted to be necessary to maintain DO levels above the criteria stipulated by the Standards Team for the unnamed tributary and Mill Creek (2.0 mg/L 3.0 mg/L, respectively).

Coefficients and kinetics used in the model are a combination of site specific, standardized default, and estimated values. The proposed permit requires that the discharge's pH must be in the range of 6.0 to 9.0 standard units and includes limits of 15 mg/L TSS and 126 CFU/MPN/100 ml *E.coli*, based on a 30-day average. The effluent must contain a total chlorine residual of at least 1.0 mg/l and must not exceed a total chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The effluent limits and conditions in the proposed permit meet requirements for secondary treatment and disinfection according to 30 TAC Chapter 309 (Subchapter A: Effluent Limits) and comply with the TSWQS (30 TAC §§ 307.1-.10, *eff.* 3/1/2018), and the EPA-approved portions of the TSWQS (*eff.* 3/6/2014). In a case such as this, end-of-pipe compliance with pH limits between 6.0 and 9.0 standard units reasonably assures instream compliance with pH criteria in the TSWQS when the discharge authorized is from a minor facility and the unclassified waterbodies have "minimal" or "limited" ALUs. This technology-based approach reasonably assures instream compliance with TSWQS due to relatively smaller discharge volumes authorized by these permits. TCEQ sampling conducted throughout Texas indicating instream buffering quickly restores pH levels to ambient conditions, informs this conservative approach.

Waste Load Evaluation for Dissolved Oxygen in the Red River Below Lake Texoma in the Red River Basin, Segment 0202 (1998), a Waste Load Evaluation is available for this Segment, however, Segment No. 0202 is not currently listed on the CWA § 303(d) list.

Through the Tech Review, WQD Staff provide the proper limits to maintain and protect the existing instream uses. For that reason, the ED has determined that the proposed permit, if issued, meets all statutory and regulatory requirements and is protective of the environment, WQ, and human health.

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

the biological opinion. With respect to the presence of endangered or threatened species, the proposed permit does not require EPA's review.

Considering the TCEQ's WQ control regime, all determinations, reviews, or analyses related to the ED's Technical Review of the application for the proposed permit can be reexamined and subsequently modified upon receipt of newer information or information that conflicts with the bases employed in the applicable review or analysis.

IV. Procedural Background

The TCEQ received the application on November 28, 2022, and declared it administratively complete on January 5, 2023. The Applicant published the NORI in Grayson County, Texas in the *Herald Democrat* on January 12, 2023.The ED completed the technical review of the application on February 8, 2023, and prepared the proposed permit, which if approved, would establish the conditions under which the proposed facility must operate. The Applicant next published the NAPD in Grayson County, Texas in the *Herald Democrat* on April 4, 2023. The public comment period ended on May 4, 2023, and because the application was received after September 1, 2015, and because it was declared administratively complete after September 1, 1999, it is subject to both the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999, and the procedural requirements and rules implementing Senate Bill 709, 84th Legislature, 2015, which are implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55.

V. 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/compliance/complaints/index.html (select "use our online form") or by sending an email to the following address: **complaint@TCEQ.Texas.gov.**

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

The permit application has been available for viewing and copying at the Sherman Public Library, located at 421 North Travis Street, Sherman, Texas 75090, since publication of the NORI. The final permit application, proposed permit, statement of basis/technical summary, and the ED's preliminary decision were available for viewing and copying at the same location since publication of the Combined NORI-NAPD.

If individuals wish to file a complaint about the proposed facility concerning its compliance with the provisions of its permit or with TCEQ rules, the TCEQ's OCE

should be contacted. Specifically, the DFW Regional Office (Region 4) in Fort Worth Texas, Texas may be contacted at (817) 588-5800 or the statewide toll-free number at 1-888-777-3186 to address potential permit violations. In addition, complaints may be filed electronically by using the methods described above at the seventh bullet under "Access to Rules, Laws, and Records." If an inspection by the TCEQ finds that the Applicant is not complying with all requirements of the proposed permit, or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.

VI. COMMENTS AND RESPONSES

COMMENT 1:

The City and Jeremy Moore commented that they are opposed to the proposed facility and its discharge.

RESPONSE 1:

The ED acknowledges the comments in opposition to the proposed permit, the proposed facility, its location and discharge, and the concerns of all commenters.

COMMENT 2:

The City and Jeremy Moore commented that they are opposed to the proposed facility' location. Jeremy Moore commented that the Applicant should tie into the City's wastewater system instead of discharging into Mill Creek.

RESPONSE 2:

The TCEQ is statutorily mandated by TWC § 26.028 (Action on Application) to begin processing applications for TPDES permits when it receives the application, and to issue notices to the public of the TCEQ's processing of the application. Likewise, TWC § 26.027 makes clear that the TCEQ may issue permits for discharges into Water in the State through the ED's evaluation of TPDES permit applications using the information provided in the application and recommending permit issuance or denial, based on the application's compliance with the TWC, TCEQ rules, and the TSWQS.

The Applicant is the entity that proposes the location of the WWTF, the discharge point, and the route for the proposed discharge, rather than the ED. Instead, the ED may only evaluate a location for a WWTF according to what is proposed in the application, the Location Standards of the TCEQ rules, and the impact of the discharge on the WQ uses of the receiving streams starting at the outfall. Likewise, the TCEQ's WQ authority does not include the ability to mandate a different location for a WWTF, if the location in the application complies with 30 TAC Chapter 309, Subchapter B (Location Standards), specifically 30 TAC § 309.13 pertaining to "Unsuitable Site Characteristics" for a discharge facility.

If an applicant were to revise its application with a different location and discharge route for a WWTF, the ED would reevaluate the new location and discharge route to make sure that the permit contains proper limits and conditions for the revised discharge route and location, which may require notice to additional landowners because of the new location and discharge route.

COMMENT 3:

Dewey Leggett commented, questioning how often discharges will occur, what the volume of discharge will be, and the location of the discharge, otherwise known as the "outfall."

RESPONSE 3:

The proposed outfall will be in the unnamed tributary of the discharge route, and located at the Latitude and Longitude coordinates of 33.636886 N, 96.432906 W. For reference, the outfall will be located approximately 200 feet due south of the proposed facility, which is proposed to be located approximately 3,600 feet northwest of the intersection of USH 82 and USH 69 in Grayson County, Texas 75414.

The 2-hour peak flow listed in the proposed permit should not exceed 153 GPM, 0.341 CFS. For context, the average garden hose uses about 12 GPM, so a volume of 15 garden hoses would simulate the amount of water being discharged at the 2-hour peak usage of the proposed facility.

Because the proposed permit was drafted for a development, the discharge will be a continuous flow.

COMMENT 4:

Jeremy Moore and Dewey Legget commented that because they live or own property within proximity to the proposed facility, they are concerned about how clean the proposed discharge is, and its effects on human health. Mr. Moore commented that his children access the creek that the proposed discharge will travel through.

RESPONSE 4:

The health concerns of area residents, as well as those of the public, are considered in reviewing an application for a TPDES permit. The TCEQ takes the concerns and comments expressed by the public about protecting the State's rivers and lakes, human health, existing WQ, the environment, and animal, aquatic, terrestrial, and wildlife, into consideration in deciding whether to issue a TPDES permit.

The ability of the public to recreate in the waters of Texas is given significant consideration in the review of an application for, and the decision to issue a TPDES permit. All waters in the state, whether intermittent or perennial, are considered to have a primary contact recreational use, which includes activities that are presumed to involve a significant risk of ingestion of water. Unless otherwise specified in the TSWQS, these activities include wading by children, swimming, water skiing, diving, tubing, surfing, hand-fishing (as defined by Texas Parks and Wildlife Code, § 66.115), and whitewater activities like kayaking, canoeing, and rafting.

Chapter 26 of the TWC and TCEQ's WQ Rules were written for the protection of human health, existing WQ, the environment, and animal, aquatic, terrestrial, and wildlife. Accordingly, the stated policy of both the TWC and the TSWQS is:

to maintain the quality of water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, and the operation of existing industries, taking into consideration the economic development of the state; to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy.[1]

The TSWQS is a primary mechanism for the TCEQ to protect human health, surface and groundwater quality, aquatic life, the environment, and specifically, the designated WQ uses of the receiving waters. The TSWQS require that discharges not cause surface

[1] Texas Water Code § 26.003 and 30 TAC § 307.1.

waters to be toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals, not degrade receiving waters, and not result in situations that impair existing, attainable, or designated uses. Similarly, the TPDES program mandates that TPDES-permitted discharges of treated effluent into Water in the State meet the requirements of the TSWQS. To ensure compliance with the TSWQS the ED follows the methodology outlined in the TCEQ's IPs, which specifies that TPDES permits must maintain WQ 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. Likewise, to make sure that the proposed discharge meets the stream bacterial standard, the proposed permit contains a bacteria limit of 126 colony-forming units CFU/MPN of *Escherichia coli* or *E.*coli per 100 ml.

Additional protection of human health in a TPDES permit comes from the rule in 30 TAC § 309.3(g)(1) (Disinfection), which requires disinfection of domestic wastewater into water in the state in a manner conducive to the protection of both public health and aquatic life. The rules do not mandate a specific method of disinfection, as a permittee may disinfect domestic wastewater through use of 1) chlorination, 2) ultra-violet light, or 3) an equivalent method of disinfection with prior approval from the ED. Whichever form is used, the design criteria for chemical disinfection by chlorine, including safety requirements, in 30 TAC Chapter 217, Subchapter K must be observed. Therefore, in accordance with the TCEQ rules (30 TAC § 309.3(g)(1)), the proposed permit requires the treated effluent to be disinfected prior to discharge in a manner conducive to protect both the public health and aquatic life.

For the proposed facility, the Applicant has chosen chlorine disinfection. Chlorination may be via gaseous, liquid, or tablet forms. Chlorine is one of the most practical and effective means of disinfection because it can kill disease-causing bacteria and nuisance organisms and can eliminate certain noxious odors during disinfection.[2] The discharge from the proposed facility, disinfected with chlorine, must contain a chlorine residual of at least 1.0 mg/L. The permit limit for maximum total chlorine residual is 4.0 mg/L after a detention time of at least 20 minutes (based on peak flow), which must be monitored five times per week by grab sample.[3]

The proposed permit also requires the Applicant to "take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health."

The proposed permit was developed to protect human health according to the TSWQS, provided the Applicant operates and maintains the proposed facility according to TCEQ rules and the requirements in the proposed permit.

COMMENT 5:

Jeremy Moore and Dewey Legget commented expressing concerns about the proposed discharge's effects on animal and wildlife.

RESPONSE 5:

The TSWQS require that TPDES-permitted discharges not cause surface waters to be toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals, not degrade

[2] U.S. EPA *Wastewater Technology Fact Sheet- Chlorine Disinfection* (EPA 832-F-99-062).
[3] Landra Partners LLC, Draft Permit, Effluent Limitations and Monitoring Requirements, p.2; *see also* 30 TEX. ADMIN. CODE § 309.3(g)(2).

receiving waters, and not result in situations that impair existing, attainable, or designated uses.

The goal of WQD staff is to design permits that meet the TSWQS for the protection of existing uses of waterbodies, human health, existing WQ uses, the environment, and animal, aquatic, terrestrial, and wildlife. These standards include specific numeric and narrative WQ criteria applicable to the waterbodies receiving the discharge. WQD staff designed the proposed permit to be protective of the uses of all water bodies that could be potentially affected by the proposed discharge.

As noted above, protecting WQ in the creeks and streams of the discharge route are the assigned ALUs themselves, which govern what WQ uses and DO criteria apply to protect Segment No. 0202 and the creeks upstream of Segment No. 0202, their ALUs, and the aquatic life that dwell in them, as well as consumption by terrestrial wildlife.

To achieve the goal of supporting a level of WQ sufficient to protect existing uses of waterbodies, the proposed permit contains several WQ-specific parameters or requirements that limit the potential impact of the discharge on the receiving waters of the discharge route. The Applicant is required to build a wastewater collection system or treatment facility according to the plans and specifications approved by the ED and must ensure the proposed facility's plans and specifications meet all design requirements in the proposed permit.

WQD Staff determined that the proposed permit complies with the TSWQS, certifying that the effluent discharged is protective of animal, aquatic, terrestrial, and wildlife. This is because WQD Staff drafted the proposed permit with provisions safeguarding that the TSWQS will be maintained, which ensures that the proposed discharge is protective of existing WQ, the environment, and aquatic, terrestrial, and wildlife. This is because WQD Staff must determine that the proposed permit's provisions ensure that the TSWQS will be maintained by the proposed discharge resulting in protection of animal, aquatic, terrestrial, and wildlife.

Likewise, the proposed permit's effluent limits will protect the WQ uses and the WQ of the waterbodies of the proposed discharge route for the benefit of the aquatic life and terrestrial wildlife that depend on it. This is because the methodology outlined in the TCEQ IPs is designed to ensure that no source will be allowed to discharge any wastewater that: 1) results in instream aquatic toxicity; 2) causes a violation of an applicable narrative or numerical state water quality standard; 3) results in the endangerment of a drinking water supply; or 4) results in aquatic bioaccumulation that threatens human health.

WQD Staff designed the proposed permit to preclude degradation of WQ in the Red River Below Lake Texoma and Segment No. 0202 by including effluent limits and monitoring requirements designed to ensure protection of the waterbodies according to the TSWQS rules and the TCEQ's IPs. Similarly, the proposed discharge will not cause degradation of WQ in waterbodies that exceed fishable/swimmable quality, such as Red River Below Lake Texoma in Segment No. 0202. Fishable/swimmable waters are defined as waters that have quality sufficient to support propagation of indigenous fish, shellfish, terrestrial life, and recreation in or on the water. The proposed permit's effluent limits and conditions were derived from a rigorous technical review to ensure compliance with the TSWQS.

WQD staff, when evaluating this application, incorporated pertinent site-specific factors to reduce uncertainty and bolster confidence in the results of the analyses of the ED's Technical Review. The effluent or discharge limitations for some of the major

constituents were evaluated with a mathematical model of the receiving waters, and results indicated that limits of 10 mg/L $CBOD_5$, 15 mg/L TSS, 3.0 mg/L NH_3-N, 126 CFU/MPN/100 ml *E. coli*, and 4.0 mg/L DO are required for the proposed facility to discharge 0.055 MGD to the receiving streams of the proposed discharge route. These effluent limits are consistent with the WQMP, and while they are not contained in the approved WQMP, the limits will be included in the next WQMP update.

The proposed facility is a minor municipal facility that will discharge first to an unnamed tributary, which is unclassified with a "minimal" ALU, then to Mill Creek, which is a "limited" ALU, then to Choctaw Creek, and then to the Red River Below Lake Texoma in Segment No. 0202 of the Red River Basin, which has a "high" ALU. Waterbodies, such as the unnamed tributary and Mill Creek that support only "minimal" or "limited" ALUs still have criteria that protect both the aquatic life that live in the waterbodies and terrestrial wildlife that use the waterbodies as a source of water or food. Ensuring that DO will be maintained above the criterion established by the Standards Team for the unnamed tributary, Mill Creek, and the Red River Below Lake Texoma (3.0, 3.0, and 5.0 mg/L DO, respectively), the proposed discharge has a DO limit of 4.0 mg/L to meet a DO criterion that supports an aquatic community with "minimal" and "limited" ALUs (3.0 mg/l DO) but will not negatively affect waterbodies that support a "high" ALU, such as Red River Below Lake Texoma (5.0 mg/L DO).

Also noted above, is the fact that additional protection for animal, aquatic, terrestrial, and wildlife comes from the rule in 30 TAC § 309.3(g)(1) (Disinfection), which requires the treated effluent to be disinfected prior to discharge in a manner conducive to protect animal, aquatic, terrestrial, and wildlife.

The proposed permit was developed to protect all animal life, vegetation, and aquatic and terrestrial life according to the TSWQS, provided the Applicant operates and maintains the proposed facility according to TCEQ rules and the requirements in the proposed permit.

COMMENT 6:

The City commented that because of the short distance the proposed discharge travels through Mill Creek and into Choctaw Creek, it has concerns that the proposed permit does not have limits for nitrates and phosphorus, as Choctaw Creek (Segment 0202F_01) is currently listed as impaired for bacteria.

RESPONSE 6:

Choctaw Creek (AU No. 0202F) is listed for elevated levels of bacteria from the confluence with Red River upstream to the headwaters near the intersection of SH 56 and SH 289 in Grayson County (AU Nos. 0202F_01 & 0202F_02). However, as noted previously, *E. coli*-bacteria limits have been included in the proposed permit in accordance with the recent amendments to 30 TAC Chapters 309 and 319. Similarly, these bacteria limits are consistent with the WLE and any WQMP updates. This facility is designed to provide adequate disinfection and, when operated properly, should not add to the bacterial impairment of Choctaw Creek.

Regarding nutrient limits, the TCEQ's IPs contain nutrient screening procedures developed with stakeholder input and approved by EPA. These procedures instruct that nutrient screenings be performed for facilities that are proposing a discharge of 0.25 MGD or more. The proposed permit contains a discharge of 0.055 MGD, which is well below the 0.25 MGD threshold of the nutrient screening procedures, and thus, a nutrient was not performed for the proposed facility. On the other hand, the TCEQ's

IPs also indicate that nutrient screenings may be performed for facilities proposing to discharge less than 0.25 MGD where the receiving streams appear to be especially sensitive to nutrient enrichment. On the contrary, the receiving streams for the proposed discharge do not appear to be especially sensitive as there is abundant canopy cover with a sand and clay bottom, and an absence of limestone bedrock stream bed. Further, for receiving streams that are especially sensitive to nutrient enrichment, the nutrient screening procedures indicate that the evaluation distance for discharges of less than 0.25 MGD is up to 3.0 miles downstream of the outfall. The location of the proposed outfall is 7.6 miles upstream of Choctaw Creek and more than double the evaluation distance given in the nutrient screening procedures. Therefore, nutrient limits were determined not to be warranted and that the proposed discharge would not contribute to screening concerns for nitrates and phosphorus.

COMMENT 7:

The City commented that issuance of the proposed permit violates the Regionalization policy of Texas and the City's Subdivision Ordinance, Section 2.07 (Water and Wastewater Main Extensions).

Regarding violation of the City's ordinance, the ordinance declares that all subdivisions and each lot to be developed within the City of Bells must be served by an approved sewage collection and disposal system, and that no development will be approved unless adequate assurances are provided by development that it will connect with the City's own TPDES permitted wastewater system (WQ0010126001).

The City commented that the ordinance encompasses the City of Bells, its legally defined ETJ, that the parcel of land for the proposed facility is located within the City's ETJ and subject to the City's ordinance, and the better procedure is for the Applicant's development be included in the City's wastewater system after compliance with and connection pursuant to City ordinances.

Regarding violation of the Regionalization policy of Texas, the City commented that the Applicant did not formally notify the City of their intent, nor confirm if the City could or would accept the proposed discharge into the City's WWTF (WQ0010126001), which currently has capacity to absorb the flow of the proposed permit.

More specifically, the City's engineer responded to an inquiry by the Applicant's engineer if the City has the capacity to accept and treat an average daily flow of 0.055 MGD on or before January 1, 2024. On December 12, 2022, the City's engineer responded that the City could accept the average daily flow and followed up with a request for the Applicant to provide additional information and data regarding the proposed facility. To date, the request for more data and information has yet to be fulfilled by the Applicant.

The City commented that it has been contacted about other developments and growth to the north and is considering a potential second plant location to better service future development and users. The City commented that issuing the proposed permit designed for a single subdivision could negatively impact future land use, a future City owned WWTF for the areas to the north, multiple other users, and future city needs for expansion of its current system to the north.

The City commented that its position is to support a unified, regionalized, municipality-owned, operated, and maintained WWTF and collection system**.** Whereas the application and proposed permit fail to include any planning, future capacity or impact study for future growth, future needs, or the general provision of sewer service

in this area. The proposed permit appears to be shortsighted and a potential detriment to other landowners, future growth, and City planning.

RESPONSE 7:

Texas' Regionalization policy does not require denial of a TPDES application on the basis that there is a WWTF, or a collection system, located within three miles of a proposed facility. According to TWC § 26.081, the State's policy is to "encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state," otherwise known as "Regionalization."

TWC § 26.0282 provides that "in considering the issuance, amendment, or renewal of a permit to discharge waste, the Commission may deny or alter the terms and conditions of the proposed permit, amendment, or renewal based on consideration of need, including the expected volume and quality of the influent and the availability of existing or proposed area wide or regional waste collection, treatment, and disposal systems not designated as area wide or regional disposal systems by Commission Order. This section is expressly directed to the control and treatment of conventional pollutants normally found in domestic wastewater."

Texas' Regionalization policy is implemented through the TPDES application's Domestic Technical Report 1.0 and Domestic Technical Report 1.1. In sections 1 of both technical reports the Applicant must provide the design flow and estimated construction start date of each phase and estimated start dates for effluent disposal, among other information regarding the Applicant's proposed flows.

Related to the evaluation of need for the proposed facility, Domestic Technical Report 1.1 requires the Applicant to contact existing, permitted WWTFs within a three-mile radius of the proposed facility; however, a WWTF located within three miles of a proposed facility is not an automatic basis to deny an application or to compel the Applicant to connect to that WWTF.

The purpose of contacting existing, permitted WWTFs is to determine whether those WWTFs have the capacity and are willing to expand to accept the volume of wastewater proposed by the Applicant. If the other WWTFs are willing to provide service and accept the proposed flows, an analysis of expenditures is required showing the cost to connect to one of those permitted WWTFs within three miles, as opposed to the cost of the proposed facility or expansion. Finally, Applicants are required to provide copies of all correspondence with the owners of the existing WWTFs within three miles regarding connecting to their systems.

Similarly, the TPDES application requires the Applicant to provide justification and the same cost analysis of expenditures to connect to an existing WWTF if any portion of the proposed service area is inside another utility's CCN area. When applicants provide economic justifications demonstrating that connecting to the other utility's WWTF will be cost-prohibitive, or if a collection system within three miles of the proposed facility does not have the capacity or is unwilling to accept the additional wastewater, the ED will approve the application as it relates to Regionalization.

Along with the application materials, the Applicant submitted documentation that indicated that on May 15, 2023, the City was sent a letter that explained after the Applicant inquired with the City about wastewater service on January 12, 2022, the City's engineer responded by email that the cost of expanding the City's WWTF to

accommodate the Applicant's proposed development would be between four and six million dollars and did not include the additional, substantial costs of extending a City wastewater main over two miles to the proposed development, which the City's subdivision ordinance, section 2.08, requires.

The Applicant's submitted documentation describes that on November 16, 2022, the Applicant, as part of the required permit application procedures, sent by letter, a formal wastewater service inquiry to the City. The submitted documentation indicates that on December 8, 2022, the City's engineer responded that it does have the needed capacity, contrary to the City engineer's January 12, 2022, email that stated that a four-to-six-million-dollar wastewater plant expansion project will be needed to serve the Applicant's proposed development.

Finally, the submitted documentation indicates that because of the substantial cost for additional wastewater treatment capacity at the City's WWTF, and the unknown costs of extending the City's wastewater main over two miles to the Applicant's development, the Applicant determined that connecting to the City's wastewater system is not economically feasible, nor cost effective, and that the City's WWTF cannot be considered a viable alternative regional wastewater option for the Applicant.

The ED's staff uses all information submitted by applicants to evaluate whether the Commission should grant the application and, if so, whether each of the proposed phases should be incorporated into a permit. During their review of permit applications, WQD staff rely on the representations made by applicants in their respective applications. Applicants are required to certify the accuracy of the information submitted and the application must be signed by a responsible party under penalty of law. General Permit Condition No. 1(b) states that the proposed permit is granted based on the information supplied and representations made by the Applicant during the processing of the application and the permitting process. Relying upon the accuracy and completeness of that information and those representations, WQD staff concluded that the proposed permit is consistent with Texas' Regionalization policy because according to the Applicant, consistent with Regionalization analysis of Domestic Technical Report 1.1, there are no WWTFs located within a three-mile radius that can provide service that is no cost-prohibitive.

Compliance with municipal ordinances is outside the scope of TCEQ's review of a TPDES permit application.

COMMENT 8:

Jeremy Moore and Dewey Legget commented that they are concerned with the additional flooding that the proposed discharge will create. Mr. Moore stated that currently he has heavy erosion from Mill Creek on his property. Mr. Leggett stated that he has a three-to-four-acre creek that is over 25 feet deep that will be threatened by additional erosion in Mill Creek. Mr. Leggett questioned whether there has been a study done on the additional erosion that this will cause to Mill Creek, an already badly eroded creek, and whether the Applicant would be willing to construct erosion barriers in the highly erodible creek bed of Mill Creek.

Finally, Mr. Leggett questioned whether wildlife be able to cross Mill Creek when the discharge is occurring.

RESPONSE 8:

The ED acknowledges the significance of these comments, and while the ED acknowledges the significance, there are certain concerns of citizens that the TCEQ

cannot address as part of the review for TPDES permit application. TPDES permits establish terms and conditions that are intended to provide water quality pollution control. Similarly, the ED encourages the participation of all citizens in the environmental permitting process; however, the scope of the TCEQ's jurisdiction in a TPDES application is limited to the issues set out by statute. The TCEQ does not have the authority to address these types of concerns as part of the wastewater permitting process, which is limited to controlling the discharge of pollutants into Water in the State and protecting the water quality of the state's surface waterbodies.

Through TWC, Chapter 26, the Texas Legislature has given the TCEQ the responsibility to protect water quality; specifically, section 26.027 of the TWC authorizes the TCEQ to issue permits to control the discharge of wastes or pollutants into state waters and to protect the water quality of state waters. Likewise, the ED, through his Water Quality Division, does not have, nor the TCEQ in its determination of whether to issue a water quality permit, the jurisdiction to address flooding, erosion, dam safety concerns, or the impacts on the ability of livestock or wildlife to traverse Texas' creeks, if water quality is maintained.

While the TCEQ does not have jurisdiction to regulate flooding in the context of a wastewater discharge permit, to the extent that a concern over flooding also involves WQ, the Applicant is always required to comply with all the numeric and narrative effluent limitations and other conditions in the proposed permit, including during flooding conditions. Likewise, the proposed permit includes effluent limits and other requirements that the Applicant must meet even during rainfall events and periods of flooding. According to the application, the proposed facility will be located above the 100-year flood plain. For additional protection, the proposed permit includes Other Requirement No. 4, which requires the Applicant to provide protection for the facility against a 100-year flood event.

For flooding concerns, members of the public may contact the Grayson County Floodplain Administrator at (903) 813-5275 8:00 a.m. – 5:00 p.m., Monday through Friday. The TCEQ Resource Protection Team can be contacted for aid in identifying and contacting the appropriate county officials or offices, by calling (512) 239-4600, or by email at wcp@tceq.texas.gov. Additionally, the Federal Emergency Management Agency has programs designed to mitigate damage caused by flooding, that can be found at the following website: https://www.fema.gov/floodplain-management.

For concerns related to dam safety, members of the public may wish to contact the TCEQ Critical Infrastructure Division's Dam Safety Section, which monitors and regulates both private and public dams in Texas and periodically inspects dams that pose a high or significant hazard and makes recommendations and reports to dam owners to help them maintain safe facilities. The Dam Safety Section can be reached at (512) 239-0326 or Damsinfo@TCEQ.Texas.gov.

Related to the volume of the proposed discharge, the 2-hour peak flow should not exceed 153 GPM, which is 0.341 CFS. For context, the average house garden hose with average water pressure releases water at about 12 GPM, which means about 15 garden hoses releasing water is necessary to simulate the amount of water being discharged at the 2-hour peak flow at the proposed facility.

VII. CHANGES MADE TO THE PERMIT IN RESPONSE TO COMMENT

- No changes were made in response to comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, Interim Executive Director

Erin Chancellor, Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division

Michael T. Parr II, Staff Attorney
Environmental Law Division
State Bar No. 24062936
P.O. Box 13087, MC 173
Austin, Texas 78711 3087
Telephone No. 512-239 0611
Facsimile No. 512-239-0626
REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

VII. CERTIFICATE OF SERVICE

I certify that on October 18, 2023, the Executive Director's Response to Public Comment for Permit No. WQ0016258001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.

Michael T. Parr II, Staff Attorney
State Bar No. 24062936