

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 5, 2023

TO: All interested persons.

RE: The Psalm 25:10 Foundation
TPDES Permit No. WQ0016202001

Decision of the Executive Director.

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter are instructions to view the Executive Director's Response to Public Comment (RTC) on the Internet. Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov. A complete copy of the RTC (including the mailing list), complete application, draft permit and related documents, including public comments, are available for review at the TCEQ Central Office. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the City of Godley Municipal Complex, City Secretary's Office, 200 West Railroad Street, Godley, 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.

P.O. Box 13087 • Austin, Texas 78711-3087 • 512-239-1000 • tceq.texas.gov

How is our customer service? tceq.texas.gov/customersurvey
printed on recycled paper

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

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

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

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

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

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

Deadline for Submitting Requests.

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

of this letter. You may submit your request electronically at www.tceq.texas.gov/agency/decisions/cc/comments.html or by mail to the following address:

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

Processing of Requests.

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

How to Obtain Additional Information.

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

Sincerely,

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

Laurie Gharis
Chief Clerk

LG/cb

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
The Psalm 25:10 Foundation
TPDES Permit No. WQ0016202001

The Executive Director has made the Response to Public Comment (RTC) for the application by The Psalm 25:10 Foundation for TPDES Permit No. WQ0016202001 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 (WQ0016202001) and click the "Search" button. The search results will display a link to the RTC.

Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov.

Additional Information

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

A complete copy of the RTC (including the mailing list), the complete application, the draft permit, and related documents, including comments, are available for review at the TCEQ Central Office in Austin, Texas. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the City of Godley Municipal Complex, City Secretary's Office, 200 West Railroad Street, Godley, Texas.

MAILING LIST
for
The Psalm 25:10 Foundation
TPDES Permit No. WQ0016202001

FOR THE APPLICANT :

David Shanks, Organizer
The Psalm 25:10 Foundation
3000 Altamesa Boulevard, Suite 300
Fort Worth, Texas 76133

Richard Alberque
Director of Land Development
TCCI Land Development Inc.
14675 Dallas Parkway, Suite 575
Dallas, Texas 75257

Glenn Breish, Professional Engineer
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

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

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

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

FOR PUBLIC INTEREST COUNSEL
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

AMES , DANA
STE B6
2 N MAIN ST
CLEBURNE TX 76033-5500

BROOKS , ALEXANDRA
213 BUENA VISTA DR
GODLEY TX 76044-4094

BURNS , THE HONORABLE DEWAYNE STATE
REPRESENTATIVE
TEXAS HOUSE OF REPRESENTATIVES DISTRICT 58
PO BOX 2910
AUSTIN TX 78768-2910

BUTLER , MARTHA & MICHAEL
8181 COUNTY ROAD 1127
GODLEY TX 76044-4014

CALHOUN , DEBORAH KAY
236 AGUA LINDA DR
GODLEY TX 76044-4084

CALVINO , SILVIA
617 EL GATO DR
GODLEY TX 76044-4095

CONCERNED CITIZEN ,
7717 COUNTY ROAD 2231A
GODLEY TX 76044

COOPER , GREG
6 FOX HOLLOW RD
JOSHUA TX 76058-4869

DUGGINS , RALPH
STE 300
600 W 6TH ST
FORT WORTH TX 76102-3684

DUNCAN , ELIZA
6513 LEO LN
GODLEY TX 76044-3541

GUTHRIE , GLEN
PO BOX 404
GODLEY TX 76044-0404

HAMILTON , MICHAEL
508 LOS ALTOS CT
GODLEY TX 76044-4089

HAYS , ANGELIQUE
8900 COUNTY ROAD 1127
GODLEY TX 76044-4099

HAYS , SCOTT
8900 COUNTY ROAD 1127
GODLEY TX 76044-4099

HESS , PAUL
8850 COUNTY ROAD 1127
GODLEY TX 76044-4189

HICKS , MARY
4501 COUNTY ROAD 1126
CLEBURNE TX 76033-8144

KING , THE HONORABLE PHIL STATE SENATOR
THE SENATE OF TEXAS DISTRICT 10
PO BOX 12068
AUSTIN TX 78711-2068

LOGAN , ERIC
343 EL PESCADO CT
GODLEY TX 76044-4088

LOPEZ , JOSE
863 ALTO BONITO CT
GODLEY TX 76044-3701

MASSENGALE , TRENNON
UNIT C
9052 W FM 4
GODLEY TX 76044-4001

MCENERY , PHILIP & RAMONA
6008 BELLA TERRA LN
GODLEY TX 76044-4006

MONDAL , VICTOR
244 AGUA LINDA DR
GODLEY TX 76044-4084

MOORE , RICHARD
6165 FM 2331
GODLEY TX 76044-4009

SCOTT , JOHN ANDREW
CLAY SCOTT LLP
PO BOX 472028
FORT WORTH TX 76147-0228

SOZA , JAIME
827 ALTO BONITO CT
GODLEY TX 76044-3701

STROTHER , KRISTI
9257 W FM 4
GODLEY TX 76044-4027

STROTHER , MICHAEL
9257 W FM 4
GODLEY TX 76044-4027

TREUL , JUSTIN
237 AGUA LINDA DR
GODLEY TX 76044-4181

VAY , JOHN
PO BOX 4711
LAGO VISTA TX 78645-0054

VAY , JOHN
5112 CANYON OAKS DR
LAGO VISTA TX 78645-6086

YARBROUGH , SCOTT

PO BOX 183

GODLEY TX 76044-0183

TPDES PERMIT NO. WQ0016202001

**APPLICATION BY THE
THE PSALM 25:10 FOUNDATION FOR
TPDES PERMIT NO. WQ0016202001**

**§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment on the application by The Psalm 25:10 Foundation (Applicant) for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016202001 and on the ED's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code (30 TAC) Section (§) 55.156, before a permit is issued, the ED prepares a response to all timely, relevant, and material, or significant comments. The Office of the Chief Clerk received timely comments from Richard Moore, Trennon Massengale, Paul Hess, Kristi Strother, Scott Hays, Eliza Duncan, Deborah Kay Calhoun, Michael Hamilton, Ralph Duggins, Glen Guthrie, Greg Cooper, and Scott Yarbrough. This response addresses all timely public comments received, whether withdrawn or not. For more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found on the TCEQ web site at <http://www.tceq.texas.gov>.

BACKGROUND

The Applicant applied for new TPDES permit No. WQ0016202001 to authorize a discharge of treated domestic wastewater (effluent) at a daily average flow limit in Interim Phase of 0.10 million gallons per day (MGD), and at a daily average flow limit in the Final Phase of 0.50 MGD (proposed discharge) from the Applicant's Wastewater Treatment Facility (WWTF), Prairieview WWTP 1 (Prairieview facility). Sludge generated from the treatment facility is hauled by a registered transporter and disposed of at a TCEQ-permitted landfill, Itaska Landfill, Permit No. H0241, in Hill County, Texas. The draft permit also authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

Description of Facility/Discharge Route

If this permit is ultimately issued, the Prairieview facility will be located approximately 0.50 miles northwest of the intersection of West Farm-to-Market Road 4 and Farm-to-Market Road 2331, in Johnson County, Texas 76044 and will be an activated sludge process plant operated in the extended aeration mode. Treatment units in the Interim phase will include a bar screen, an aeration basin, a final clarifier, an aerobic sludge digester, and a chlorine contact chamber. Treatment units in the Final phase will include a bar screen, two aeration basins, two final clarifiers, two aerobic sludge digesters, and two chlorine contact chambers. The discharge route for the proposed discharge is to an unnamed tributary, thence to an unnamed impoundment, thence to West Fork Nolan River, thence to Nolan River, thence to Lake Pat Cleburne in Segment No. 1228 of the Brazos River Basin (proposed discharge route).

Technical Review

The TCEQ has primary authority over water quality in Texas and also federal regulatory authority for the TPDES program, which controls discharges of pollutants into Texas surface waterbodies (“water in the state”). The Texas Water Code (TWC) § 26.027, authorizes the TCEQ to issue permits for discharges into water in the state, and the ED evaluates applications for discharge permits based on the information provided in the application and can recommend issuance or denial of an application based on its compliance with the TWC and TCEQ rules. Specifically, the ED’s technical review evaluates impacts from the proposed discharge on the receiving waters, starting at the discharge point (an unnamed tributary), according to 30 TAC Chapter 307, the Texas Surface Water Quality Standards (TSWQS) and the TCEQ’s *Implementation Procedures for the Texas Surface Water Quality Standards*-June 2010 (IPs).

The unclassified receiving water uses are limited aquatic life use for the unnamed tributary and West Fork Nolan River, and high aquatic life use for the unnamed impoundment. The designated uses for Segment No. 1228 are primary contact recreation, public water supply, and high aquatic life use. In accordance with 30 Texas Administrative Code § 307.5 and the TCEQ’s *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review has 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. 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 preliminary determination can be reexamined and may be modified if new information is received.

The technical review process for surface water quality is conducted by staff in the ED’s Water Quality Division (WQD staff) on the Standards Implementation Team (Standards Team) and WQD staff in the Water Quality Assessment Section (Modeling Team). With the goal of the technical review being to maintain a level of water quality sufficient to protect the existing uses of the receiving surface waters, WQD staff reviewed the application in accordance with the TSWQS and TCEQ’s IPs.

The first component of the ED’s technical review involved WQD staff on the Standards Team reviewing the classifications, designations, and descriptions of the receiving surface waters for the proposed discharge. Along with other available information, reviewing the receiving waters for the proposed discharge allows the Standards Team to preliminarily determine the aquatic life uses in the area of the proposed discharge’s possible impact and assign the corresponding minimum DO criterion as stipulated at 30 TAC § 307.5 (TSWQS) and in the TCEQ’s IPs. For applications for new discharges, the Standards Team performs an antidegradation analysis of the proposed discharge, and per 30 TAC § 307.5 (TSWQS) and the TCEQ’s IPs, an antidegradation review of the receiving waters was performed that included nutrient screenings. The segment No. 1228 is impaired for excessive algal growth which in freshwater is typically driven by usage of the surrounding landscape and total phosphorus/nutrient inputs. A total phosphorus screening was done on both the unnamed tributary and West Fork Nolan River using similar parameters from 16051-001 (nearby discharger) and determined that a nutrient limit is warranted for this permit to protect the integrity of the water quality, limit nutrient inputs that could contribute to

the impairment, and protect the pools, which confirmed that a 0.5 mg/L TP limit is recommended for both Interim and Final flow phases.

As with all determinations, reviews, or analyses related to the technical review of the proposed permit, the above and below can be reexamined and subsequently modified upon receipt of new information or information that conflicts with the bases employed in the applicable review or analysis.

The second component of the ED's technical review involved WQD staff on the Modeling Team performing water quality modeling to assess effluent limits required to protect the aquatic life uses of the receiving waterbodies. The proposed permit's water quality-related effluent limits, established by the Modeling Team's QUAL-TX modeling results, will maintain and protect the existing instream uses. Similarly, conventional effluent parameters such as minimum dissolved oxygen (DO), Five-day Carbonaceous Biochemical Oxygen Demand (CBOD₅), Total Suspended Solids (TSS), Ammonia Nitrogen (NH₃-N), and Total Phosphorus (TP), 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.

Based on model results, the following effluent limits are predicted to be **necessary** to maintain dissolved oxygen levels above the criteria stipulated by the Standards Implementation Team for the unnamed tributary (3.0 mg/L) and unnamed impoundment (5.0 mg/L):

Interim Phase (0.10 MGD): 10 mg/L CBOD₅, 3.0 mg/L NH₃-N, and 4.0 mg/L DO

Final Phase (0.50 MGD): 5.0 mg/L CBOD₅, 2.0 mg/L NH₃-N, and 4.0 mg/L DO

Coefficients and kinetics used in the model are a combination of site-specific, standardized default, and estimated values. The results of this evaluation can be reexamined upon receipt of information that conflicts with the assumptions employed in this analysis.

In both phases of the proposed permit, the pH must not be less than 6.0 standard units nor greater than 9.0 standard units and must be monitored once per week by grab sample. There must be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

Additionally, in both phases of the proposed permit, the effluent must contain a chlorine residual of at least 1.0 mg/l and must not exceed a total chlorine residual of 4.0 mg/after a detention time of at least 20 minutes (based on peak flow) and must be monitored five time per week by grab sample. The permittee shall dechlorinate the chlorinated effluent to less than 0.1 mg/l total chlorine residual for the Final phase. An equivalent method of disinfection may be substituted only with prior approval of the ED.

Segment No. 1228 is currently listed in the State's inventory of impaired and threatened waters (the 2022 CWA § 303(d) list). The listing is specifically for excessive algal growth in water from Cleburne Dam in Johnson County up to the normal pool elevation of 733.5 feet (Assessment Unit 1228_01).

The discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System (TPDES; 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. The permit does not require EPA review with respect to the presence of endangered or threatened species.

Procedural Background

The TCEQ received the application on August 12, 2022, and declared it administratively complete on September 27, 2022. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in English in the *Cleburne Times Review* on October 27, 2022. The ED completed the technical review of the application on January 6, 2023, and prepared the proposed draft permit, which if approved, establishes the conditions under which the facility must operate. The Applicant published the Notice of Application and Preliminary Decision (NAPD) in *Cleburne Times Review* in English on March 28, 2023. The public meeting for this application was held on September 19, 2023. The public comment period ended on September 19, 2023.

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, 84th Legislature, 2015, which are implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55.

The ED has determined that the proposed permit, if issued, meets all statutory and regulatory requirements and is protective of the environment, water quality, and human health. However, if you would like to file a complaint about the Prairieview facility concerning its compliance with the provisions of its permit or with TCEQ rules, you may contact the TCEQ Regional Office (Region 4) in Dallas/Fort Worth, Texas 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 in the fourth subsection of Background Information (Access to Rules, Laws, and Records). If an inspection by the Regional Office finds that the Applicant is not complying with all the requirements of the permit, or that the Prairieview facility is out of compliance with TCEQ rules, enforcement actions may arise.

Access to Rules, Laws, and Records

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

[laints.html](#) (select “use our online form”) or by sending an email to the following address: complaint@TCEQ.texas.gov

Commission records for the Prairieview facility are available for viewing and copying at TCEQ’s main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk, for the current application until final action is taken). Some documents located at the Office of the Chief Clerk may also be located in the TCEQ Commissioners’ Integrated Database at www.tceq.texas.gov/goto/cid. The permit application has been available for viewing and copying at City of Godley Municipal Complex, City Secretary’s Office, 200 West Railroad Street, Godley, Texas, since publication of the NORI. The final permit application, proposed permit, statement of basis/technical summary, and the ED’s preliminary decision are now available for viewing and copying at the same location since publication of the NAPD.

COMMENTS AND RESPONSES

Comment 1:

Richard Moore and Trennon Massengale express concern that the effluent will significantly degrade water quality in the receiving waters. They believe the proposed discharge would be in violation of the Texas Water Code and that the application does not fully comply with all of TCEQ’s applicable technical regulations. They are particularly concerned as to whether the draft permit complies with Texas Surface Water Quality Standards, meets anti-degradation requirements, and is protective of surface and groundwater quality and existing uses. Richard Moore and Trennon Massengale express concern that adequate measures will not be taken to prevent the introduction of harmful bacteria and pathogens into the tributary and onto his property. Paul Hess expresses general concern regarding water quality impacts. He asks whether the facility will be able to handle the load it has proposed without leakage of untreated wastewater. He also expresses concern for the water quality in the surrounding lakes, rivers, and aquifers due to the increased water usage in the area. Kristi Strother expresses general concern that the effluent will have a negative impact on water quality. Richard Moore expresses concern about the volume of water that will be added to the creek. Paul Hess asks why the effluent limits in the proposed discharge area are different than those in Edwards Aquifer. Paul Hess asks what effluent water quality this plant will achieve, whether it will be a basic low standard or will exceed all standards.

Response 1:

The Standards Implementation Team reviewed the permit in accordance with the Texas Surface Water Quality Standards (Chapter 306) requirements as well as the Water Quality Standards Implementation Procedures (IPs) RG-194. The receiving water bodies were assigned aquatic life uses in accordance with the standards, and additional information received at and since the public meeting. The unnamed tributary was determined to be intermittent with perennial pools and given a limited aquatic life use. The private impoundment originally was given a limited aquatic life use, and upon information received regarding the impoundment, the aquatic life use was changed to high as our implementation procedures allow based on the personal use of the impoundment for forage. The West Fork Nolan River was also given a limited aquatic life use. The uses assigned to the receiving streams were in accordance with the IPs.

An antidegradation review was completed in accordance with the IPs. The initial antidegradation review conducted was a Tier 1 review based on the original aquatic life uses that were assigned to the waterbodies. A Tier 2 review was not required. The initial

antidegradation review, using the total phosphorus screening, suggested that nutrients could be a potential issue within the receiving stream, and therefore a 0.5 mg/L total phosphorus limit was implemented within the permit. After additional information was given regarding the downstream impoundment and the aquatic life use, the antidegradation review was updated to include the impoundment which has a high aquatic life use and Tier 2 antidegradation review was conducted. The nutrient limit remained a 0.5 mg/L to maintain and protect water quality from eutrophic conditions. To ensure protection from bacteria, each municipal discharge permit is given an end-of-pipe bacteria limit that is less than or equal to segment criteria in the (TSWQS). This permit received a limit of 126 colony forming units (CFU).

The permit, as drafted, is protective of all waterbodies within the discharge route. Surrounding lakes, and aquifers are not a specific part of this permit, and therefore are not taken into account as a part of the review, however, since the permit is protective of surface waters, the permit is deemed protective of groundwater, and subsurface flow as well. If the plant is operated in accordance with the permit, no leakages or unauthorized discharge should occur. If an unauthorized discharge occurs, please report this to your local TCEQ Regional Office. The TCEQ is required to review the permit in accordance with the TSWQS and has gone on-site to view the stream to ensure the discharge is going into a waterbody. The permit does not allow for overland flow and therefore the volume of flow from this discharge should be contained within the bed and banks of the stream during typical flow.

The Edwards Aquifer is a part of the Central Texas Region. There are rules and guidance that have been developed as a part of the Edwards Aquifer Protection that the TCEQ considers during review of a discharge permit. The Edwards Aquifer Rules are specific to the Central Texas Region only, based on the characteristics of the streams and features to the aquifer. This permit is located north of the Edwards Aquifer. The receiving streams to this permit are mud and silt bottom, some stream incision, and turbidity when water is present within the stream. The stream characteristics are different than those of the Edwards Region, and therefore the Edwards rules do not apply to this region.

Comment 2:

Richard Moore and Trennon Massengale express concern regarding the discharge parameters and effluent limitations of the proposed permit; specifically, whether the draft permit includes appropriate provisions to maintain dissolved oxygen concentrations in receiving waters, prevent excessive algal growth, and comply with aesthetic parameters and other requirements, such as aquatic nutrient limitations. They comment that the application does not contain any modeling analyses and states that without site-specific data and granular inputs, characterization of downstream impacts and development of effluent limitations will be inadequate. Richard Moore and Trennon Massengale express concern that all pertinent stream conditions and characteristics will not be considered in conducting any water quality modeling and assessments and in developing the proposed effluent limitations. Paul Hess asks where to find models showing the proposed discharge site and its proposed path, and what effluent limits the proposed facility would be beholden to.

Response 2:

Applicants are not required to submit their own modeling analysis as part of a TPDES application. Instead, as part of TCEQ's review of TPDES application, TCEQ staff conduct a dissolved oxygen (DO) modeling analysis on the proposed discharge to

evaluate the potential impacts of major oxygen-demanding constituents within the effluent on in-stream oxygen levels of downstream receiving waterbodies.

The immediate receiving waterbody is an unnamed tributary and the Standards Implementation team assigned it a “minimal” aquatic life use with a corresponding DO criterion of 3.0 mg/L. A little over a mile downstream from the discharge point is an on-channel unnamed impoundment which Standards assigned a “high” aquatic life use with a corresponding DO criterion of 5.0 mg/L. Based on the DO modeling analysis results, effluent limits of 10 mg/L CBOD₅, 3 mg/L Ammonia-nitrogen, and a minimum effluent DO of 4.0 mg/L for the 0.10 MGD flow phase and effluent limits of 5 mg/L CBOD₅, 2 mg/L Ammonia-nitrogen, and a minimum effluent DO of 4.0 mg/L for the 0.50 MGD flow phase were predicted to be sufficient to ensure that DO will be maintained at or above the criterion established by the Standards Team for the unnamed tributary (i.e. 2.0 mg/L) and the unnamed impoundment (i.e. 5.0 mg/L).

In order to ensure that the DO modeling results, and corresponding effluent limit recommendations are conservative and protective under all conditions, the proposed discharge was evaluated under what are expected to be the most unfavorable of environmental conditions, specifically hot and dry summertime conditions. This combination of conditions is highly unlikely to occur, especially over a significant portion of time, and represents an extreme condition when the negative effects of a discharge on instream dissolved oxygen would be maximized. The unnamed tributary was determined to be an intermittent stream and was therefore modeled with a presumption of zero background streamflow (i.e. no dilution), with the only flow present in the stream at the point of outfall being that from the proposed discharge. Each proposed flow phase was modeled at its full proposed flow volume (Interim phase = 0.10 MGD & Final phase = 0.50 MGD) and at full effluent limit concentrations. This combination of conditions is a conservative, worst-case scenario that is unlikely to occur. Even under these conservative model assumptions, modeling results indicate the effluent limits included in the draft permit for Carbonaceous Biochemical Oxygen Demand (5-day) (CBOD₅), ammonia-nitrogen, and minimum effluent DO for the proposed flow phases are predicted to be adequate to ensure that instream DO levels will be maintained consistent with the established DO criteria of the receiving waterbodies, and thus the aquatic life uses of each waterbody protected.

The dissolved oxygen model that was developed for the review of application (WQ0016202001) and all associated modeling review information is available upon request from the Water Quality Assessment Team.

Comment 3:

Richard Moore and Trennon Massengale comment that TCEQ used default hydraulics in characterizing the unnamed tributary into which the effluent discharges. They allege that default hydraulics are not appropriate for this stream. They further state that the model hydraulics characterize the stream as 7.2 m wide, but from aerial photos, the width appears to be much less than this.

Response 3:

An uncalibrated QUAL-TX model was developed and used for the dissolved oxygen (DO) analysis. QUAL-TX was chosen for this analysis because it is applicable to stream, riverine, and linear tidal water bodies. It is a standard analytical tool for dissolved oxygen analyses of these types of receiving waters at TCEQ, and procedures for its use in the analysis of TPDES permits have been established and are readily available. It has a long history of accepted use for instream DO modeling, including the

“default” hydraulic coefficients and rates that have been negotiated with EPA and developed to be representative of Texas streams.

Default hydraulics were used for the advective reaches of the unnamed tributary as no data to develop more reach-specific hydraulics was available. The TPDES permit application instructions require that stream transect data for the immediate receiving water be collected and provided by the applicant for new applications, major facilities, and applications adding an outfall. The instructions state that stream transect data is not required for intermittent streams, such as the unnamed tributary.

However, more site-specific hydraulics for the unnamed tributary can be developed in the future. Calculating alternative advective reach-specific hydraulics requires data collected from the stream when flow is present. This is because the hydraulic calculations are based on the interrelationship of not just stream width and depths but velocity and flow volume as well. Measurements of non-flowing or dry stream bed or measurements from satellite imagery alone are insufficient to calculate alternative hydraulic coefficients for advective QUAL-TX reaches.

More site-specific hydraulics for the more lentic waterbodies (i.e. the on-channel pool and unnamed impoundment) can be developed from aerial imagery and reasonable depth information alone. The hydraulic values developed for these reaches were derived from area measurements taken from Google Earth imagery as well as depth information for the unnamed impoundment provided by a downstream landowner and included in the modeling analysis.

Comment 4:

Richard Moore and Trennon Massengale claims that TCEQ failed to utilize the appropriate element length in the Qual-TX model. They claim element length is inappropriate for the unnamed tributary passing through Moore’s property because the models default length is too long and masks the actual dissolved oxygen (DO) impacts, especially in downstream impoundments. Richard Moore and Trennon Massengale state that sensitivity analyses should be employed to determine what element length is appropriate. Richard Moore and Trennon Massengale claim that in this case, if a smaller element length is used in the modeling, the results are dramatic, and the water quality standards for DO will not be met.

Response 4:

The standard element length used for advective reaches in TCEQ’s QUAL-TX modeling is 0.10 kilometers or 100 meters. Element lengths can be greater than or less than 100 meters, so long as the deviation from the standard element length makes sense and still falls within a reasonable range. For dissolved oxygen model developed to assess application WQ0016202001 there were 5 separate reaches contained in the model itself. Reach 1 is advective portion of the unnamed tributary from the point of discharge downstream to a small on-channel pool. Reach 1 was measured to be approximately 660 meters long and thus an element length of 110 m was chosen. Reach 2 is the small on-channel pool, and it measured approximately 50 m long. Thus Reach 2 is comprised of a single element whose length is 50 meters. Reach 3 is the advective portion of the unnamed tributary between the on-channel pool and the unnamed impoundment. This portion of stream measured approximately 1,200 meters long and so the standard 100-meter element length was used. Finally, the unnamed impoundment was modeled as Reach 4 and Reach 5. The unnamed impoundment was sub-divided into a “shallower” reach (aka Reach 4) and a “deeper” reach (aka Reach 5) based on depth information provided by the downstream landowner. Both Reach 4 and Reach 5 measured about 150

meters in length, so 150 meters was the element length used for both.

A sensitivity analysis is not a component of the dissolved oxygen modeling technical review and is not required.

Comment 5:

Richard Moore and Trennon Massengale express concern that groundwater in the area will be negatively impacted. They comment that, because of the reliance on groundwater in the area, there is a heightened importance in ensuring the effluent limitations in the final permit adequately protect local groundwater resources. Trennon Massengale comments that his well is within 75 feet of the stream that the discharge will go through, and he is concerned about the quality of his drinking water.

Response 5:

Groundwater wells were not specifically reviewed as a part of this discharge permit; however our rules prohibit a wastewater discharge negatively affecting groundwater. The permit is written to protect surface water, and in doing so, groundwater is presumed to be protected as well.

Comment 6:

Richard Moore and Trennon Massengale express general concern regarding potential adverse effects to human health if the permit is granted. They allege that their health will be endangered by the discharge. Trennon Massengale is concerned that the discharge could affect his health through consumption of the fish in his pond. Kristi Strother expresses concern that the proposed facility will adversely impact her health as an asthmatic individual. Paul Hess asks about the potential side effects of the project.

Response 6:

As specified in the methodologies from the TCEQ Implementation Procedures (IPs), TPDES permits issued by the TCEQ must maintain water in the state to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three. Relatedly, municipal facilities that do not have industrial contributors would not have toxins in their effluent. In addition, permits must prevent adverse toxic effects on aquatic life, terrestrial life, livestock, and domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. The design of the proposed permit ensures these water quality standards will be supported.

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

In addition, the draft permit does not limit any affected person'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 interfere with the normal use and enjoyment of property. If anyone experiences nuisance odor conditions or any other suspected incidents of noncompliance with the permit or TCEQ rules, they may report those conditions or

incidents to the TCEQ by: calling 888-777-3186; calling the Dallas/Fort Worth Region 4 office at 817-588-5700, or by using our online form <https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html>. For additional information regarding environmental complaints, please see: <https://www.tceq.texas.gov/compliance/complaints>

Comment 7:

Richard Moore and Trennon Massengale state that a Tier 2 antidegradation analysis should have been performed because of “intermediate” or “high” aquatic life use for the affected waterbody. Richard Moore and Trennon Massengale state that Tier 2 prohibits the degradation of these higher quality waters by more than a de minimis amount. Richard Moore and Trennon Massengale claim that Applicant has failed to apprise TCEQ staff of critical information necessary to properly classify aquatic life uses and perform an appropriate anti-degradation analysis, resulting in effluent limitations and treatment requirements that are critically deficient.

Response 7:

An antidegradation review was completed in accordance with the IPs. The initial antidegradation review conducted was a Tier 1 review based on the original aquatic life uses that were assigned to the waterbodies. A Tier 2 review was not required. The initial antidegradation review, using the total phosphorus screening, suggested that nutrients could be a potential issue within the receiving stream, and therefore a 0.5 mg/L total phosphorus limit was implemented within the permit. After additional information was given regarding the downstream impoundment and the aquatic life use, the antidegradation review was updated to include the impoundment which has a high aquatic life use and Tier 2 antidegradation review was conducted. The nutrient limit remained a 0.5 mg/L to maintain and protect water quality from eutrophic conditions. To ensure protection from bacteria, each municipal discharge permit is given an end-of-pipe bacteria limit that is less than or equal to segment criteria in the (TSWQS). This permit received a limit of 126 colony forming units (CFU).

Comment 8:

Richard Moore and Trennon Massengale comment that the Water Quality Standards memo (dated October 13, 2022) included in TCEQ’s files incorrectly determined that there were no water bodies with exceptional, high, or intermediate aquatic life uses within the stream reach assessed, and improperly classified the receiving water use as “limited.” They claim that there is insufficient information upon which to determine what stream reach TCEQ assessed or how this aquatic life use was determined. They state that the large lake within 1.2 miles of Applicant’s discharge point has a large aquatic life population and, at the very least, should be accorded an “intermediate” aquatic life use, but more than likely a “high” aquatic life use. Additionally, they state that the lake is well within the 7-mile evaluation distance as noted in the comments above. They state that a higher aquatic life use would trigger a higher dissolved oxygen criterion, which even TCEQ’s own water quality modeling indicates could not be met.

Response 8:

The Standards Implementation Team reviewed the permit in accordance with the Texas Surface Water Quality Standards (Chapter 306) requirements as well as the Water Quality Standards Implementation Procedures (IPs) RG-194. The unnamed tributary was determined to be intermittent with perennial pools and given a limited aquatic life use,

the private impoundment originally was given a limited aquatic life use. During the review it was noted that the pond was approximately 6 acres and appeared to be a small stock tank. At the public meeting Mr. Massengale spoke about his private pond and informed us that he has a personal biologist that was able to give us information regarding water clarity, aquatic life, and use and enjoyment of the pond. He also informed us that his family and friends use the pond to fish and eat the fish throughout the year. Mr. Massengale and the Standards reviewer communicated after the meeting, and based on the new information the review was updated. The aquatic life use was changed to a high as our implementation procedures allow based on the personal use of the impoundment for forage, and the West Fork Nolan River was also given a limited aquatic life use.

An intermediate aquatic life use, as directed by our Ips, is given after a receiving water assessment has been completed. The allowable aquatic life use designations without a site-specific study are minimal, limited, and high aquatic life uses. The change from a limited to high aquatic life use in the pond also changed the dissolved oxygen criteria from a 3.0 mg/L to a 5.0 mg/L dissolved oxygen. In practice the evaluation distance is 3 miles depending on the size of the discharger. The IPs designate specific distances based on the size of the discharge. The proposed discharge is 0.5 million gallons per day (MGD). The evaluation distance required by the IPs is 1.1 to 2.0 miles. The Standards review characterized all streams within 3.0 miles and therefore exceeded the required evaluation criteria.

Comment 9:

Richard Moore and Trennon Massengale state that the nutrient screening conducted by TCEQ had no point value input in the Observation category of the analysis. They claim that this oversight resulted in the total and average point totals being less. They claim that if the number of points had been higher, a more restrictive phosphorus limit may have been imposed. Richard Moore and Trennon Massengale state that TCEQ's nutrient screening did not acknowledge the existence of an existing lake in the "Impoundments" category. Richard Moore and Trennon Massengale state that the nutrient screening and resulting effluent limitations and treatment requirements are critically deficient.

Response 9:

A total phosphorous (TP) screening was conducted to determine whether a nutrient limit was necessary. The TP screening determined that best professional judgement should be used to determine whether TP monitoring or a TP limit is needed. The TCEQ Standards Implementation Team recommends a 0.5 mg/L total phosphorus limit for both Interim and the Final phases to protect and maintain water quality within the receiving streams and segment. Considering the nutrient screening results, stream characteristics, the size of the discharge, similar discharges, and the increasing number of discharges within the watershed, a TP limit of 0.5 mg/L was added to the permit to help preclude degradation due to nutrients that could lead to algal growth. Related to phosphorus, a key nutrient necessary for algae growth and often in limited supply in freshwater systems, consistent with TCEQ's IPs (June 2010), a nutrient screening was performed for the proposed discharge and indicated that site-specific conditions in the receiving waters may be conducive to algal growth. A typical nutrient limit ranges from 0.15 mg/L (for the most sensitive environments to 1.0 mg/L which is most typical. A 0.5 mg/L limit was designated for this permit. This limit is also consistent with surrounding dischargers in the area.

The comment references a portion of the screening that was left blank, which is “sensitivity to growth of aquatic vegetation”. This particular field is based on site specific observation. The Standards reviewer has been on site to evaluate the discharge route, and the initial discharge location was dry. The impoundment on Mr. Massengale’s property was not observed at the time of the review. After subsequent information was received regarding the impoundment, there is a limited presence of algae during different parts of the year within the impoundment. The addition of this information on the nutrient screening did not change the outcome of the screening or indicate the need for more stringent limits than were previously given at the time of review. The 0.5 mg/L total phosphorus limit is a stringent limit for the size of the discharge, due to the presence of the impoundment and the concern for excessive algal growth on the State Inventory List of streams.

Comment 10:

Richard Moore and Trennon Massengale express concern that the proposed facility, wastewater discharge, and permit will negatively affect livestock and livestock uses. Paul Hess expresses concern that the proposed discharge could have an adverse effect on livestock.

Richard Moore and Trennon Massengale express concern regarding potential adverse effects to terrestrial wildlife and aquatic life if the permit is granted. Trennon Massengale expresses concern that the fish in his pond will be adversely affected by the proposed discharge. Paul Hess expresses concern regarding potential adverse effects to terrestrial wildlife and aquatic life if the permit is granted. Paul Hess also asks what environmental research has been conducted and documented on how a WWTP will affect animals.

Response 10:

The Texas Surface Water Quality Standard (TSWQS) is a primary mechanism for the TCEQ to protect human health, surface and groundwater quality, aquatic life, the environment, and specifically, the designated uses of the receiving waters. The TSWQS require that discharges not cause surface 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. Likewise, the TPDES program mandates that discharges of treated effluent into water in the state from facilities regulated by TPDES permits meet the requirements of the TSWQS.

As specified in the methodologies from the TCEQ IPs, TPDES permits issued by the TCEQ must maintain water in the state to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three. Relatedly, municipal facilities typically do not have industrial contributors, and therefore, do not have toxins in their effluent. In addition, permits must prevent adverse toxic effects on aquatic life, terrestrial life, livestock, and domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. The design of the proposed permit ensures these water quality standards will be met.

Comment 11:

Richard Moore and Trennon Massengale express concern that the application does not sufficiently address and violates the State’s policy on regionalization.

Response 11:

The Texas Legislature has directed TCEQ to consider regionalization when issuing TPDES permits. TWC § 26.0282 provides, “[i]n 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 areawide or regional waste collection, treatment, and disposal systems not designated such by commission order. This section is expressly directed to the control and treatment of conventional pollutants normally found in domestic wastewater.” According to TWC § 26.081(a), TCEQ shall “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.”

To implement TCEQ’s regionalization requirements, Domestic Wastewater Permit Application Technical Report 1.1 requires applicants that are applying for a new or amended permit to provide information concerning local WWTFs. If there is a WWTF or collection system within three miles of the proposed facility, the applicant is required to provide information to the ED as to whether the nearby facility has sufficient existing capacity or is willing to expand its capacity to accept the additional volume of wastewater proposed in the application. If such a facility exists and is willing to accept the proposed wastewater, the applicant must provide an analysis of expenditures required to connect to that wastewater treatment facility. Additionally, the applicant is required to provide copies of all correspondence with the owners of any nearby existing facilities regarding connecting to their systems.

In Section 3 of Domestic Technical Report 1.1 in the application, the Applicant answered ‘No’ indicating there are no permitted WWTFs or collection systems located within a three-mile radius of this proposed facility, which can provide service to this residential subdivision. ED staff’s regionalization review located one WWTF (WQ0016051001) located within a 3 miles radius of this proposed facility; however, that facility has not been constructed.

Comment 12:

Richard Moore and Trennon Massengale express concern that the proposed facility, wastewater discharge, and permit will negatively affect agricultural uses of the unnamed tributary. Richard Moore and Trennon Massengale express concern regarding potential adverse effects to crops if the permit is granted.

Response 12:

The proposed discharge is being permitted to discharge to an unnamed tributary, an unnamed impoundment, the West Nolan River, the Nolan River and then to Lake Pat Cleburne. The presumed uses of the unnamed tributary are primary contact recreation which encompasses swimming, fishing, boating, incidental ingestion. The draft permit does not have a land application component and therefore should not affect any agricultural uses. Although agricultural uses were not directly considered during the Standards review, agricultural uses should be protected as well.

Comment 13:

Richard Moore and Trennon Massengale express concern regarding potential nuisance conditions if the permit is granted. Kristi Strother expresses concern that the proposed facility will create an odorous nuisance and pollute the air.

Response 13:

All wastewater treatment facilities have the potential to generate odors. Section 309.13(e) of the TCEQ's rules requires domestic facilities to meet buffer zone requirements for the abatement and control of nuisance odor by complying with one of three options: 1) ownership of the buffer zone area; 2) restrictive easements 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 'The Psalm 25:10 Foundation's application, the applicant will abate and control nuisance odor by ownership of the buffer zone area, i.e., by locating the treatment units at least 150 feet from their property line. This requirement was incorporated into the draft permit at Other Requirement No. 3. Because Applicant owns the buffer zone, nuisance odor is expected to be limited as a result of the permitted activities at the facility provided the Applicant operates the facility in compliance with TCEQ rules and the terms and conditions of the draft permit (Permit Application, Attachment A5.1-Buffer Zone Map). Further, 30 TAC § 309.13(c) states that a treatment unit at the Prairieview facility may not be located closer than 500 feet from a public water well nor 250 feet from a private water well.

In addition, the draft permit does not limit any affected person'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 interfere with the normal use and enjoyment of property. If anyone experiences nuisance odor conditions or any other suspected incidents of noncompliance with the permit or TCEQ rules, they may report those conditions or incidents to the TCEQ by: calling 888-777-3186; calling the Dallas/Fort Worth Regional office at 817-588-5800, or by using our online form <https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html>. For additional information regarding environmental complaints, please see: <https://www.tceq.texas.gov/compliance/complaints>.

Comment 14:

Richard Moore and Trennon Massengale express concern that household, commercial, and other chemicals mixed with the wastewater influent could contain dangerous constituents that may not be removed under the current effluent limitations in the draft permit. Paul Hess expresses concern that pharmaceuticals, personal care products, and microplastics may not be removed and will reach the drinking water for the region, creating negative impacts to human and animal health.

Response 14:

The TCEQ does not anticipate that there will be any industrial wastewater, insecticides, and banned chemicals not allowed to be disposed of and routed to a water treatment plant; therefore, hazardous liquids and chemicals are not expected to be discharged into the collection system and enter the treatment system of the proposed facility. Additionally, Minor municipal facilities with conventional domestic sewage do not typically contain toxic compounds in measurable quantities that might result in toxic effects in the receiving waterbodies, unless there are significant industrial users contributing wastewater.

Therefore, human health and water quality will be protected as long as the Applicant operates the Prairieview facility in compliance with TCEQ's rules and the terms and conditions of the proposed permit.

The TCEQ has not investigated the potential effects of emerging contaminants,

which includes Pharmaceuticals and Personal Care Products (PPCPs), in effluent. Neither the TCEQ nor the EPA have promulgated rules or criteria limiting emerging contaminants in wastewater. The EPA is investigating emerging contaminants and has stated that scientists have not found evidence of adverse human health effects from emerging contaminants in the environment. Removal of some emerging contaminants has been documented during municipal wastewater treatment; however, standard removal efficiencies have not been established. In addition, there are currently no federal or state effluent limits for emerging contaminants. While the EPA and other agencies continue to study the presence of PPCPs, there is currently no clear regulatory regime available to address the treatment of PPCPs in domestic wastewater. Accordingly, neither the TCEQ nor the EPA have rules on the treatment of contaminants such as pharmaceuticals in domestic wastewater.

Comment 15:

Richard Moore and Trennon Massengale comment that the applicant has failed to make a copy of the application available for review and copying at a public place as required. They claim that the City of Godley Municipal Complex, where a copy of the application is allegedly available, was not open to the public for the majority of the review period. They also note that attempts to reach the City of Godley's City Secretary through email have been returned as undeliverable.

Response 15:

The Applicant states that the permit application has been available for viewing and copying at City of Godley Municipal Complex, City Secretary's Office, 200 West Railroad Street, Godley, Texas since publication of the NORI. The final permit application, proposed permit, statement of basis/technical summary, and the ED's preliminary decision are now available for viewing and copying at the same location since publication of the NAPD. Additionally, during regular business hours, the public may review or copy the public file for this application, which includes the application, its attachments, and any other communications made during the review of this application, at TCEQ's Office of the Chief Clerk. Additionally, a copy of the permit application (including location maps) and the NAPD notice with a URL link to the TCEQ on-line location map (showing the location of the facility) are available for viewing and copying at the TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of the Chief Clerk).

On November 13, 2023, the TCEQ received correspondence from the Applicant which stated that the application was posted in the City of Godley Municipal Complex before the first notice was published and remained available for viewing and/or copying.

Comment 16:

Richard Moore and Trennon Massengale comment that the contact number listed for the applicant's project manager is incorrect, so the public has been unable to timely and completely view the permit application. Richard Moore comments that interested persons were not able to reach a proper representative of the Applicant because of an error in the information provided by the Applicant and included in the public notice, contrary to agency requirements.

Response 16:

The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in English in the *Cleburne Times Review* on October 27, 2022. The contact number of NORI was TCCI Project Manager, at 817-991-8881. The Applicant

published the Notice of Application and Preliminary Decision (NAPD) in *Cleburne Times Review* in English on March 28, 2023. The contact number of NAPD was Mr. Richard Alberque, Director of Land Development, TCCI Land Development Inc., at 214-734-0360/469-688-8224. According to the applicant, all contacts were active/working since the publication date.

Comment 17:

Richard Moore comments that the applicant provided property locations to TCEQ rather than the owner addresses on file with the Johnson County CAD, resulting in failed delivery to many landowners close to or adjacent to the applicant's property, such as Edith Hays. Glen Guthrie expresses concern that his neighbor, Edith Hays, did not receive notice and asks that notice be sent by certified mail. Ralph Duggins alleges that the notice was sent only to physical addresses, not mailing addresses, and that some parties, such as Edith Hays, failed to receive notice because of this. He also notes that the address listed for Edith Hays does not include a city and asks that additional notice be sent to the mailing addresses for potential affected parties. Deborah Kay Calhoun and Kristi Strother allege that proper notice was not given and that she and many of her neighbors found out about the permit and meeting through social media. Michael Hamilton alleges that proper notice was not given and that he and many of his neighbors found out about the permit and meeting through social media. Scott Yarbrough and Eliza Duncan express general concern that the notice requirements were not met.

Response 17:

For new permit and major amendment applications, the Applicant must provide a list of affected landowners and a map showing their location(s). Affected landowners are landowners located adjacent to the wastewater treatment plant site and landowners with property on either side of the receiving stream for approximately one mile downstream from the point of discharge. The applicant is required to certify that the submitted application is accurate. The adjacent landowners map was provided in response to section 1 of Administrative Report 1.1. The portion of the application that requires the applicant to demonstrate compliance with section 309.13(e) is section 3.A and B of the same report. The TCEQ mails notice of the application to the affected landowners and others on the mailing list for the application, which is maintained by the Office of Chief Clerk.

On November 13, 2023, the TCEQ received correspondence from the Applicant which stated that it prepared the list of property owner addresses based on the best publicly available information at the time from the Johnson County Appraisal District website.

Additionally, the TCEQ permit instructions require mailed notice to those landowners located adjacent to the applicant's property, and property owners on both sides of the discharge point for one mile downstream. Ms. Calhoun, Ms. Strother, Mr. Hamilton, Mr. Yarbrough, Ms. Duncan, and Mr. Duggins have not been identified as adjacent property owners nor property owners along the discharge route.

Comment 18:

Richard Moore comments that Applicant failed to publish in an alternative language and Applicant should republish in English and Spanish. Richard Moore states that the Applicant did not correctly research and report to TCEQ the actual existence of a bilingual education program in the Godley Independent School District, contrary to agency requirements.

Response 18:

While TCEQ's alternative notice rules would have required publication in the alternative language under 30 TAC § 39.426, this requirement is waived if no newspaper exists under 30 TAC § 39.426(b)(5). According to representations made by the Applicant in the public notice verification form (for both NORI and NAPD) to the TCEQ, dated September 22, 2023, the applicant stated "I certify that I have conducted a diligent search for a newspaper or publication of general circulation in both the municipality and county in which the facility is located or proposed to be located and was unable to publish the notice in the required alternative language because: A newspaper or publication could not be found in any of the alternative languages in which notice is required."

Comment 19:

Scott Hays and Eliza Duncan ask for clarity regarding information provided in the notice about the number of homes expected to be built in the proposed development. Kristi Strother alleges that the number provided in the notice regarding the number of potential homes is incorrect, as the applicant recited a higher number at the public meeting.

Response 19:

TCEQ notices do not require the Applicant to include this information. For evaluating the need for each of the proposed facility's phases, Domestic Technical Report 1.0 requires the Applicant to justify its proposed flows in the form of LUEs or Equivalent Dwelling Units, which are standard units of water quantity/demand furnished to a single-family residential unit and are defined as the typical flow that would be produced by a single-family residence located in a typical subdivision, with the assumption that 3.5 people live in a residence.

In Domestic Technical Report 1.1, Section 1A: Justification of permit need, in the application, the applicant provided "[t]he Prairieview Development will be 360 acres, providing 1,200 single family homes. We are expecting a flow of 0.50 million gallons per day (MGD) flow for the ultimate build out of this development and expect to reach this number in six years." At the Final phase planned development will have 1,200 Living Equivalent Units (LEUs) with an approximate total of 0.42 MGD.

Comment 20:

Paul Hess asks where the information on the actual discharge site/river is. He asks what its path is and where it travels to.

Response 20:

The discharge route is assigned by the Water Quality Standards Reviewer based on the information provided in the application. The application requires specific coordinates for the proposed outfall location. Based on the coordinates and maps submitted with the application the discharge route is traced using mapping tools. The proposed discharge route is "to an unnamed tributary, thence to an unnamed impoundment, thence to an unnamed tributary, thence to the West Nolan Creek, thence to Nolan Creek, thence to Lake Pat Cleburne in Segment 1228 of the Brazos River Basin.

Comment 21:

Paul Hess questions what the effects will be on the surrounding wells, water sources, and aquifers if inclement weather such as heavy rain was to occur. Paul Hess

asks who will provide compensation if an incident occurs as a result of inclement weather.

Response 21:

According to 30 TAC § 309.13(c) states that a treatment unit at the Prairieview facility is not located closer than 500 feet from a public water well nor 250 feet from a private water well. For public water sources, the provisions of § 309.13(c) bolster the safeguards from TCEQ's Groundwater Rule (GWR) that protect drinking water quality against disease-causing microorganisms.

However, the Ground Water Rule does not address private wells because they are not under the jurisdiction of the Safe Drinking Water Act and thus are not subject to TCEQ regulation. TCEQ does recommend that well owners periodically test their water for microbial and chemical contaminants and properly maintain their well. It is the responsibility of the private well owner to take steps to have his or her water quality tested at least annually for possible constituents of concern, or more often if the well is thought to have a surface water connection.

The designated uses for Segment No. 1228 are primary contact recreation, public water supply, and high aquatic life use. The aquifer protection use applies to the contributing, recharge, and transition zones of the Edwards Aquifer which are not applicable for this proposed facility and outfall; therefore, the aquifer protection use does not apply to this section of Segment No. 1228.

The draft permit includes several permit provisions to ensure the proper operation of the facility. For example, Operation Requirement No. 1, which requires the Applicant 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, which requires that domestic wastewater treatment plants to be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined by 30 TAC Chapter 30; and Other Requirement No. 1, which requires Applicants 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.

If anyone experiences suspected incidents of noncompliance with the permit or TCEQ rules, they may report those conditions or incidents to the TCEQ by: calling 888-777-3186; calling the Dallas/Fort Worth Region 4 office at 817-588-5700, or by using our online form <https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html>. For additional information regarding environmental complaints, please see: <https://www.tceq.texas.gov/compliance/complaints>.

Comment 22:

Paul Hess asks what type of facility the proposed facility will be, whether it's wastewater or combined sewer. He also asks what the maximum number of homes this plant can service. Paul Hess asks if a combined WWTP has been evaluated.

Response 22:

The Prairieview Wastewater Treatment Facility will be an activated sludge process plant operated in the extended aeration mode. At the Final phase planned development

this facility will have 1,200 single family homes. As per ED staff's review, there is no WWTP within 3 miles radius of this proposed facility which can provide service to this residential subdivision.

Comment 23:

Paul Hess expresses concern regarding the amount of water required for this new development and the potential impact such usage may have on public water supply.

Response 23:

Drinking water availability is not under the authority of the TCEQ to consider when evaluating a wastewater discharge permit action. For information on drinking water availability, please call the TCEQ's Office of Water, Water Availability Division at (512) 239-4600. For general information on groundwater, please contact the Texas Water Development Board at (512) 463-7847.

Comment 24:

Richard Moore and Trennon Massengale express concern that the proposed facility, wastewater discharge, and permit will negatively affect personal uses of the unnamed tributary to be discharged into. They allege that the discharge authorization will impair the use and enjoyment of his property. Richard Moore expresses general concern that recreational uses of the waterways to be discharged into will be affected by granting of the permit.

Response 24:

The proposed permit was developed according to the TSWQS and the TCEQ IPs to be protective of water quality and maintain the recreational uses of the waterbodies in the route of the proposed discharge, provided that the Applicant operates and maintains the proposed facility according to TCEQ rules and the proposed permit's requirements.

The proposed permit considers recreational uses of each receiving water body during review. The receiving streams are presumed to have primary contact recreational uses which include swimming, boating, fishing, and incidental ingestion. Recreational uses are protected with a bacteria limit typically. The permit received an end-of-pipe bacteria limit of 126 colony forming units (CFU) to ensure the use and enjoyment of the receiving streams.

Comment 25:

Richard Moore expresses general concern that granting the proposed permit will lead to negative economic impacts on his property. Deborah Kay Calhoun expresses general concern that the proposed permit will affect property values in the area.

Response 25:

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

Additionally, the draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

Comment 26:

Kristi Strother expresses concern that the proposed permit will negatively impact the environment and questions why each home in the proposed development should not be required to have a separate septic system rather than a wastewater treatment plant. She alleges that this method would have a smaller impact on the environment.

Response 26:

TCEQ does not have the authority to mandate the method of disposal of treated effluent if an applicant adheres to the rules and provisions of Texas Water Code (TWC) Chapter 26 and 30 TAC Chapters 217, 305, 307, and 309.

If the Applicant decides to utilize individual septic tanks to serve the proposed residential area, it will be subject to 30 TAC Chapter 285, relating to "On-site Sewage Facilities (OSSF)".¹ However, the anticipated combined flow from all systems on a tract of land must be less than 5,000 gallons per day (gpd) on an annual average basis.² If the anticipated combined flow exceeds 5,000 gpd, a domestic wastewater treatment facility is required, because wastewater treatment facilities produce a higher quality effluent than septic tanks and are therefore more protective of the environment.

Comment 27:

Kristi Strother asks how the carbon emissions from a wastewater treatment plant are regulated. She further asks how the sewage gases are regulated.

Response 27:

Related to air quality, the 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 the TCEQ rules in 30 TAC § 106.532, wastewater facilities have undergone this review, and their air emissions are permitted by rule provided the facility performs only the functions listed in the rule. The Applicant indicated in its application that the treatment process of the proposed facility would use the Membrane Bioreactor process, which does 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 28:

Scott Yarbrough expresses general concern regarding the processes by which applicants are approved.

Response 28:

Texas' Water Quality permitting process under Chapter 26 of the TWC does not limit who can apply for a TPDES permit. The rules related to applications for TCEQ authorizations for business entities require registration to do business in Texas with the Texas Secretary of State. The TCEQ rules related to operating a WWTF, found at 30 TAC Chapter 30 (Occupational Licenses and Registrations), do not require an Applicant to have previous experience in operating a WWTF. Other Requirement No.1 of the proposed permit provides that the Applicant must employ or contract with one or more licensed

¹ 30 TEX. ADMIN. CODE § 285.4

² 30 TEX. ADMIN. CODE § 285.8(a)(3)

WWTF operators, or companies specializing in Wastewater System operations, holding a valid license or registration according to the requirements of 30 TAC Chapter 30, specifically subchapter J (Wastewater Operators and Operations Companies).

Comment 29:

Greg Cooper alleges that the applicant exerted undue influence on the city council to establish a prior MUD (Belmont MUD) that negatively impacted the community. He alleges that the applicant acted improperly to obtain bond approval on the prior MUD by influencing the election process in Johnson County. He also alleges that the applicant improperly hid the bond cost from purchasers within the district. Kristi Strother expresses general concern that the applicant is conducting itself improperly. Scott Yarbrough alleges impropriety by the applicant regarding the lead engineer working as a contractor for the City of Godley. He alleges that the applicant exerted undue influence over the city council and that the applicant improperly and purposefully hid information from the public. He also alleges that the applicant has not filed a public information report since December 31, 2019, and asks TCEQ to require this of nonprofit applicants. Richard Moore alleges that the City of Godley has not approved the proposed development.

Response 29:

The TCEQ does not have the authority to address these types of issues as part of the wastewater permitting process. While the Texas Legislature has given the TCEQ the responsibility to protect water quality, the water quality permitting process is limited to controlling the discharge of pollutants into or adjacent to water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters.

Comment 30:

Trennon Massengale expresses concern that the additional water in the unnamed tributary from the proposed discharge site will erode his spillway.

Response 30:

The TCEQ does not have jurisdiction to address a discharge's impact on flooding or erosion along the discharge route as part of the wastewater permitting process. The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting those waters' quality. For flooding concerns, you can contact the local floodplain administrator for the area of concern, Johnson County Floodplain Management coordinator at (606) 789-2550 or access its website at <https://www.johnsoncountytexas.org/departments/public-works/floodplain-management>. Additionally, the Federal Emergency Management Agency and Texas Water Development Board have programs that are designed to mitigate damage caused by flooding. More information is available on the Board's website at <http://www.twdb.texas.gov/flood/index.asp>.

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

Comment 31:

Kristi Strother expresses general concern that the infrastructure in Godley will not be sufficient to sustain the increased traffic from the proposed development if the

permit is granted.

Response 31:

The TCEQ does not have the authority to address traffic and infrastructure concerns as part of the wastewater permitting process. While the Texas Legislature has given the TCEQ the responsibility to protect water quality, the water quality permitting process is limited to controlling the discharge of pollutants into or adjacent to water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ cannot consider issues such as noise and traffic in the review of a TPDES application.

Comment 32:

Glen Guthrie, Ralph Duggins, and Michael Hamilton requested a second public meeting.

Response 32:

TCEQ held a public meeting on September 19, 2023. The Applicant complied with TCEQ's notice requirements for the public meeting. Additionally, TCEQ staff has responded to all formal comments in this Response to Comments document. Therefore, the Executive Director does not plan to hold a second public meeting.

CHANGES MADE TO THE PERMIT IN RESPONSE TO COMMENT

The private impoundment originally was given a limited aquatic life use, and upon information received regarding the impoundment at the public meeting, the aquatic life use was changed to high as our implementation procedures allow based on the personal use of the impoundment for forage. The change from a limited to high aquatic life use in the pond also changed the dissolved oxygen criteria from a 3.0 mg/L to a 5.0 mg/L dissolved oxygen.

Respectfully submitted,

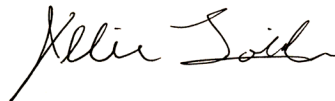
Texas Commission on Environmental Quality

Kelly Keel, Interim Executive Director

Charmaine Backens, Deputy Director
Environmental Law Division



Aubrey Pawelka, Staff Attorney
Environmental Law Division
State Bar No. 24121770
P.O. Box 13087, MC 173
Austin, Texas 78711 3087
Telephone No. 512-239-0622
Facsimile No. 512-239-0626



Allie Soileau, Staff Attorney
Environmental Law Division
State Bar No. 24137200
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
Phone (512) 239-6033

REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY