

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*

December 7, 2023

TO: All interested persons.

RE: LGI Homes-Texas, LLC  
TPDES Permit No. WQ0016275001

### **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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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](mailto:chiefclk@tceq.texas.gov). A complete copy of the RTC (including the mailing list), complete application, draft permit and related documents, including public comments, are available for review at the TCEQ Central Office. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Albert George Branch Library, 9230 Gene Street, Needville, Texas.

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

### **How to Request a Contested Case Hearing.**

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

The request must include the following:

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

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

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

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

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

### **How to Request Reconsideration of the Executive Director’s Decision.**

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

### **Deadline for Submitting Requests.**

A request for a contested case hearing or reconsideration of the executive director’s decision must be **received by** the Chief Clerk’s office no later than **30 calendar days** after the date

of this letter. You may submit your request electronically at [www.tceq.texas.gov/agency/decisions/cc/comments.html](http://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**  
**LGI-Homes Texas, LLC**  
**TPDES Permit No. WQ0016275001**

The Executive Director has made the Response to Public Comment (RTC) for the application by LGI Homes-Texas, LLC for TPDES Permit No. WQ0016275001 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 (WQ0016275001) 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](mailto:chiefclk@tceq.texas.gov).

**Additional Information**

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

A complete copy of the RTC (including the mailing list), the complete application, the draft permit, and related documents, including comments, are available for review at the TCEQ Central Office in Austin, Texas. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Albert George Branch Library, 9230 Gene Street, Needville, Texas.



## COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

*Protegiendo a Texas reduciendo y previniendo la contaminación*

7 de diciembre de 2023

TO: Todas las personas interesadas.

RE: LGI Homes-Texas, LLC  
TPDES Permiso No. WQ0016275001

### **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](mailto: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 Albert George Branch Library, 9230 Gene Street, Needville, 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](http://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**  
**LGI Homes-Texas, LLC**  
**TPDES Permiso No. WQ0016275001**

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de LGI Homes-Texas, LLC del permiso de TPDES No. WQ0016275001. 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 (WQ0016275001) 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](mailto: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 Albert George Branch Library, 9230 Gene Street, Needville, Texas



MAILING LIST / LISTA DE CORREO  
for / para  
LGI Homes-Texas, LLC  
TPDES Permit No. WQ0016275001 / TPDES Permiso No. WQ0016275001

FOR THE APPLICANT /  
PARA EL SOLICITANTE:

Shannon Birt, Officer  
LGT Homes-Texas, LLC  
1450 Lake Robbins Drive, Suite 430  
The Woodlands, Texas 77380

Adriana Contreras, Engineer 1 &  
Jacob Miller, P.E., Project Engineers  
Pape-Dawson Engineers  
10350 Richmond Avenue, Suite 200  
Houston, Texas 77042

INTERESTED PERSONS /  
PERSONAS INTERESADAS:

See Attached List

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

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

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

Melinda Luxemburg, P.E., 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

ELKINS , MRS BETTY  
4350 MEYER RD  
NEEDVILLE TX 77461-8608

FILIPP , JASON  
11010 WILLIAMS SCHOOL RD  
NEEDVILLE TX 77461-9244

FILIPP , MISTY  
11010 WILLIAMS SCHOOL RD  
NEEDVILLE TX 77461-9244

FLIPP , JASON & MISTY  
11010 WILLIAMS SCHOOL RD  
NEEDVILLE TX 77461-9244

FOJTIK , MR AARON DOUGLAS  
6650 BUSHNELL RD  
NEEDVILLE TX 77461-8902

GALLAGHER , TERRENCE  
12116 MUECK RD  
NEEDVILLE TX 77461-8613

HOLIK , CLIFTON  
11110 WILLIAMS SCHOOL RD  
NEEDVILLE TX 77461-5018

KENNAUGH , MS PAT  
10130 BRINKMEYER RD  
NEEDVILLE TX 77461-8670

MOUNT , MEGAN  
10802 BRINKMEYER RD  
NEEDVILLE TX 77461-8672

RASKA , AMANDA  
11444 MUECK RD  
NEEDVILLE TX 77461-6300

SCHUELKE , MR ALFRED C  
13010 MOODY RD  
NEEDVILLE TX 77461-7212

SHED , TAMMY  
13010 MOODY RD  
NEEDVILLE TX 77461-7212

TETLEY , KELLIE  
10550 BRINKMEYER RD  
NEEDVILLE TX 77461-7201

TICE , CASEY  
15305 QUAIL COVEY LN  
GUY TX 77444-8702

TUMLINSON , HEATHER  
9650 OLD NEEDVILLE FAIRCHILD RD  
NEEDVILLE TX 77461-9460

WILLIAMS , TERESA  
14905 TIERRA RIDGE DR  
NEEDVILLE TX 77461-8626

**TCEQ PERMIT NO. WQ0016275001**

<b>APPLICATION BY</b>	<b>§</b>	<b>BEFORE THE</b>
<b>LGI Homes-Texas, LLC</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>TPDES PERMIT NO. WQ0016275001</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

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**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENTS**

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**I.     INTRODUCTION**

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comments (RTC) on the application by LGI Homes-Texas, LLC (Applicant) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016275001. As required by Title 30 Texas Administrative Code (TAC) Section (§) 55.156, before a permit is issued, the ED prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk received timely comments from the persons in Attachment No. 1. This response addresses all timely public comments received, whether or not withdrawn. Some commenters left similar comments. On comments where five or more commenters commented on the same concern, please consult Attachment No. 2 for a list of commenters. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about TCEQ can be found on TCEQ's website at <http://www.tceq.texas.gov>.

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

- **§:** Section
- **IH:** Interstate Highway
- **SH:** State Highway
- **ED:** TCEQ's Executive Director
- **CR:** County Road
- **DO:** Dissolved Oxygen
- **No.:** Number
- **WQ:** Water Quality
- **CCI:** Comprehensive Compliance Investigation
- **TSS:** Total Suspended Solids
- **EPA:** United States Environmental Protection Agency
- **LUE:** Living Equivalent Unit
- **SNC:** Significant Noncompliance
- **CFU:** Colony Forming Units
- **OCE:** TCEQ's Office of Compliance and Enforcement
- **ALU:** Aquatic Life Use
- **BOD<sub>5</sub>:** Five-day Biochemical Oxygen Demand
- **CCN:** Certificate of Convenience and Necessity
- **OCC:** TCEQ's Office of the Chief Clerk
- **MPN:** Most Probable Number
- **TWC:** Texas Water Code

- **CWA:** Clean Water Act
- **RWA:** Receiving Water Assessment
- **MGD:** Million Gallons per Day
- **WQD:** TCEQ's Water Quality Division
- **USGS:** The United States' Geological Survey agency
- **NORI:** Notice of Receipt & Intent to Obtain a Water Quality Permit
- **THSC:** Texas Health and Safety Code
- **NAPD:** Notice of Application & Preliminary Decision
- **NOPM:** Notice of Public Meeting
- ***E. coli:*** *Escherichia coli*-bacteria
- **NH<sub>3</sub>-N:** Ammonia Nitrogen
- **CBOD<sub>5</sub>:** Five-day Carbonaceous Biochemical Oxygen Demand
- **Limits:** Effluent Limitations/discharge limits
- **WWTF:** Wastewater Treatment Facility
- **WWTP:** Wastewater Treatment Plant
- **WQMP:** State of Texas Water Quality Management Plan
- **TPDES:** Texas Pollutant Discharge Elimination System
- **TXDOT:** Texas Department of Transportation
- **USFWS:** United States' Fish and Wildlife Service
- **Outfall:** Discharge point/location
- **TSWQS:** Texas Surface Water Quality Standards – 30 TAC Chapter 307
- **30 TAC:** Title 30 of the Texas Administrative Code
- **Effluent:** Treated wastewater discharging out of WWTF/WWTP
- **Influent:** Untreated wastewater flowing into a WWTF/WWTP
- **DO limit:** Minimum Dissolved Oxygen Criterion
- **WQ Uses:** A waterbody's designated WQ uses from Appendix A, TSWQS
- **Applicant:** LGI Homes-Texas, LLC
- **217 Rules:** 30 TAC Chapter 217-Design Criteria for Domestic WWTFs
- **Discharge:** A flow of treated wastewater emanating from a WWTF/WWTP
- **WQD staff:** TCEQ Staff from the Water Quality Division
- **TCEQ Rules:** Title 30 of the Texas Administrative Code
- **Commission:** Texas Commission on Environmental Quality (TCEQ)
- **Tier I Review:** The TSWQS Tier I Antidegradation Review
- **Tier II Review:** The TSWQS Tier II Antidegradation Review
- **Modeling Team:** WQD's Water Quality Assessment Team
- **The Application:** LGI Homes-Texas, LLC's application for a TPDES permit
- **Standards Team:** WQD's Water Quality Standards Implementation Team
- **Proposed permit:** Draft-TPDES permit No. WQ0016275001
- **Proposed facility:** The Applicant's proposed WWTF/WWTP
- **Proposed discharge:** The discharge emanating from the proposed facility.
- **Appendix A, TSWQS:** Appendix A of 30 TAC § 307.10
- **CWA § 303(d) List:** Texas' inventory of threatened or impaired waterbodies listed in the Clean Water Act § 303(d) for 2020
- **TCEQ's IPs:** TCEQ's *Implementation Procedures for the Texas Surface Water Quality Standards-June 2010*

## **II. BACKGROUND**

### **A. Application Request**

The Applicant has applied to the TCEQ for a new TPDES Permit No. WQ0016275001 to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 210,000 gallons per day (gpd) in the Interim Phase and a daily average flow not to exceed 420,000 gpd in the Final Phase.

### **B. Description of Facility and Discharge Route**

The facility will be located approximately 0.5 of a mile south of the intersection of Boone Road and Meyer Road, in Fort Bend County, Texas 77461. The treated effluent will be discharged to a storm sewer, thence to a detention pond, thence to an unnamed tributary, thence to Snake Creek, thence to the San Bernard River Above Tidal in Segment No. 1302 of the Brazos-Colorado Coastal Basin.

### **C. ED's Technical Review of an Application**

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

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

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

The first component of the ED's Technical Review involves the Standards Team reviewing, within three miles of the route of the discharge, the classifications, designations, and descriptions of the receiving surface waterbodies in the state. A RWA or evaluation, along with other available information allowed the Standards Team to

determine the ALUs in the proposed discharge's area of impact and assign the corresponding DO criterion specified in the TCEQ's IPs and the TSWQS.

The designated WQ uses for Segment No. 1302, as stated in the 2022 TSWQS-Appendix A, are primary contact recreation, public water supply, and "high" ALU, with a corresponding DO criterion of 5.0 mg/L. The unnamed tributary is assigned a "minimal" ALU, with a corresponding DO criterion of 2.0 mg/L, and the detention pond is assigned a "limited" ALU, with a corresponding DO criterion of 3.0 mg/L.

According to the TSWQS and the TCEQ's IPs, for every new or amended discharge the Standards Team performs an Antidegradation Review of the proposed discharge into its receiving waterbodies, in this case, the detention pond and the unnamed tributary.

The Standards Team reviewed the application in conformity with the TSWQS (30 TAC §§ 307.4 (h) and (l)) because the proposed discharge is directly to unclassified water bodies (the detention pond and the unnamed tributary), and then performed a Tier I Review on the receiving waterbodies and determined that there is no expectation of impairment of existing WQ uses because the proposed permit's WQ-related effluent limitations, as established by the Modeling Team's DO analyses, will maintain, and protect the existing instream uses.

Additionally, a Tier 2 review was not performed because the Standards Team preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed. Therefore, no Tier 2 degradation determination is required. Thus, no significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses will be maintained and protected.

The second component of the ED's Technical Review involves the Modeling Team performing WQ modeling runs, or DO analyses, using a mathematical model; in this case, a "continuously stirred tank reactor (CSTR)." Conventional effluent limitations such as DO, CBOD<sub>5</sub>, and NH<sub>3</sub>-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<sub>5</sub>, 3.0 mg/L NH<sub>3</sub>-N, and 4.0 mg/L DO for both phases, based on a 30-day average, are predicted to be necessary to ensure that DO will be maintained above the criterion established by the Standards Team for the detention pond (3.0 mg/L DO) and the unnamed tributary (2.0 mg/L DO).

Coefficients and kinetics used in the model are a combination of 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, based on a 30-day -average. In the Interim and Final phases, the effluent shall contain a total chlorine residual of at least 1.0 mg/L and shall not exceed a total chlorine residual of 4.0 mg/L after a detention time of at least 20 minutes (based on peak flow) and shall be monitored five times per week by grab sample. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

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).

Effluent limitations for maximum and minimum pH are in accordance with 40 CFR § 133.102(c) and 30 TAC § 309.1(b). 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 to an unclassified waterbody. In addition, pH limits of 6.0 – 9.0 standard units at Outfall 001, which discharges into an unclassified water body is consistent with the procedures for pH screening that were submitted to EPA with a letter dated May 28, 2014, and approved by EPA in a letter dated June 2, 2014, requiring a discharge to an unclassified water body to meet pH limits of 6.0 – 9.0 standard units (SU). The pH limits of 6.0 – 9.0 SU reasonably ensures instream compliance with the *Texas Surface Water Quality Standards* pH criteria. TCEQ sampling conducted throughout Texas indicating instream buffering quickly restores pH levels to ambient conditions, informs this conservative approach.

Segment No. 1302 is currently listed on the State's inventory of impaired and threatened waters (the 2022 CWA § 303(d) list). The listing is for bacteria in water from the confluence with the Intercoastal Waterway in Brazoria County upstream to the confluence with Couthatta Creek (Assessment Units; AUs 1302\_01, 1302\_02, and 1302\_03). This facility is designed to provide adequate disinfection and, when operated properly, should not add to the bacterial impairment of this portion of the segment. In addition, in order to ensure that the proposed discharge meets the stream bacterial standard, an effluent limitation of 126 colony-forming units (CFU) or most probable number (MPN) of *Escherichia coli* (*E. coli*) per 100 ml bacteria effluent limitation is included in both phases of the draft permit. Therefore, the proposed discharge is not expected to contribute to the bacteria impairment of the AUs 1302\_01, 1302\_02, and 1302\_03.

The Houston Toad (*Bufo houstonensis* Sanders), an endangered aquatic-dependent species of critical concern, occurs within the watershed of Segment No. 1302 as well as the United States Geological Survey hydrologic unit code 12090401. This determination is based on the United States Fish and Wildlife Service's (USFWS) 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 and EPA only consider 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. Species distribution information for the Segment No. 1302 watershed is provided by the USFWS and documents the toad's presence solely in the vicinity of Hayes Creek in Colorado County, which is farther up the watershed from the facility location associated with this permit action. Based upon this information, it is determined that the facility's discharge is not expected to impact the Houston Toad. The permit does not require EPA review with respect to the presence of endangered or threatened species.

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

#### **D. Procedural Background**

The TCEQ received the application on December 15, 2022, and declared administratively complete on February 27, 2023. The Applicant published the NORI in Fort Bend County, Texas in English on March 15, 2023, in the *Houston Chronicle* newspaper and in Spanish on March 9, 2023, in *El Perico* newspaper. The ED completed the technical review of the application on June 14, 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 Fort Bend County, Texas in English on July 26, 2023, in the *Houston Chronicle* newspaper and in Spanish on July 20, 2022, in *El Perico* newspaper.

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

#### **E. Access to Rules, Laws, and Records**

- Administrative Code: [www.sos.state.tx.us/tac/](http://www.sos.state.tx.us/tac/) (select TAC Viewer on the right, then Title 30 Environmental Quality)
- Texas statutes: [www.statutes.capitol.texas.gov](http://www.statutes.capitol.texas.gov)
- TCEQ website: [www.tceq.texas.gov](http://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](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](mailto: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](http://www.tceq.texas.gov/goto/cid).



The permit application has been available for viewing and copying at the Albert George Branch Library, 9230 Gene Street, Needville, Texas, since publication of the NORI. The final permit application, proposed permit, Statement of Basis / Technical Summary and the ED's preliminary decision have been available for viewing and copying at the same location since publication of the NAPD.

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

### III. COMMENTS AND RESPONSES

#### COMMENT 1:

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

#### RESPONSE 1:

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

#### COMMENT 2:

Clifton Holik expressed concerns about the proposed discharge route and requested it go somewhere else. Misty Filipp requested the discharge not traverse her land. Pat Kennaugh suggested the Applicant should pump the wastewater into a truck and haul the wastewater away for disposal. Heather Tumlinson does not want the wastewater running through the town and neighborhood. Kellie Tetley would like the wastewater to be disposed of in another way.

#### RESPONSE 2:

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

However, the permit does not limit an individual's ability to seek legal remedies against the Applicant regarding any potential trespass, nuisance, or other cause of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property. Under 30 TAC

§ 305.122(d), the TCEQ's issuance of a permit does not authorize the Applicant to injure persons or property, invade another's property rights, or infringe upon any state or local, statutes or regulations.

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

COMMENT 3:

The persons listed in Attachment No. 2 under Comment 3 expressed concerns about the proposed development and the impact to the neighborhood, area residents, and landowners relating to safety, impacts to roads, light pollution, and/or property values.

RESPONSE 3:

The TCEQ was charged by the Texas Legislature to maintain the quality of water in Texas, consistent with public health and enjoyment; thus, TCEQ's jurisdiction in a wastewater permit application is limited to water quality issues. TCEQ does not have authorization to consider issues associated with a new development, such as safety, impacts to roads, light pollution, or property values when considering a wastewater permit application.

As discussed in **Response 2**, a wastewater permit does not limit an individual's ability to seek legal remedies against the Applicant regarding any potential trespass, nuisance, or other cause of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

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

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

Additionally, the TCEQ initiates community outreach to educate the general public about pollution prevention and water conservation. This information can be found at the TCEQ's website at [www.tceq.texas.gov](http://www.tceq.texas.gov) or the Take Care of Texas Program at <http://takecareoftexas.org/>. Concerns regarding personal safety or security should be

directed to local law enforcement or the Fort Bend County Sheriff's Office at 281-341-4665.

COMMENT 4:

Jason Filipp, Misty Filipp, and Amanda Raska expressed concerns about smells and nuisance odors from the proposed wastewater treatment plant.

RESPONSE 4:

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

According to its application, the Applicant intends to comply with the requirement by owning the buffer zone. This requirement is incorporated in the draft permit in accordance with 30 TAC § 309.13(e). Therefore, if the permittee operates the facility in compliance with TCEQ's rules and the terms and conditions of the draft permit, then permitted activities at the facility should produce a minimal amount of nuisance odors.

Further, the Applicant proposes in its application that the Cottonwood Terrace WWTP will be an activated sludge process plant operated in the conventional aeration mode. The activated sludge process is the most frequently used biological wastewater treatment process for domestic wastewater. Additionally, the conventional aeration variation is known to produce highly treated effluent with low biosolids production. When effluent is properly treated using the proposed wastewater treatment process, the resulting effluent is not expected to carry any offensive odors.

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

Moreover, as discussed in **Response 2**, the permit does not limit an individual's ability to seek legal remedies against the Applicant regarding any potential trespass, nuisance, or other cause of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

COMMENT 5:

Aaron Douglas Fojtik questioned why he was not notified since the discharge route passes through his property.

RESPONSE 5:

The TCEQ's notice rules for a new permit require that the notices (NORI and NAPD) are mailed to landowners named on the application map and to persons on the mailing list maintained by the Office of the Chief Clerk. When applying for a TPDES permit, section 1 of Domestic Administrative Report 1.1 requires the applicant to submit a landowner map. The landowner map must include the properties that share a boundary with the applicant's property and that border the discharge route for one full stream mile downstream from the discharge point. The applicant must also provide a list that identifies the owners of the properties included in the landowners map. The landowners map and list provided by the applicant met those requirements, and the Office of the Chief Clerk used the list when mailing out the notices.

Additionally, the published notices (NORI and NAPD) provide a location for additional information concerning this application. As discussed in Section II. E. (Access to Rules, Laws, and Records) above, the permit application has been available for viewing and copying at the Albert George Branch Library, 9230 Gene Street, Needville, Texas since publication of the NORI, which was also noted in the NORI. The final permit application, proposed permit, Statement of Basis / Technical Summary and the ED's Preliminary Decision have been available for viewing and copying at the same location since publication of the NAPD, which was also noted in the NAPD.

COMMENT 6:

The persons listed in Attachment No. 2 under Comment 6 expressed concerns about drainage issues and easements, the threat of flooding events due to the new development and proposed discharge, and/or erosion.

RESPONSE 6:

The TCEQ is charged by the Texas Legislature to maintain the quality of water in Texas, consistent with public health and enjoyment; thus, TCEQ's jurisdiction in a wastewater permit application is limited to water quality issues. TCEQ does not have authorization to consider issues such as drainage and easements, the threat of flooding events due to new development and the proposed discharge, and/or erosion.

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

landowner's ability to use common law remedies for any trespass, nuisance, or any other cause of action in response to activities that may, or actually do, result in injury or adverse effects on human health or welfare, animal life, vegetation, or property, or that may, or actually do, interfere with the normal use and enjoyment of animal life, vegetation, or property.

As noted in **Response 2**, the permit does not limit an individual's ability to seek legal remedies against the Applicant regarding any potential trespass, nuisance, or other cause of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property. 30 TAC § 305.122(d) states that the issuance of the permit does not authorize any injury to persons or property, any invasion of another's property rights, or any infringement of state or local, statutes or regulations.

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

#### COMMENT 7:

The persons listed in Attachment No. 2 under Comment 7 expressed concern for the possible impacts regarding the proper monitoring, safety, and/or operation of the WWTP.

#### RESPONSE 7:

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

If the permit is issued, the WWTP will be subject to routine compliance investigations. Other types of investigations may also be conducted depending on the circumstances surrounding the investigation. The TCEQ's Office of Compliance and Enforcement helps ensure compliance with state and federal regulations and the terms and conditions of the permit. This is done through routine compliance investigations and review of self-reported monitoring data. The TCEQ's Houston Regional Office will conduct on-site investigations. The Central Office, through the Monitoring Division, reviews the self-reported data for compliance with the effluent limits and other conditions stated in the permit.

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

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

#### COMMENT 8:

The persons listed in Attachment No. 2 under Comment 8 expressed concern regarding adverse impacts to surface water and the environment. Terrence Gallagher requested information on the antidegradation review.

#### RESPONSE 8:

The TCEQ is responsible for the protection of water quality. TCEQ also has federal regulatory authority over discharges of pollutants to Texas surface water. The Legislature granted TCEQ the responsibility to protect water quality in the State of Texas and to authorize wastewater discharge (TPDES) permits under TWC Chapter 26 and 30 TAC Chapters 305, 307 and 309, including specific statutes regarding wastewater treatment systems under 30 TAC Chapters 217 and 309.

The proposed draft permit was developed in accordance with the TSWQS to protect water quality, provided, however, that the applicant operates and maintains the proposed facility according to TCEQ rules and the proposed permit's requirements. The methodology outlined in the Procedures to Implement the Texas Surface Water Quality Standards (IPs; June 2010) is designed to ensure compliance with the TSWQS (30 TAC Chapter 307). According to section 307.6(b)(3) of the TSWQS, "[w]ater in the state must be maintained to preclude adverse toxic effects on human health resulting

from contact recreation, consumption of aquatic organisms, consumption of drinking water or any combination of the three.”

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

As part of the permit application review process, TCEQ determines the uses of the receiving waters, which includes recreational uses, and establishes effluent limits that protect those uses. The designated recreational use for Segment No. 1302 is primary contact recreation, which consists of activities that involve a significant risk of ingesting water, such as wading and swimming. Under section 307.4(j)(3) of the Standards, this is also the presumed recreational use for the other water bodies along the discharge route, including the detention pond, unnamed tributary, and Snake Creek.

The effluent limits and monitoring requirements in the draft permit were designed to protect and maintain that recreational use. ED staff who conducted the technical review for this application considered the proposed final flow of 420,000 gallons per day when screening the discharges for compliance with TSWQS. This included the antidegradation review of the receiving waters, which was performed in accordance with TSWQS and TCEQ’s Procedures to Implement the Texas Surface Water Quality Standards (IPs). A Tier 1 antidegradation review 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. This review preliminarily determined that there are no water bodies with exceptional, high, or intermediate aquatic life uses present within the stream reach assessed; therefore, no Tier 2 antidegradation determination is required. Thus, no significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses will be maintained and protected.

Based on the results of the technical review process, effluent that is treated and discharged in accordance with the requirements of the draft permit will protect the receiving waters and the ecosystem. The draft permit includes effluent limits for E. coli that will require the Applicant to disinfect the treated wastewater in a manner that will maintain the receiving waters’ primary contact recreation use. Furthermore, effluent limitations in the draft permit for the conventional effluent parameters (i.e., CBOD<sub>5</sub>, NH<sub>3</sub>-N, TSS, and minimum DO) are based on stream standards and waste load allocations for water quality-limited streams as established in the TSWQS and the State of Texas Water Quality Management Plan (WQMP). The ED made a preliminary determination that the draft permit, if issued, meets all statutory and regulatory requirements.



COMMENT 9:

The persons listed in Attachment No. 2 under Comment 9 expressed concern that the discharge route traverses their property and they will not have access to all their property.

RESPONSE 9:

It is the responsibility of the permittee to acquire all property rights necessary to use the discharge route. If the permit is issued, then the permittee is not granted the right to use private or public property for the conveyance of wastewater along the discharge route. Also, the permit does not authorize any invasion of personal rights or any violation of federal, state, or local, laws or regulations. It is the responsibility of the permittee to acquire all property rights necessary to use the discharge route.

The TCEQ is not a party to any easement agreement relating to any property being used by the Applicant in connection with this permit. TPDES permits establish terms and conditions that are intended to provide water quality pollution control. Therefore, the TCEQ's review of an application for a TPDES permit focuses on controlling the discharge of pollutants into water in the state. The TCEQ does not have jurisdiction to address this concern in the wastewater permitting process.

As discussed in **Response 2**, the permit does not limit an individual's ability to seek legal remedies against the Applicant regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property. 30 TAC § 305.122(d) states that the issuance of the permit does not authorize any injuries to persons or property, an invasion of other property rights, or any infringement of state or local statutes or regulations.

COMMENT 10:

Megan Mount expressed concern regarding pollutants and chemicals in the effluent. Jason Filipp and Misty Filipp expressed concern for the bacterial impairment of the segment.

RESPONSE 10:

The Cottonwood Terrace WWTP will be an activated sludge plant operated in the complete mix mode. Treatment units in the Interim phase will include a lift station, a bar screen, one aeration basin, one final clarifier, one sludge holding tank, and one chlorine contact basin. Treatment units in the Final phase will include a lift station, a bar screen, two aeration basins, two final clarifiers, two sludge holding tank, and two chlorine contact basins.

The only chemical addition to the treatment process is chlorine for disinfection purposes. 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).

The permit limits given in the draft permit are intended to maintain the existing uses of the surface waters and to preclude degradation; this includes residual chlorine concentration in the treated effluent. The effluent shall contain a total chlorine residual of at least 1.0 mg/L and shall not exceed a total chlorine residual of 4.0 mg/L after a detention time of at least 20 minutes based on peak flow and shall be monitored five times per week by grab sample in both phases. No other chemical treatment was indicated in the application.

The rules in 30 TAC § 309.3(g)(1) (Effluent Limitations and Plant Siting) require that disinfection of domestic wastewater must be protective of both public health and aquatic life, however the rules do not require a specific method of disinfection. A permittee may disinfect domestic wastewater through use of 1) chlorination, 2) ultra-violet light, or 3) an equivalent method of disinfection with prior approval from the ED. For this facility, the Applicants have chosen chlorine disinfection. Chlorine is one of the most practical and effective means of disinfection because it can kill disease-causing bacteria and nuisance organisms and can eliminate certain noxious odors during disinfection.

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

Moreover, conventional domestic wastewater does not typically contain toxic compounds in measurable quantities that might result in toxic effects in the receiving water bodies unless there are significant industrial users contributing to the waste stream. This wastewater treatment facility will receive wastewater from residential users and will not be accepting industrial wastewater.

#### COMMENT 11:

The persons listed in Attachment No. 2 under Comment 11 expressed concern regarding their ability to continue utilizing any of the receiving waters (detention pond, unnamed tributary, and Snake Creek) for agricultural and livestock purposes and the impact to their land, livelihood, and quality of life. Jason Filipp and Misty Filipp expressed concern for the possible impact to sensitive species.

#### RESPONSE 11:

The draft permit was composed in accordance with the TSWQS for the protection of the receiving waters' existing uses. The TSWQS assume that all waters have basic uses, including agricultural water supply. Another protected use is the use of the receiving waters by livestock. For example, under 30 TAC § 307.6(b)(4) of the TSWQS, discharged

effluent cannot make water in the state toxic to livestock. While the Standards do not specifically designate criteria for the protection of agricultural water supplies or livestock, they do designate criteria for the protection of aquatic life and human health. As discussed in section II(C) above, the detention pond has limited aquatic life use, and the unnamed tributary has minimal aquatic life use. These two water bodies are also presumed to have primary contact recreation. The effluent limits in the draft permit, including the daily average bacteria limit of 126 CFU or MPN per 100 mL, have been calculated to maintain and protect these existing instream uses. The limits and secondary treatment levels that apply to the proposed discharge are expected to provide water quality that is safe for aquatic life and human health, the latter of which was discussed in **Response 8**. If the draft permit will protect aquatic life and human health, it will also protect wildlife including sensitive species, livestock that drink water, and agricultural water supplies that are drawn from the discharge route. Therefore, TCEQ does not expect the treated effluent to adversely affect any agricultural or livestock uses of the receiving waters (detention pond, unnamed tributary, and Snake Creek).

COMMENT 12:

Jason Filipp, Misty Filipp, Aaron Douglas Fojtik, and Megan Mount expressed concern for the impact to groundwater resources.

RESPONSE 12:

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. This goal of non-degradation does not mean zero-contaminant discharge.” In subsection (c), the legislature further stated 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 hazard.” The TCEQ has been tasked with the responsibility of regulating discharges of pollutants into water in the state. The agency’s Water Quality Division, which is responsible for reviewing discharge permit applications and drafting permits that will be protective of human health and the environment, has determined that if surface water quality will be protected under a draft permit, then groundwater quality in the vicinity will not be impacted by the discharge.

When someone files a permit application for a wastewater discharge to surface water, the technical review is conducted by the Water Quality Division’s Standards Implementation Team reviewers, Water Quality Assessment Team surface water modelers, and Municipal Permits Team permit writers. Following their review of LGI Homes-Texas, LLC’s application, Water Quality Division staff drafted a permit with effluent limits that will meet the requirements of the TSWQS by maintaining the receiving waters’ existing uses. This ensures the discharge will be protective of aquatic life, human health, and the environment. Because the effluent limits in the draft permit will maintain the existing uses of the surface waters along the discharge route and preclude degradation, the effluent limits will also protect groundwater.

COMMENT 13:

Jason Filipp and Misty Filipp expressed concern for the amount of sludge to be hauled on a daily basis.

RESPONSE 13:

Liquid digested sludge will be removed from the aerated sludge holding tank for disposal on a regular basis. The Sludge Management Plan (SMP) indicates that at 25% of the permitted flow (52,500 gallons per day) approximately 394 gallons of wet sludge is produced requiring removal every 22 days. The SMP indicates that at 50% of the permitted flow (105,000 gallons per day) approximately 788 gallons of wet sludge is produced requiring removal every 12 days. The SMP indicates that at 75% of the permitted flow (175,500 gallons per day) approximately 1,181 gallons of wet sludge is produced requiring removal every 8 days. The SMP indicates that at 100% of the permitted flow (210,000 gallons per day) approximately 1,575 gallons of wet sludge is produced requiring removal every 6 days. This is consistent with Design Criteria for Domestic Wastewater Systems listed in 30 TAC Chapter 217.

COMMENT 14:

Jason Filipp and Misty Filipp expressed concern for combustion emissions and the impact to air quality from the proposed facility.

RESPONSE 14:

TCEQ is the agency responsible for enforcing air pollution laws. The Texas Clean Air Act provides that certain facilities may be exempt from the requirements of an air quality permit if, upon review, it is found that those facilities will not make a significant contribution of air contaminants to the atmosphere and that human health, and the environment, will be protected. According to 30 TAC § 106.532, WWTFs have undergone this review and, provided that the WWTFs only perform the functions listed in the rule, are permitted by rule. In the application, the Applicants indicated that the treatment process of the proposed WWTF would use the activated sludge process. This treatment process will not make a significant contribution of air contaminants to the atmosphere pursuant to the Texas Health and Safety Code's Texas Clean Air Act §§ 382.057 and 382.05196 and is therefore permitted by rule.

COMMENT 15:

Teresa Williams asked what will happen now.

RESPONSE 15:

The ED considered all timely and relevant public comments and prepared this RTC. As stated in Section II. D. of the Background Information (Procedural Background), the permit application was received on December 15, 2022, and the comment period closed on August 25, 2023.

The period to request a contested case hearing (CCH) extends 30 days after this RTC is mailed by TCEQ. All CCH requests must be based on timely comments submitted by the requestor during the comment period that are relevant and material to the issuance of the draft permit. After the period to request a CCH ends, if CCH requests are received the Commissioners will consider all timely requests at an open meeting, called Commissioners Agenda, and will decide whether to refer the case to the State office of Administrative Hearings (SOAH).

If the case is referred to SOAH, then SOAH will assign an Administrative Law Judge (ALJ) to conduct a contested case hearing, which is a formal legal proceeding, similar to a civil trial, where the parties can submit evidence or call experts to testify. The ALJ will consider the evidence and issue a Proposal for Decision (PFD). The Commissioners will then decide whether to accept the PFD and grant the permit, deny the application, or remand the case back to SOAH for additional evidence.

If no CCH requests are made during the request period, then the TCEQ will grant the applicant a permit which uses the same language as the draft permit.

#### **IV. CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENTS**

The ED made changes to the draft permit in response to public comment by correcting the Five-day Carbonaceous Biochemical Oxygen Demand to Five-day Biochemical Oxygen Demand.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel  
Interim Executive Director

Charmaine Backens, Deputy Director  
Environmental Law Division



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Environmental Law Division  
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REPRESENTING THE EXECUTIVE DIRECTOR  
OF THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**Attachment No. 1**  
LGI Homes-Texas, LLC, WQ0016275001

A

B

C

D

E

Elkins, Betty

F

Filipp, Jason

Filipp, Misty

Fojtik, Aaron Douglas

G

Gallagher, Terrence

H

Holik, Clifton

I

J

K

Kennaugh, Pat

L

M

Mount, Megan

N

O

P

Q

R

Raska, Amanda

S

Schuelke, Alfred C.

Shed, Tammy

T

Tetley, Kellie

Tice, Casey

Tumlinson, Heather

U

V

W

Williams, Teresa

X

Y

Z

**Attachment No. 2**  
LGI Homes-Texas, LLC, WQ0016275001

Comment 1

1 Elkins, Betty  
2 Filipp, Jason  
3 Filipp, Misty  
4 Fojtik, Aaron Douglas  
5 Gallagher, Terrence  
6 Holik, Clifton  
7 Kennaugh, Pat  
8 Mount, Megan  
9 Raska, Amanda  
10 Schuelke, Alfred C.  
11 Shed, Tammy  
12 Tetley, Kellie  
13 Tice, Casey  
14 Tumlinson, Heather  
15 Williams, Teresa

Comment 3

Elkins, Betty  
Filipp, Jason  
Filipp, Misty  
Mount, Megan  
Raska, Amanda  
Schuelke, Alfred C.  
Tetley, Kellie  
Williams, Teresa

Comment 6

Elkins, Betty  
Filipp, Jason  
Filipp, Misty  
Holik, Clifton  
Kennaugh, Pat  
Mount, Megan  
Raska, Amanda  
Tetley, Kellie  
Tice, Casey  
Williams, Teresa

Comment 7

Filipp, Jason  
Filipp, Misty  
Fojtik, Aaron Douglas

Mount, Megan  
Tetley, Kellie

Comment 8

Filipp, Jason  
Filipp, Misty  
Fojtik, Aaron Douglas  
Kennaugh, Pat  
Mount, Megan  
Raska, Amanda  
Schuelke, Alfred C.  
Shed, Tammy  
Tetley, Kellie  
Tice, Casey

Comment 9

Filipp, Jason  
Filipp, Misty  
Fojtik, Aaron Douglas  
Mount, Megan  
Raska, Amanda

Comment 11

Filipp, Jason  
Filipp, Misty  
Gallagher, Terrence  
Kennaugh, Pat  
Mount, Megan  
Raska, Amanda  
Schuelke, Alfred C.  
Shed, Tammy  
Tetley, Kellie  
Tice, Casey