

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
972-834-8686
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087

To: All interested persons on the attached mailing list

RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024
City of Josephine (Applicant)
Responses to Executive Director of the TCEQ, Public Interest Counsel of TCEQ and Applicant

In preparation for the hearing on the above mentioned permit application, I am sending my responses to comply with rules set forth in TCEQ letter dated Sept 4, 2024 setting the docket number. The commission rules entitle all recipients of time hearing requests/requests for reconsideration to file a formal written response to Applicant, the Executive Director and the Public Interest Counsel of the TCEQ by or on September 30, 2024. I am responding to correspondence from the Executive Director's Office and the Office of Public Interest Counsel which were both to me on Sept 16, 2024. I had to go online to obtain the filing from the City of Josephine in order to respond.

There are responses to each of the 3 parties in the document following this letter.

Thank you in advance for your consideration.

Best Regards,

Jane Ridgway

MAILING LIST
City of Josephine
TCEQ Docket No./TCEQ Expediente N.º 2024-1228-MWD;
TPDES Permit No./TPDES Permiso N.º WQ0010887003

FOR THE APPLICANT/PARA EL
SOLICITANTE

Lisa Palomba, City Administrator
City of Josephine
P.O. Box 99
Josephine, Texas 75164

Eddy Daniel, P.E.
City Engineer, Dunaway, LLC
P.O. Box 606
Farmerville, Texas 75442

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

Bradford Eckhart, Staff Attorney
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FOR PUBLIC INTEREST COUNSEL/PARA
ABOGADOS DE INTERÉS PÚBLICO
via electronic mail/vía correo electrónico:

Garrett T. Arthur, Attorney
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Public Interest Counsel, MC-103
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FOR ALTERNATIVE DISPUTE
RESOLUTION/PARA LA RESOLUCIÓN
ALTERNATIVA DE DISPUTAS
via electronic mail/vía correo electrónico:

Kyle Lucas
Texas Commission on Environmental
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FOR THE CHIEF CLERK/PARA EL
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REQUESTER(S)/INTERESTED PERSON(S)/
SOLICITANTE(S)/ PERSONA(S)
INTERESADA(S)
See attached list/Ver lista adjunta.

REQUESTER(S)/ SOLICITANTE(S)

Christensen, Kevin
201 Monarch Ln
Josephine Tx 75173-7152

Ridgway, James M
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, James M
5754 FM 6
Josephine Tx 75189-4000

Ridgway, Jane E
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, Jane E
5754 FM 6
Josephine Tx 75189-4000

BAROCHIERE , A
300 PATINA ST
JOSEPHINE TX 75189-6020

BAROCHIERE , FRANK
300 PATINA ST
JOSEPHINE TX 75189-6020

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PO BOX 233
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CHRISTENSEN , KEVIN
201 MONARCH LN
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COLLIN , JO
300 CHUCK WAGON DR
JOSEPHINE TX 75189-5442

DUPUIS , JACOB
DUNAWAY
118 MCKINNEY ST
FARMERSVILLE TX 75442-2214

FLORES , SARAH
303 WAGON WHEEL DR
JOSEPHINE TX 75189-5385

HENSLEY , AARON
513 PLUM DR
JOSEPHINE TX 75173-8536

KEARNEY , MS PATRICIA JAN
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308 CHUCK WAGON DR
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RIDGWAY , JANE E
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JOSEPHINE TX 75173-7075

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106 MILTON ST
JOSEPHINE TX 75173-8528

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087
RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024

**CONTINUED REQUEST FOR A CONTESTED CASE HEARING ON
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
TPDES PERMIT NUMBER WQ0010887003**

Name of Person Contesting: Jane Ridgway
Mailing Address: P O Box 127, Caddo Mills, TX 75135-0127
Daytime Phone: 972-834-8686
Fax Number: None
My Physical Property Location
and Homestead 5754 FM 6, Josephine, TX 75189 - Hunt County
Email: jridgway1971@gmail.com (no "e" in ridgway)
Applicant: City of Josephine - TPDES PERMIT NUMBER WQ0010887003

Response to Executive Director's Response to Hearing Requests (with OPIC Comments)

VII. ANALYSIS OF THE HEARING REQUESTS

A. WHETHER THE REQUEST COMPLIED WITH 30 TAC §§ 55.201(c) AND (d).

1. Jane Ridgway filed four timely, written Requests that provided the requisite contact information, raised issues that form the basis of her Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Ms. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Ms. Ridgway believes she will be affected by the application in a way not common to the public. Ms. Ridgway's Requests stated that she lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Ms. Ridgway's property is 0.36 miles away from the proposed facility. Ms. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, flooding and erosion, air quality, and economic impacts.

The ED recommends finding that the Requests of Ms. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges my compliance to the TAC. Thank you.

2. James Ridgway filed two timely, written Requests that provided the requisite contact information, raised issues that form the basis of his Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Mr. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Mr. Ridgway believes he will be affected by the application in a way not common to the general public. Mr. Ridgway's Requests stated that he lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Mr. Ridgway's property is 0.36 miles away from the proposed facility. Mr. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, and flooding.

The ED recommends finding that the Requests of Mr. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledged his compliance to the TAC.

B. WHETHER REQUESTOR IS AN AFFECTED PERSON UNDER 30 TAC § 55.203.

1. Jane Ridgway filed four Requests that effectively identified personal, justiciable interests affected by the application. Ms. Ridgway's Requests stated that she was close to the proposed facility and that she is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Ms. Ridgway's property is situated 0.36 miles away from the proposed facility. Ms. Ridgway's proximity to the proposed facility, in conjunction with the issues Ms. Ridgway raised, lead the ED to determine that Ms. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Ms. Ridgway is an affected person under 30 TAC § 55.203 and grant her hearing request.

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges I am an affected person and granting the hearing request. Thank you.

2. James Ridgway filed two Requests that effectively identified personal, justiciable interests affected by the application. Mr. Ridgway's Requests stated that he was close to the proposed facility and that he is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Mr. Ridgway's property is situated 0.36 miles away from the proposed facility. Mr. Ridgway's proximity to the proposed facility, in conjunction with the issues Mr. Ridgway raised, lead the ED to determine that Mr. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Mr. Ridgway is an affected person under 30 TC § 55.203 and grant his hearing request.

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledges he is an affected person and for granting the hearing request.

VIII. ISSUES RAISED IN THE HEARING REQUEST:

1. **Whether the draft permit adequately prevents nuisance odors as required by 30 TAC § 309.13(e).**

(RTC Response No. 7) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit does not control nuisance odors in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 1. Nuisance Odors - Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

Jane Ridgway Response - I appreciate the possible referral from the ED on nuisance odor issue, and OPIC positive response. Before February 2024, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter dated February 1 to Lisa Polomba, City Administrator about odor mitigation and installing odor control equipment. I thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM on most days we still get odor at our home. Either mitigation has not been done, or the units are not working. The permit includes information from Evoqua, but their information alludes to pipeline distribution of wastewater. "A liquid phase dosing program can be used to prevent odorous compounds from forming in wastewater. Chemicals, such as Bioxide® Solution are added directly into the wastewater stream along the wastewater pipeline. This plant will dump into a manmade ditch.

2. **Whether the draft permit is adequately protective of aquatic and terrestrial wildlife.**

(RTC Response No. 13) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit is not protective of aquatic and terrestrial wildlife in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 3. Wildlife - As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

Jane Ridgway Response- Thank you. I appreciate the possible referral from the ED on this issue, and also the OPIC for finding the issue relevant. The Natural wooded creek area behind the Bowman home (my backyard neighbor) has hawks, birds, egrets, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's while 20 swamp rabbits come out at Bowman's. I do have my rabbit and egret photos. These critters come to my property except the beaver.

TCEQ states that that water in the state is to be safe for humans; therefore it is safe for wildlife. However, it has been determined that wastewater has PFAS. It has been found PFAS is harmful wildlife.

<https://news.mongabay.com/2023/09/pfas-forever-chemicals-harming-wildlife-the-world-over-study/>. NTMWD supplies water to Josephine which contains PFAS. City Staff think PFAS mitigation is NTMWD issue. NTMWD is addressing PFAS incoming water, but Josephine should help with wastewater. If not addressed at wastewater level, PFAS will continue to be distributed to ditch/creeks/Lake Tawakoni until However, as the fastest growing city in North Texas, additional PFAS treatment for wastewater to humans at Lake Tawakoni, and to protect aquatic and terrestrial wildlife both in writing and action seems prudent. Perhaps EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS include PFAS monitoring under *Other Requirements which I cannot find.

The City could apply for funding at TWDB if my research is good. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov

3. Whether the application was correctly determined to be administratively and technically complete.

(RTC Response No. 10) This issue involves a disputed question of mixed fact and law. If it can be shown that the application information, on which the draft permit is based, was not complete, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 4. Application Accuracy - Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

Jane Ridgway Response- I wish to thank the ED for the referral and also the OPIC. As the definition of not complete is which can also mean "incomplete" means something is not complete or finished, and may be lacking a necessary part, element, or step. Possibly inaccurate. Another review of the application and our findings is below. We would like to know if these were rectified.

TCEQ Core Data Form Section II

Customer Information Item 9. Federal Tax ID is missing. Cities need one to pay employees.

Domestic Technical Worksheet TCEQ-10054

Section 2 – B. and C. Not answered. "No" should have been checked.

Section 4 – B Flow characteristics

If a stream, manmade channel or ditch was checked above provide the following. For existing discharges, check one of the following that best characterizes the area upstream of the discharge. For new discharges, characterize the area *downstream* of the discharge. (Check one) .

There were no boxes checked in the section "Check the method used to characterize the area upstream (or downstream) for new dischargers. Please note that in Section 4, Description of Immediate Receiving Waters, A. Receiving water type, the last box "Manmade channel or ditches" was check marked. This is the first time I realized the Unnamed Tributary was in fact a manmade channel or ditch.

Section 4 – C-Downstream Perennial confluences.

List the names of all perennial streams the join the receiving water within 3 miles downstream of the discharge point. This was answered "none". I checked map at <https://en-us.topographic-map.com/map-sdhms8/Josephine/?center=33.06373%2C-96.29229&zoom=16&overlay=0> . Since my house is .36 miles, it looks like the unnamed tributary and Brushy Creek should be listed. If so, then the answer to Item D would be incorrect.

Section 4 – E. Normal dry weather characteristics. “No Flows” was entered, but could be incorrect. There is water in the creek behind the Bockemehl in summer. It does not dry up. Maybe the person who filled out the application did not go completely downstream. The stream does curve and get very deep at points. It gets deeper and wide and does rush the land.

Section 5 . General Characteristics of the Waterbody Obstructions – Item C. Water body aesthetics. As a person who sees this very frequently, the answer should be Natural Area: Trees and/or native vegetation: some development evident (from fields, pastures, dwellings) water clarity discolored. (page 32 of 80)

Application for a Domestic Wastewater Permit Administrative Report 1.0

Section 10- TPDES Discharge Information (Instructions Page 31) Item A – no boxes checked. Item B -No boxes checked.

Texas Commission on Environmental Quality Supplemental Permit information (SPIF) page 19 of 24

Item Provide description of effluent discharge route. - I believe this should state From a manmade ditch called unnamed tributary , thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment 0507 of the Sabine River Basin. Unnamed tributaries appear to be recreational in Texas, which defines as a little creek, or seep, or spring, or bog, or wetland without a name begins its life as surface water when it emerges from the ground. If this is true, the Josephine wastewater is and would continue to be dumping into what is surfaced groundwater and that might not be good.

Domestic Technical Report 1.0 Page 3 of 80

Section 4. Unbuilt Phases – Neither box was checked.

Section 5. Closure Plans

Have any treatment units been taken out of service permanently or will units be taken out of service in the next 5 years. **Neither YES or NO was checked.** With this section not being checked, and with the Wastewater Master Plan stating the Wastewater Plant 3 is **additional the answer is open to interpretation**. It is open ended and information available to public online conflicts with the Justification of permit description, next item.

Domestic Technical Report 1.1 Page 21 of 80

Section 1 Justification for Permit –

- A. Justification of permit need – Provide a detailed discussion of the need for any phase(s) not currently permitted. Failure to provide sufficient justification may result in the Executive Director recommending denial of the proposed phases(s) or permit.

This proposed treatment plant will serve a housing development. The developer is proposing a final build out of 4,000 to 6,000 single family housing. The City of Josephine will own and operate this plant (WWPT #3)The city currently has a lagoon treatment plant (WWTP#1 WQ0010887001, permitted flows 070 MGD),which will eventually be decommissioned, and those influent flows sent to this proposed treatment plant.

This is either wrong, or city was/is not being transparent about the lagoon going away. Per City’s Comprehensive Plan, 961 homes are anticipated spread among many developers. I do not see 4,000 – 6,000 houses in one housing development, except for DR Horton who is funding an addition to City of Josephine Wastewater #2 in the Magnolia Subdivision. The addition to City of Josephine Wastewater #2 was supposed to serve Riverfield which is 4,000 to 6,000 homes in back of Bowman and Ridgway and Bockelmehl properties. I can however get 5,249 houses in other Josephine sub-divisions (961) plus Horton’s Wildflower (3061). I don’t think the lagoon will be decommissioned, given the evidence in Wastewater Master Plan and this application gaps.

Section 5 Facility Site – A. Is facility above the 100 year floodplain was checked yes, so no method of protection was listed. This does not correlate with the Permit Backup for Hearing on page 34, Other Requirements Item 4. states “The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.”

Public Involvement Plan Form Page 1 of 4 - misrepresented

The last box “Public Involvement Plan not applicable to this application” was checked. But, the city and engineer know the fact that the growth in the area served is 4 times as many residents in the last 5 years, citizens should have been apprised of the expansion. Two people did ask for a public meeting and if all landowners had been notified, there would have been more I’m sure. The plant is in far east Collin County, but the **applicant left out the part that the plant is in the heart of the city and the original town**. With a public hearing, there would have been understanding that citizens would be incurring more bond debt.

4. Whether adjacent and downstream landowners received proper notice pursuant to TCEQ's rules.

(RTC Response No. 9) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly notify adjacent and downstream landowners in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response- Thank you to the ED and OPIC for acknowledging this point. There are **5** property owners below that have in property that backs up to a creek that runs to Brushy Creek and **they did not** receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit that is on display at Josephine City Hall. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

These citizens are within .36 miles and would be affected parties.

6-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the permit book at City Hall in late December.

First mention of the permit at council was in a DBI/Dunaway report in February 2024 even though the permit was made in May

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise

2023. **2-12-2024-DBI Report excerpt -** during the month of February and is open for public comment.

5. Whether Applicant properly published notice in accordance with 30 TAC Chapter 39.

(RTC Response Nos. 9 and 14) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly publish notice in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response - I appreciate that the ED acknowledges this point, as well as OPIC. The initial notice was published in The Collin County Commercial Record Dec. 5 2023, which per their website is "Collin County's newspaper for **current court and commercial information.**" It costs \$200 a year. Few if any citizens in Josephine subscribe to it. Dr. Sardo was told the Collin county Commercial Register was used because the city uses it for bidding. The Collin County Commercial Register is not transparent for Josephine citizens. After my notification to the city it ran again. I spoke with Eddy Daniel (one of the Josephine Engineers) after seeing the permit by accident in City Hall on Dec. 23, 2023. After the call with Eddy and my speaking at January City Council about the application and some of my concerns, the notice was run on January 18 in Farmerville Times and Greenville Herald Banner since the wastewater runs into Hunt County. I could not find the Greenville Herald Banner posting on the Texas Public Notices Website. [https://www.texaspublicnotices.com/\(S\(ay0fq1pl5hj4bxsorbgxb0pn\)\)/Search.aspx](https://www.texaspublicnotices.com/(S(ay0fq1pl5hj4bxsorbgxb0pn))/Search.aspx)

VIEW	Farmersville, The Farmersville Times Thursday, January 18, 2024
APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010887003 , to authorize the discharge of t ... click 'view' to open the full text.	
VIEW	McKinney, Collin County Commercial Record Tuesday, December 05, 2023
Texas Commission on Environmental Quality NOTICE OF APPLICATION AND PRELIMINARY DECISION FOR TPDES PERMIT FOR MUNICIPAL WASTEWATER NEW PERMIT NO. WQ001087003 APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environ ... click 'view' to open the full text.	

6. Whether the draft permit properly considered possible increases in instances of flooding and erosion.

(RTC Response No. 5) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response - Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- My response it that flooding issues must be relevant to the Wastewater Plant as TCEQ includes flood mitigation in the permit. On page 34 in the Backup Filed for the ED's Consideration of Hearing Requests, Other Requirements Item 4. states "The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood."

The RTC Response No 5 was: The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters.

I contend TCEQ does have jurisdiction to address flooding in the permit. If the City is going to protect the plant, deflected water during flooding, it would stand to reason deflected water(or pumped water) can enhance flooding for the citizens downstream. There has been and is continuing development behind the sewer plant location. There is a disconnect between the permit backup for the hearing and the Domestic Technical Report 1.1 Section 5 Facility Instructions.

In the current Wastewater Master Plan on page 15, engineer creating the document treats the NEW SBR plant on Caddo St. as an expansion/additional. This means more than 750,000 a day will go in the creek. I cannot locate any application item in the permit that indicates what type of protection the wastewater treatment facility has.

If this statement is important enough to be in the permit, and a flood study has not been completed since 2009 and the land to the North of the sewer plant is being developed, it could become very important to the sewer plant.

Thank you for your consideration.

7. Whether the draft permit is protective of air quality.

(RTC Response No. 6) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response -Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- After reviewing the application/TCEQ Permitting forms that were on display at City Hall, I find no line item for air quality, only mention of nuisance odors. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits, as it continues to come up in many permitting processes. Thank you.

8. Whether the draft permit properly considered potential economic impacts.

(No RTC Response) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

Jane Ridgway Response- After reviewing I find no line item for economic impact on TCEQ Permitting forms that were on display at City Hall. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits. Thank you.

Jane Ridgway - Office of Public Interest Counsel – Sept 26, 2024 Response.

Jane Ridgway Response – I concur with the OPIC on item 1-4. Item 6 – I will acknowledge and accept reluctantly.

With OPIC Item 5 my response is the same as noted on to the ED on item 6. Thank you very much for considering our concerns.

Section III.B

Section III Analysis of Hearing Request B. The affected requestors raised the following disputed issues:

1. Whether the draft permit is adequately protective against nuisance odors.
2. Whether there was adequate notice of the application and draft permit.
3. Whether the draft permit is adequately protective of wildlife.
4. Whether the application was accurately completed

1.Nuisance Odors

Affected requestors raised concerns about the proposed facility's emission of nuisance odors. TCEQ regulates nuisance conditions under 30 TAC § 309.13(e) which requires applicants to implement a nuisance odor abatement plan. Further, permits issued by TCEQ do 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.

Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

2. Notice

A requestor raised concerns about notice. Her concerns focused on whether all required, nearby landowners were properly notified. Chapter 39 contains requirements relating to notice publication, alternative language publication, mailing of notice, and posting of the application in a public place within the county. **The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.**

3. Wildlife

Requestors raised concerns about adverse effects to water quality and the consequential impacts on wildlife. The Commission is responsible for the protection of water quality under Texas Water Code (TWC) Chapter 26 and 30 TAC Chapters 307 and 309. The Texas Surface Water Quality Standards (Standards) in Chapter 307 require that the proposed permit "maintain the quality of water in the state consistent with public health and enjoyment, propagation and protection of terrestrial and aquatic life, operation of existing industries, and ... economic development of the state...." 30 TAC § 307.1. According to § 307.6(b)(4) of the Standards, "Water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, or domestic animals, **resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three.**" Additionally, "[s]urface waters must not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life." 30 TAC § 307.4(d).

As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

4. Application Accuracy

TCEQ rules require that if an applicant becomes aware that it failed to submit relevant facts or submitted incorrect information in a permit application, the applicant is required to promptly submit such facts and information. 30 TAC § 305.125(19). Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

5. Flooding

TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider flooding when making a decision on issuance of this permit. Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

6. Air Pollution

Requestors raised concerns regarding the proposed facility's emission of air pollutants. TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider air quality when making a decision on issuance of this TPDES permit, unless there is an associated water quality concern. Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

V. CONCLUSION

Having found that Jane E. Ridgway and James M. Ridgway qualify as affected persons in this matter, OPIC respectfully recommends the Commission grant their hearing requests and refer Issues No. 1-4 specified in Section III.B for a contested case hearing at SOAH with a maximum duration of 180 days. OPIC further recommends the Commission deny all pending requests for reconsideration

Jane Ridgway - Response to City of Josephine Comments 9-26-2024

PUBLIC COMMENT 1:

Aaron Hensley commented that the proposed development will be inclusive of certain people and will use municipal resources.

EXECUTIVE DIRECTOR'S RESPONSE 1:

The ED acknowledges this comment.

APPLICANT'S RESPONSE 1:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 1- I don't know how to comment on this issue, I accept ED's response.

PUBLIC COMMENT 2:

James M. Ridgway, Jane E. Ridgway, and Kevin Christensen requested a contested case hearing on this application.

EXECUTIVE DIRECTOR'S RESPONSE 2:

The ED acknowledges the hearing requests.

To request a contested case hearing, the parties must follow the hearing request procedures found in 30 TAC Chapter 55. 30 TAC § 55.201(a) requires that a hearing request is filed no later than thirty days after the Office of the Chief Clerk mails the ED's Response to Comment. A hearing requestor must meet the affected person requirements found in 30 TAC § 55.203. The hearing request itself must meet the requirements found in section 55.201(c) and (d). All timely filed hearing requests will be processed in accordance with section 55.209. Unless the case is directly referred to the State Office of Administrative Hearings under section 55.210, the Commission will consider the hearing requests and determine whether to grant or deny them in accordance with section 55.211.

APPLICANT'S RESPONSE 2:

The City acknowledges this hearing request and ED's response

AFFECTED PERSON RESPONSE 2- I acknowledge the hearing request and ED response.

PUBLIC COMMENT 3:

A. Barochiere, Frank Barochiere, Jo Collin, and L.H. expressed concern that the proposed housing development will create nuisance noise.

EXECUTIVE DIRECTOR'S RESPONSE 3:

The TCEQ's jurisdiction over the permitting process is established by the Texas Legislature and is limited to issues set forth in statutes. While 30 TAC Chapter 309, specifically Subchapter B, contains some nuisance considerations, the TCEQ does not have jurisdiction to consider noise from a wastewater treatment facility, nor from any related development, when determining whether to approve or deny a permit application. However, the draft permit does not limit the ability of individual landowners 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.

APPLICANT'S RESPONSE 3:

The City's proposed wastewater treatment facility will have components installed to minimize noise from pumps and blowers associated with the typical of operations of a wastewater plant.

AFFECTED PERSON RESPONSE 3— I cannot find any place in the application that has components to minimize noise from pumps and blowers.

PUBLIC COMMENT 4:

Barbara Newton and Shannon Villegas requested a public meeting for this application.

EXECUTIVE DIRECTOR'S RESPONSE 4:

Under 30 TAC § 55.154, TCEQ must hold a public meeting when a member of the legislature, representing the general area in which the activity is proposed, requests that a public meeting be held or when the Executive Director determines that there is a substantial or significant degree of public interest in an application. Here, there was no request for a public meeting from a member of the legislature. Additionally, the Executive Director determined that two public meeting requests did not constitute substantial or significant public interest in this application. Therefore, a public meeting was not held.

APPLICANT'S RESPONSE 4:

The City acknowledges this public meeting request and ED's response.

AFFECTED PERSON RESPONSE 4—My belief is people who were interested did not know how to request the meeting properly. The TCEQ letters are daunting. The first newspaper notification was in a newspaper no one took. After I notified the city they reprinted in two papers. Unfortunately the town relies mostly on social media. If citizens B. Newton and S. Villegas would have been granted a hearing, more citizens would have shown up. Nothing is very transparent with permits.

PUBLIC COMMENT 5:

Stacie Bockemuhl, Kevin Christensen, Patricia Jan Keamey, Barbara Newton, and Jane E. Ridgway expressed concerns that discharge from the WWTF and runoff from the accompanying development will increase the likelihood of flooding events.

EXECUTIVE DIRECTOR'S RESPONSE 5:

The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters. The proposed permit includes effluent limits and other requirements that the WWTF must meet even during rainfall events and periods of flooding.

According to the application, the proposed site for the WWTF is located above the 100-year flood plain. For additional protection, the draft permit includes Other Requirement No. 5, which requires the City of Josephine to

AFFECTED PERSON RESPONSE 5— It is noticeable that the City did not respond to the Executive Director on this point. The City has flooded on Caddo Street many times which is next to the current city sewage lagoon which feeds into the “unnamed tributary/ditch” and then to the creek when run-off from storms occurs. Perhaps it is time that the TCEQ's rules committee identifies a need for a rule change, drafts a proposed rule, and presents it to the Commission for approval. I would maintain the city may not be protecting against flood hazard as stated in my initial response. There is no current Flood Mitigation Plan to my knowledge. Last one was approved in 2022, but hopefully will be updated with the influx of residents.

- **The current Wastewater Master Plan page 15 treats the NEW SBR plant on Caddo St. as expansion and add.** This means more than 750,000 a day will go in the creek.

6.4 Lagoon Wastewater Treatment Plant

The City of Josephine currently owns and operates a lagoon wastewater treatment plant. The treatment train includes an aeration oxidation ditch and two mixed lagoons. The current permit allows for a daily average flow of 0.07 MGD. The WWTP is located in the northeast area of the city and existing flows from the west region of the city are lifted to the lagoon wastewater treatment plant.

A project to expand the current wastewater treatment plant and add an additional 0.75 MGD treatment capacity is currently under design by DBI. DBI is also pursuing a new wastewater permit with the TCEQ. This master plan report assumes the 0.75 MGD addition will be incorporated onsite.

6.5 SBR Wastewater Treatment Plant

The Josephine Municipal Utility District (MUD) constructed the Sequencing Batch Reactor (SBR) treatment plant for the Magnolia Phase 1 – 10 subdivision. The City of Josephine owns and operates the WWTP. The plant is currently permitted to treat a daily average flow of 0.5 MGD with a final phased expansion to 1.5 MGD. The WWTP currently includes one treatment train and in general includes the following treatment units: headworks with fine screens, influent lift station, sequencing batch reactor basins, post-flow equalization basin, and aerobic digester basin, filtration, and UV disinfection.

• **Kimley»Horn**

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PUBLIC COMMENT 6:

Stacie Bockemuhl, Jo Collin, James M. Ridgway, and Jane E. Ridgway expressed concerns about the proposed WWTF causing air pollution.

EXECUTIVE DIRECTOR'S RESPONSE 6:

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 that rule. The Applicant indicated in its application that the proposed facility would be an activated sludge process plant using sequencing batch reactors, which does not make a significant contribution of air contaminants to the atmosphere pursuant to the Texas Health and Safety Code §§ 382.057 and 382.05196. The WWTF is therefore permitted by rule with respect to air emissions.

APPLICANT'S RESPONSE 6:

The proposed wastewater treatment facility will be an activated sludge process plant with sequencing batch reactors, as mentioned by the executive director's response. The facility will also have odor control units installed at lift stations to minimize potential odors.

AFFECTED PERSON RESPONSE 6—Before February, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter about odor mitigation and we thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM usually we still get some odor at our home. Either it has not been done, or the units are not working.

PUBLIC COMMENT 7:

Kevin Christensen, Patricia Jan Kearney, Jane E. Ridgway, and James M. Ridgway expressed concerns that the proposed facility will create nuisance odors.

EXECUTIVE DIRECTOR'S RESPONSE 7:

30 TAC § 309.13(e) requires domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor. According to the application, the applicant intends to locate treatment units at least 150 feet from the nearest property line. This requirement is also incorporated into the proposed permit. Additionally, foul odors may exist when effluent contains an insufficient amount of dissolved oxygen. The draft permit restricts the amount of oxygen demanding constituents to simultaneously reduce the odors in discharged effluent and prevent degradation of receiving waters.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 7:

Buffer zone requirements for the proposed wastewater facilities will be met. Also, as stated in Applicant's Response 6, odor control units will be installed at the on-site lift stations to help minimize potential odors.

- **AFFECTED PERSON RESPONSE 7** –150 ft from a property line just doesn't make sense to people who smell odors that travel. I live more than 150 feet from the Sewer Property line. As stated in Comment 6 between 7 PM & 10 PM usually we still get some odor at our home, either from WWTP#2 or could be WWTP#1. I lean towards WWTP#2. Either units have not been installed, or the units are not working.

PUBLIC COMMENT 8:

Kevin Christensen asked for the WWTF to be moved to a different location.

EXECUTIVE DIRECTOR'S RESPONSE 8:

The ED acknowledges the opposition to the proposed location of the WWTF. Texas Water Code § 26.027, authorizes the TCEQ to issue permits for discharges into water in the state. The ED evaluates applications for wastewater treatment plants based on the information provided in the application. The ED can recommend issuance or denial of an application based on whether the application complies with the Texas Water Code and TCEQ regulations. The Applicant is the entity that proposes the location of the facility, point of discharge, and the discharge route rather than the ED. The ED's review evaluates the impact of the discharge on the receiving waters; however, the TCEQ's permitting authority does not include the ability to mandate a different location for the facility if the location in the application complies with 30 TAC Chapter 309, Subchapter B (Location Standards), specifically 30 TAC § 309.13 pertaining to "Unsuitable Site Characteristics" for a treatment facility. Instead, the ED may only evaluate a proposed location for a wastewater treatment facility according to the Location Standards in the TCEQ regulations and the effect of the treated wastewater on the uses of the receiving stream starting at the point of discharge.

APPLICANT'S RESPONSE 8:

The proposed wastewater treatment facility is proposed to be constructed on an existing wastewater treatment site with an operating wastewater treatment currently owned and operated by the City. The City's existing northern sewer collection system flows to the site. Relocation of the plant would be cost prohibitive for the City to acquire additional land and relocate the existing sewer collection system.

- **AFFECTED PERSON RESPONSE 8** –It would be costly to the city and since they have spent money allocated bond money for sewer on other projects. There is not more land in the city vicinity since developers have purchased it all. It does not seem feasible.

PUBLIC COMMENT 9:

Stacie Bockemehl and Jane E. Ridgway were concerned that nearby landowners were not properly notified.

EXECUTIVE DIRECTOR'S RESPONSE 9:

There are two public notices regarding this permit action, the Notice of Receipt of Application and Intent to Obtain a Wastewater Permit (NORI), and the Notice of Application and Preliminary Decision (NAPD). The TCEQ's notice rules require applicants to provide public notices for wastewater permits by publishing the NORI in a "newspaper of largest circulation in the county in which the facility is located or proposed to be located. If the facility is located or proposed to be located in a municipality, the applicant [must] publish notice in any newspaper of general circulation in the municipality."¹ After the Office of the Chief Clerk has mailed the preliminary decision and the NAPD to the applicant, they are required to publish the NAPD "at least once in a newspaper regularly published or circulated within each county where the proposed facility or discharge is located and in each county affected by the discharge."²

For a history of the published notices regarding this application, please see the first paragraph of section C, Procedural History.

Additionally, the TCEQ's notice rules for a new permit or major amendment require mailed notice of the NORI and NAPD to landowners named on the application map and persons on the mailing list maintained by the Office of the Chief Clerk.³ The applicant is required to submit a landowner map as part of the application materials. The landowner map must include the property boundaries of landowners surrounding the applicant's property and the property boundaries of all landowners surrounding the discharge point and on both sides of the discharge route for one full stream mile downstream of the discharge point. Anyone who submits a comment or contested case hearing request before the end of the public comment period is also added to the mailing list for that permit action.

APPLICANT'S RESPONSE 9:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was additionally published in the *Herald Banner-Greenville, Hunt County, Texas* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 9 The additional newspaper notice in January was run after I notified the city/engineer that the first newspaper used for the notice was in a paper no one subscribes to. Farmerville Times and Herald Banner have always been the papers for public notices for Josephine. There are 5 property owners below that have in property that backs up to the Creek and they did not receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

6-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the book at City Hall in December.

2-12-2024-DBI Report excerpt -

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise during the month of February and is open for public comment.

This is all Stacie Bockemehl received. No letter was attached. It's no wonder people did not respond.

Senate Bill 709 (84th Legislative Session, 2015) amended the Texas Water Code by adding new Section 5.5553, which requires the Texas Commission on Environmental Quality (TCEQ) to provide written notice to you at least thirty (30) days prior to the TCEQ's issuance of draft permits for applications that are located in your district.

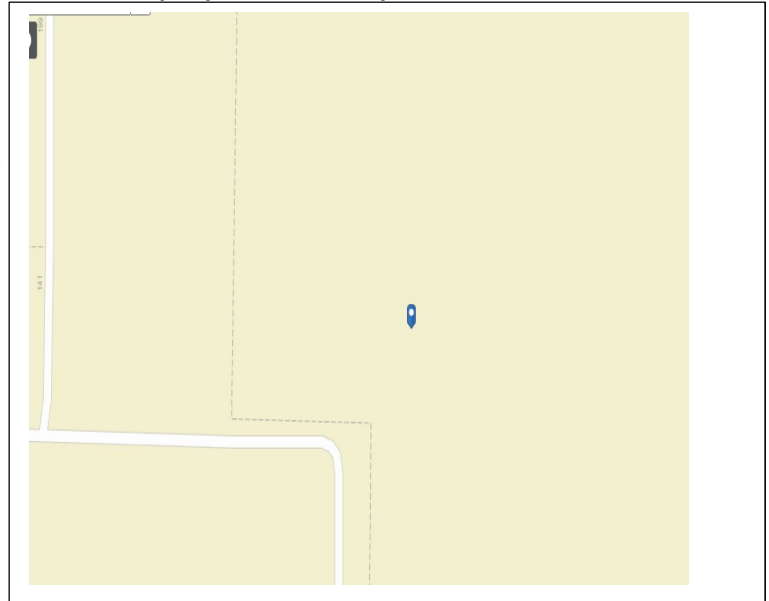
City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the TCEQ for proposed Texas Pollutant Discharge Elimination System No. WQ0010887003 (EPA I.D. No. TX0144517) to authorize the discharge of treated wastewater at a volume not to exceed a daily average flow of 750,000 gallons per day. The domestic wastewater treatment facility will be located at 601 East Caddo Street, in Collin County, Texas 75189. The discharge route will be from the plant site to an unnamed tributary, thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment No. 0507 of the Sabine River Basin. TCEQ received this application on May 1, 2023. The permit application will be available for viewing and copying at Josephine City Hall, 201 South Main Street, Josephine, Texas prior to the date this notice is published in the newspaper. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For the exact location, refer to the application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-96.298888,33.066111&level=18>

TCEQ is preparing the initial draft permit. At the time the draft permit is issued, the applicant will be required to publish notice in a newspaper of general circulation, and the TCEQ will provide a copy of the notice of draft permit to persons who have requested to be on a mailing list.

Questions regarding this application may be directed to Mr. Firoj Vahora by calling 512-239-4540.

Issuance Date: June 14, 2023



The 6/14/2023 entry on <https://www14.tceq.texas.gov/epic/eCID/> shows "Letter", but this was NOT a letter in my opinion. Very cryptic. Stacie did not know what it meant until I contacted her.

PUBLIC COMMENT 10:

James M. Ridgway commented that the permit application was improperly filled out.

EXECUTIVE DIRECTOR'S RESPONSE 10:

TCEQ performed an administrative review of the application, upon receipt, to ensure that all required information was provided therein. TCEQ determined that the application was administratively complete on June 6, 2023. The review included TCEQ staff reviewing all administrative information provided in the application.

TCEQ also performed a technical review of the application to ensure that the applicant adequately addressed all required technical issues to show that wastewater from the facility would be treated to required standards and to establish effluent limits that will ensure protection of the receiving water bodies and their existing uses. TCEQ reviewed the proposed discharge route, the designated uses and dissolved oxygen criteria of the receiving water bodies, antidegradation analysis of the discharges, and identification of any endangered species that may be present in the receiving water bodies. Based on the review and analysis, TCEQ established effluent limits and conditions designed to maintain the receiving water body's designated uses and protect human health and aquatic life.

APPLICANT'S RESPONSE 10:

The City acknowledges the submission of an administratively and technically complete application as determined by TCEQ and acknowledged by the ED's response above.

AFFECTED PERSON RESPONSE 10 –See response 9 above – Eight (8) Landowner's were left off the application. In addition there are many other items identified in Response to Executive Director's Response to hearing Requests, Item 3 above.

PUBLIC COMMENT 11:

A. Barochiere, Frank Barochiere, Jo Collin, Aaron Hensley, and H.L. expressed general opposition to the draft permit.

EXECUTIVE DIRECTOR'S RESPONSE 11:

The ED acknowledges these comments.

APPLICANT'S RESPONSE 11:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 11 – I acknowledge this comment and ED's response.

PUBLIC COMMENT 12:

A. Barochiere and Frank Barochiere expressed concerns about the impacts of development surrounding the proposed WWTF.



EXECUTIVE DIRECTOR'S RESPONSE 12:

The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ does not have jurisdiction to consider the possibilities of how future development surrounding the WWTF will impact area residence as a part of the wastewater permitting process.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 12:

The City is experiencing rapid growth thereby requiring wastewater treatment facility improvements/upgrades in order to remain compliant with the requirements of TCEQ. The proposed wastewater treatment facility will serve the referenced development in the area.

AFFECTED PERSON RESPONSE 12 – I acknowledge the ED response.

PUBLIC COMMENT 13:

James M. Ridgway and Jane E. Ridgway expressed concern that discharged effluent would negatively impact wildlife.

EXECUTIVE DIRECTOR'S RESPONSE 13:

30 TAC § 307.6(b)(4) requires water in the state to be maintained to preclude adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. While the TSWQS and the IPs do not specifically designate criteria for the protection of livestock, terrestrial wildlife, or domestic animals, the criteria designated for the protection of human health and aquatic life should preclude adverse impacts to livestock, terrestrial wildlife, and domestic animals.

The Executive Director has determined that the draft permit would be protective of the environment, including aquatic and terrestrial wildlife. Potential water quality issues that could negatively affect wildlife – excessive salinity, high nitrogen content, bacterial contamination, depressed dissolved oxygen, and heavy growths of blue-green algae – are not expected in the receiving waters provided the Applicant complies with proposed permit.

APPLICANT'S RESPONSE 13:

The City intends to comply with the proposed permit in order to prevent the discharge effluent that would have adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals.

AFFECTED PERSON RESPONSE 13 -The city has not engaged in funding for PFAS and emerging contaminants, though PFAS has been brought up at council meetings. Because the city buys water from NTMWD it is seen at NTMWD problem, not Josephine. However, as the fastest growing city in North Texas, or so it is advertised, additional in writing protection on a TCEQ form would be welcomed. An effort to apply for funding at TWDB could help. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov <https://www.twdb.texas.gov/financial/programs/ec/index.asp>

- Funding for PFAS <https://www.tceq.texas.gov/assistance/resources/the-advocate-1/funding-available-for-pfas-and-emerging-contaminants>
- Eco-environment The wooded Brushy Creek area behind my backyard neighbor houses hawks, birds, egrets, fowl, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's. Though chemicals treating sewer are not supposed to be harmful to fish, fowl, animals, an increase in the amount of flow may negate that thought.

Wildlife - Wastewater will affect wildlife, TCEQ says that that water in the state is to be safe for humans, therefore it is safe for wildlife. However, it has been determined that water has PFAS. Nearly all municipal wastewater treatment plants have measurable levels of PFAS in their discharge. The vast majority of that PFAS comes from upstream sources — such as industries, household products, and human waste — and flows through the facilities.

Reference Public Comment 5 – City Wastewater Master Plans says an ADDITIONAL .75 MGD plant.

PUBLIC COMMENT 14:

Pamela Sardo commented that the NORI and the NAPD should not have been published in the *Collin County Commercial Record* because the subscription fee is too high.

EXECUTIVE DIRECTOR'S RESPONSE 14:

Under 30 TAC §§ 39.405(f)(1) and 39.418(b)(1), the NORI must be published in the newspaper of largest circulation in the county in which the proposed WWTF is located, or, if the facility is located in a municipality, then the applicant may publish the NORI in any newspaper of general circulation. Under 30 TAC § 39.419(b), the NAPD must be published at least once in the same newspaper as the NORI.

Here, the NORI and NAPD were both published in the *Collin County Commercial Record*, but the NAPD was also published in the *Harald Banner-Collin County* and in *The Farmersville Times/C&S Media-Collin County*.

APPLICANT'S RESPONSE 14:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was also published in the *Herald Banner-Greenville, Hunt County TX* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 14 – The city only published in the local papers after I notified them several people did get notified that live close to me. They told Dr. Sardo that the Collin County Commercial Register was used because they use it for bidding. Using Collin Co. Commercial Record shows it was not transparent to Citizens, because it is for commercial. It was not transparent. The first notification to City Council about the Permit was on DBI Report for 1-6-2024, even though it had been applied for in May.

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
972-834-8686
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087

To: All interested persons on the attached mailing list

RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024
City of Josephine (Applicant)
Responses to Executive Director of the TCEQ, Public Interest Counsel of TCEQ and Applicant

In preparation for the hearing on the above mentioned permit application, I am sending my responses to comply with rules set forth in TCEQ letter dated Sept 4, 2024 setting the docket number. The commission rules entitle all recipients of time hearing requests/requests for reconsideration to file a formal written response to Applicant, the Executive Director and the Public Interest Counsel of the TCEQ by or on September 30, 2024. I am responding to correspondence from the Executive Director's Office and the Office of Public Interest Counsel which were both to me on Sept 16, 2024. I had to go online to obtain the filing from the City of Josephine in order to respond.

There are responses to each of the 3 parties in the document following this letter.

Thank you in advance for your consideration.

Best Regards,

Jane Ridgway

MAILING LIST
City of Josephine
TCEQ Docket No./TCEQ Expediente N.º 2024-1228-MWD;
TPDES Permit No./TPDES Permiso N.º WQ0010887003

FOR THE APPLICANT/PARA EL
SOLICITANTE

Lisa Palomba, City Administrator
City of Josephine
P.O. Box 99
Josephine, Texas 75164

Eddy Daniel, P.E.
City Engineer, Dunaway, LLC
P.O. Box 606
Farmerville, Texas 75442

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

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Abdur Rahim, Technical Staff
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Ryan Vise, Deputy Director
Texas Commission on Environmental
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External Relations Division
Public Education Program, MC-108
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FOR PUBLIC INTEREST COUNSEL/PARA
ABOGADOS DE INTERÉS PÚBLICO
via electronic mail/vía correo electrónico:

Garrett T. Arthur, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel, MC-103
P.O. Box 13087
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FOR ALTERNATIVE DISPUTE
RESOLUTION/PARA LA RESOLUCIÓN
ALTERNATIVA DE DISPUTAS
via electronic mail/vía correo electrónico:

Kyle Lucas
Texas Commission on Environmental
Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, Texas 78711

FOR THE CHIEF CLERK/PARA EL
SECRETARIO OFICIAL
via eFilings:

Docket Clerk
Texas Commission on Environmental
Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711
<https://www.tceq.texas.gov/goto/efilings>

REQUESTER(S)/INTERESTED PERSON(S)/
SOLICITANTE(S)/ PERSONA(S)
INTERESADA(S)
See attached list/Ver lista adjunta.

REQUESTER(S)/ SOLICITANTE(S)

Christensen, Kevin
201 Monarch Ln
Josephine Tx 75173-7152

Ridgway, James M
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, James M
5754 FM 6
Josephine Tx 75189-4000

Ridgway, Jane E
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, Jane E
5754 FM 6
Josephine Tx 75189-4000

BAROCHIERE , A
300 PATINA ST
JOSEPHINE TX 75189-6020

BAROCHIERE , FRANK
300 PATINA ST
JOSEPHINE TX 75189-6020

BOCKEMEHL , MRS STACIE
PO BOX 233
CADDO MILLS TX 75135-0233

CHRISTENSEN , KEVIN
201 MONARCH LN
JOSEPHINE TX 75173-7152

COLLIN , JO
300 CHUCK WAGON DR
JOSEPHINE TX 75189-5442

DUPUIS , JACOB
DUNAWAY
118 MCKINNEY ST
FARMERSVILLE TX 75442-2214

FLORES , SARAH
303 WAGON WHEEL DR
JOSEPHINE TX 75189-5385

HENSLEY , AARON
513 PLUM DR
JOSEPHINE TX 75173-8536

KEARNEY , MS PATRICIA JAN
PO BOX 193
JOSEPHINE TX 75164-0193

L , H
308 CHUCK WAGON DR
JOSEPHINE TX 75189-5442

NEWTON , BARBARA
PO BOX 415
JOSEPHINE TX 75164-0415

RIDGWAY , JANE E
PO BOX 127
CADDO MILLS TX 75135-0127

RIDGWAY , JANE E
5754 FM 6
JOSEPHINE TX 75189-4000

RIDGWAY , JAMES M
PO BOX 127
CADDO MILLS TX 75135-0127

RIDGWAY , JAMES M
5754 FM 6
JOSEPHINE TX 75189-4000

SARDO , DR. PAMELA
2006 HARVEST LN
JOSEPHINE TX 75173-7075

VILLEGAS , SHANNON
106 MILTON ST
JOSEPHINE TX 75173-8528

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087
RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024

**CONTINUED REQUEST FOR A CONTESTED CASE HEARING ON
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
TPDES PERMIT NUMBER WQ0010887003**

Name of Person Contesting: Jane Ridgway
Mailing Address: P O Box 127, Caddo Mills, TX 75135-0127
Daytime Phone: 972-834-8686
Fax Number: None
My Physical Property Location
and Homestead 5754 FM 6, Josephine, TX 75189 - Hunt County
Email: jridgway1971@gmail.com (no "e" in ridgway)
Applicant: City of Josephine - TPDES PERMIT NUMBER WQ0010887003

Response to Executive Director's Response to Hearing Requests (with OPIC Comments)

VII. ANALYSIS OF THE HEARING REQUESTS

A. WHETHER THE REQUEST COMPLIED WITH 30 TAC §§ 55.201(c) AND (d).

1. Jane Ridgway filed four timely, written Requests that provided the requisite contact information, raised issues that form the basis of her Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Ms. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Ms. Ridgway believes she will be affected by the application in a way not common to the public. Ms. Ridgway's Requests stated that she lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Ms. Ridgway's property is 0.36 miles away from the proposed facility. Ms. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, flooding and erosion, air quality, and economic impacts.

The ED recommends finding that the Requests of Ms. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges my compliance to the TAC. Thank you.

2. James Ridgway filed two timely, written Requests that provided the requisite contact information, raised issues that form the basis of his Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Mr. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Mr. Ridgway believes he will be affected by the application in a way not common to the general public. Mr. Ridgway's Requests stated that he lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Mr. Ridgway's property is 0.36 miles away from the proposed facility. Mr. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, and flooding.

The ED recommends finding that the Requests of Mr. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledged his compliance to the TAC.

B. WHETHER REQUESTOR IS AN AFFECTED PERSON UNDER 30 TAC § 55.203.

1. Jane Ridgway filed four Requests that effectively identified personal, justiciable interests affected by the application. Ms. Ridgway's Requests stated that she was close to the proposed facility and that she is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Ms. Ridgway's property is situated 0.36 miles away from the proposed facility. Ms. Ridgway's proximity to the proposed facility, in conjunction with the issues Ms. Ridgway raised, lead the ED to determine that Ms. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Ms. Ridgway is an affected person under 30 TAC § 55.203 and grant her hearing request.

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges I am an affected person and granting the hearing request. Thank you.

2. James Ridgway filed two Requests that effectively identified personal, justiciable interests affected by the application. Mr. Ridgway's Requests stated that he was close to the proposed facility and that he is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Mr. Ridgway's property is situated 0.36 miles away from the proposed facility. Mr. Ridgway's proximity to the proposed facility, in conjunction with the issues Mr. Ridgway raised, lead the ED to determine that Mr. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Mr. Ridgway is an affected person under 30 TC § 55.203 and grant his hearing request.

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledges he is an affected person and for granting the hearing request.

VIII. ISSUES RAISED IN THE HEARING REQUEST:

1. **Whether the draft permit adequately prevents nuisance odors as required by 30 TAC § 309.13(e).**

(RTC Response No. 7) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit does not control nuisance odors in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 1. Nuisance Odors - Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

Jane Ridgway Response - I appreciate the possible referral from the ED on nuisance odor issue, and OPIC positive response. Before February 2024, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter dated February 1 to Lisa Polomba, City Administrator about odor mitigation and installing odor control equipment. I thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM on most days we still get odor at our home. Either mitigation has not been done, or the units are not working. The permit includes information from Evoqua, but their information alludes to pipeline distribution of wastewater. "A liquid phase dosing program can be used to prevent odorous compounds from forming in wastewater. Chemicals, such as Bioxide® Solution are added directly into the wastewater stream along the wastewater pipeline. This plant will dump into a manmade ditch.

2. **Whether the draft permit is adequately protective of aquatic and terrestrial wildlife.**

(RTC Response No. 13) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit is not protective of aquatic and terrestrial wildlife in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 3. Wildlife - As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

Jane Ridgway Response- Thank you. I appreciate the possible referral from the ED on this issue, and also the OPIC for finding the issue relevant. The Natural wooded creek area behind the Bowman home (my backyard neighbor) has hawks, birds, egrets, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's while 20 swamp rabbits come out at Bowman's. I do have my rabbit and egret photos. These critters come to my property except the beaver.

TCEQ states that that water in the state is to be safe for humans; therefore it is safe for wildlife. However, it has been determined that wastewater has PFAS. It has been found PFAS is harmful wildlife.

<https://news.mongabay.com/2023/09/pfas-forever-chemicals-harming-wildlife-the-world-over-study/>. NTMWD supplies water to Josephine which contains PFAS. City Staff think PFAS mitigation is NTMWD issue. NTMWD is addressing PFAS incoming water, but Josephine should help with wastewater. If not addressed at wastewater level, PFAS will continue to be distributed to ditch/creeks/Lake Tawakoni until However, as the fastest growing city in North Texas, additional PFAS treatment for wastewater to humans at Lake Tawakoni, and to protect aquatic and terrestrial wildlife both in writing and action seems prudent. Perhaps EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS include PFAS monitoring under *Other Requirements which I cannot find.

The City could apply for funding at TWDB if my research is good. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov

3. Whether the application was correctly determined to be administratively and technically complete.

(RTC Response No. 10) This issue involves a disputed question of mixed fact and law. If it can be shown that the application information, on which the draft permit is based, was not complete, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 4. Application Accuracy - Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

Jane Ridgway Response- I wish to thank the ED for the referral and also the OPIC. As the definition of not complete is which can also mean "incomplete" means something is not complete or finished, and may be lacking a necessary part, element, or step. Possibly inaccurate. Another review of the application and our findings is below. We would like to know if these were rectified.

TCEQ Core Data Form Section II

Customer Information Item 9. Federal Tax ID is missing. Cities need one to pay employees.

Domestic Technical Worksheet TCEQ-10054

Section 2 – B. and C. Not answered. "No" should have been checked.

Section 4 – B Flow characteristics

If a stream, manmade channel or ditch was checked above provide the following. For existing discharges, check one of the following that best characterizes the area upstream of the discharge. For new discharges, characterize the area *downstream* of the discharge. (Check one) .

There were no boxes checked in the section "Check the method used to characterize the area upstream (or downstream) for new dischargers. Please note that in Section 4, Description of Immediate Receiving Waters, A. Receiving water type, the last box "Manmade channel or ditches" was check marked. This is the first time I realized the Unnamed Tributary was in fact a manmade channel or ditch.

Section 4 – C-Downstream Perennial confluences.

List the names of all perennial streams the join the receiving water within 3 miles downstream of the discharge point. This was answered "none". I checked map at <https://en-us.topographic-map.com/map-sdhms8/Josephine/?center=33.06373%2C-96.29229&zoom=16&overlay=0> . Since my house is .36 miles, it looks like the unnamed tributary and Brushy Creek should be listed. If so, then the answer to Item D would be incorrect.

Section 4 – E. Normal dry weather characteristics. “No Flows” was entered, but could be incorrect. There is water in the creek behind the Bockemehl in summer. It does not dry up. Maybe the person who filled out the application did not go completely downstream. The stream does curve and get very deep at points. It gets deeper and wide and does rush the land.

Section 5 . General Characteristics of the Waterbody Obstructions – Item C. Water body aesthetics. As a person who sees this very frequently, the answer should be Natural Area: Trees and/or native vegetation: some development evident (from fields, pastures, dwellings) water clarity discolored. (page 32 of 80)

Application for a Domestic Wastewater Permit Administrative Report 1.0

Section 10- TPDES Discharge Information (Instructions Page 31) Item A – no boxes checked. Item B -No boxes checked.

Texas Commission on Environmental Quality Supplemental Permit information (SPIF) page 19 of 24

Item Provide description of effluent discharge route. - I believe this should state From a manmade ditch called unnamed tributary , thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment 0507 of the Sabine River Basin. Unnamed tributaries appear to be recreational in Texas, which defines as a little creek, or seep, or spring, or bog, or wetland without a name begins its life as surface water when it emerges from the ground. If this is true, the Josephine wastewater is and would continue to be dumping into what is surfaced groundwater and that might not be good.

Domestic Technical Report 1.0 Page 3 of 80

Section 4. Unbuilt Phases – Neither box was checked.

Section 5. Closure Plans

Have any treatment units been taken out of service permanently or will units be taken out of service in the next 5 years. **Neither YES or NO was checked.** With this section not being checked, and with the Wastewater Master Plan stating the Wastewater Plant 3 is additional the answer is open to interpretation. It is open ended and information available to public online conflicts with the Justification of permit description, next item.

Domestic Technical Report 1.1 Page 21 of 80

Section 1 Justification for Permit –

- A. Justification of permit need – Provide a detailed discussion of the need for any phase(s) not currently permitted. Failure to provide sufficient justification may result in the Executive Director recommending denial of the proposed phases(s) or permit.

This proposed treatment plant will serve a housing development. The developer is proposing a final build out of 4,000 to 6,000 single family housing. The City of Josephine will own and operate this plant (WWPT #3)The city currently has a lagoon treatment plant (WWTP#1 WQ0010887001, permitted flows 070 MGD),which will eventually be decommissioned, and those influent flows sent to this proposed treatment plant.

This is either wrong, or city was/is not being transparent about the lagoon going away. Per City’s Comprehensive Plan, 961 homes are anticipated spread among many developers. I do not see 4,000 – 6,000 houses in one housing development, except for DR Horton who is funding an addition to City of Josephine Wastewater #2 in the Magnolia Subdivision. The addition to City of Josephine Wastewater #2 was supposed to serve Riverfield which is 4,000 to 6,000 homes in back of Bowman and Ridgway and Bockelmehl properties. I can however get 5,249 houses in other Josephine sub-divisions (961) plus Horton’s Wildflower (3061). I don’t think the lagoon will be decommissioned, given the evidence in Wastewater Master Plan and this application gaps.

Section 5 Facility Site – A. Is facility above the 100 year floodplain was checked yes, so no method of protection was listed. This does not correlate with the Permit Backup for Hearing on page 34, Other Requirements Item 4. states “The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.”

Public Involvement Plan Form Page 1 of 4 - misrepresented

The last box “Public Involvement Plan not applicable to this application” was checked. But, the city and engineer know the fact that the growth in the area served is 4 times as many residents in the last 5 years, citizens should have been apprised of the expansion. Two people did ask for a public meeting and if all landowners had been notified, there would have been more I’m sure. The plant is in far east Collin County, but the **applicant left out the part that the plant is in the heart of the city and the original town.** With a public hearing, there would have been understanding that citizens would be incurring more bond debt.

4. Whether adjacent and downstream landowners received proper notice pursuant to TCEQ's rules.

(RTC Response No. 9) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly notify adjacent and downstream landowners in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response- Thank you to the ED and OPIC for acknowledging this point. There are **5** property owners below that have in property that backs up to a creek that runs to Brushy Creek and **they did not** receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit that is on display at Josephine City Hall. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

These citizens are within .36 miles and would be affected parties.

6-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the permit book at City Hall in late December.

First mention of the permit at council was in a DBI/Dunaway report in February 2024 even though the permit was made in May

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise

2023. **2-12-2024-DBI Report excerpt** - during the month of February and is open for public comment.

5. Whether Applicant properly published notice in accordance with 30 TAC Chapter 39.

(RTC Response Nos. 9 and 14) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly publish notice in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response - I appreciate that the ED acknowledges this point, as well as OPIC. The initial notice was published in The Collin County Commercial Record Dec. 5 2023, which per their website is "Collin County's newspaper for **current court and commercial information.**" It costs \$200 a year. Few if any citizens in Josephine subscribe to it. Dr. Sardo was told the Collin county Commercial Register was used because the city uses it for bidding. The Collin County Commercial Register is not transparent for Josephine citizens. After my notification to the city it ran again. I spoke with Eddy Daniel (one of the Josephine Engineers) after seeing the permit by accident in City Hall on Dec. 23, 2023. After the call with Eddy and my speaking at January City Council about the application and some of my concerns, the notice was run on January 18 in Farmerville Times and Greenville Herald Banner since the wastewater runs into Hunt County. I could not find the Greenville Herald Banner posting on the Texas Public Notices Website. [https://www.texaspublicnotices.com/\(S\(ay0fq1pl5hj4bxsorbgxb0pn\)\)/Search.aspx](https://www.texaspublicnotices.com/(S(ay0fq1pl5hj4bxsorbgxb0pn))/Search.aspx)

VIEW	Farmersville, The Farmersville Times Thursday, January 18, 2024
APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010887003 , to authorize the discharge of t ... click 'view' to open the full text.	
VIEW	McKinney, Collin County Commercial Record Tuesday, December 05, 2023
Texas Commission on Environmental Quality NOTICE OF APPLICATION AND PRELIMINARY DECISION FOR TPDES PERMIT FOR MUNICIPAL WASTEWATER NEW PERMIT NO. WQ001087003 APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environ ... click 'view' to open the full text.	

6. Whether the draft permit properly considered possible increases in instances of flooding and erosion.

(RTC Response No. 5) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response - Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- My response it that flooding issues must be relevant to the Wastewater Plant as TCEQ includes flood mitigation in the permit. On page 34 in the Backup Filed for the ED's Consideration of Hearing Requests, Other Requirements Item 4. states "The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood."

The RTC Response No 5 was: The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters.

I contend TCEQ does have jurisdiction to address flooding in the permit. If the City is going to protect the plant, deflected water during flooding, it would stand to reason deflected water(or pumped water) can enhance flooding for the citizens downstream. There has been and is continuing development behind the sewer plant location. There is a disconnect between the permit backup for the hearing and the Domestic Technical Report 1.1 Section 5 Facility Instructions.

In the current Wastewater Master Plan on page 15, engineer creating the document treats the NEW SBR plant on Caddo St. as an expansion/additional. This means more than 750,000 a day will go in the creek. I cannot locate any application item in the permit that indicates what type of protection the wastewater treatment facility has.

If this statement is important enough to be in the permit, and a flood study has not been completed since 2009 and the land to the North of the sewer plant is being developed, it could become very important to the sewer plant.

Thank you for your consideration.

7. Whether the draft permit is protective of air quality.

(RTC Response No. 6) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response -Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- After reviewing the application/TCEQ Permitting forms that were on display at City Hall, I find no line item for air quality, only mention of nuisance odors. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits, as it continues to come up in many permitting processes. Thank you.

8. Whether the draft permit properly considered potential economic impacts.

(No RTC Response) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

Jane Ridgway Response- After reviewing I find no line item for economic impact on TCEQ Permitting forms that were on display at City Hall. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits. Thank you.

Jane Ridgway - Office of Public Interest Counsel – Sept 26, 2024 Response.

Jane Ridgway Response – I concur with the OPIC on item 1-4. Item 6 – I will acknowledge and accept reluctantly.

With OPIC Item 5 my response is the same as noted on to the ED on item 6. Thank you very much for considering our concerns.

Section III.B

Section III Analysis of Hearing Request B. The affected requestors raised the following disputed issues:

1. Whether the draft permit is adequately protective against nuisance odors.
2. Whether there was adequate notice of the application and draft permit.
3. Whether the draft permit is adequately protective of wildlife.
4. Whether the application was accurately completed

1.Nuisance Odors

Affected requestors raised concerns about the proposed facility's emission of nuisance odors. TCEQ regulates nuisance conditions under 30 TAC § 309.13(e) which requires applicants to implement a nuisance odor abatement plan. Further, permits issued by TCEQ do 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.

Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

2. Notice

A requestor raised concerns about notice. Her concerns focused on whether all required, nearby landowners were properly notified. Chapter 39 contains requirements relating to notice publication, alternative language publication, mailing of notice, and posting of the application in a public place within the county. **The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.**

3. Wildlife

Requestors raised concerns about adverse effects to water quality and the consequential impacts on wildlife. The Commission is responsible for the protection of water quality under Texas Water Code (TWC) Chapter 26 and 30 TAC Chapters 307 and 309. The Texas Surface Water Quality Standards (Standards) in Chapter 307 require that the proposed permit "maintain the quality of water in the state consistent with public health and enjoyment, propagation and protection of terrestrial and aquatic life, operation of existing industries, and ... economic development of the state...." 30 TAC § 307.1. According to § 307.6(b)(4) of the Standards, "Water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, or domestic animals, **resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three.**" Additionally, "[s]urface waters must not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life." 30 TAC § 307.4(d).

As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

4. Application Accuracy

TCEQ rules require that if an applicant becomes aware that it failed to submit relevant facts or submitted incorrect information in a permit application, the applicant is required to promptly submit such facts and information. 30 TAC § 305.125(19). Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

5. Flooding

TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider flooding when making a decision on issuance of this permit. Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

6. Air Pollution

Requestors raised concerns regarding the proposed facility's emission of air pollutants. TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider air quality when making a decision on issuance of this TPDES permit, unless there is an associated water quality concern. Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

V. CONCLUSION

Having found that Jane E. Ridgway and James M. Ridgway qualify as affected persons in this matter, OPIC respectfully recommends the Commission grant their hearing requests and refer Issues No. 1-4 specified in Section III.B for a contested case hearing at SOAH with a maximum duration of 180 days. OPIC further recommends the Commission deny all pending requests for reconsideration

Jane Ridgway - Response to City of Josephine Comments 9-26-2024

PUBLIC COMMENT 1:

Aaron Hensley commented that the proposed development will be inclusive of certain people and will use municipal resources.

EXECUTIVE DIRECTOR'S RESPONSE 1:

The ED acknowledges this comment.

APPLICANT'S RESPONSE 1:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 1- I don't know how to comment on this issue, I accept ED's response.

PUBLIC COMMENT 2:

James M. Ridgway, Jane E. Ridgway, and Kevin Christensen requested a contested case hearing on this application.

EXECUTIVE DIRECTOR'S RESPONSE 2:

The ED acknowledges the hearing requests.

To request a contested case hearing, the parties must follow the hearing request procedures found in 30 TAC Chapter 55. 30 TAC § 55.201(a) requires that a hearing request is filed no later than thirty days after the Office of the Chief Clerk mails the ED's Response to Comment. A hearing requestor must meet the affected person requirements found in 30 TAC § 55.203. The hearing request itself must meet the requirements found in section 55.201(c) and (d). All timely filed hearing requests will be processed in accordance with section 55.209. Unless the case is directly referred to the State Office of Administrative Hearings under section 55.210, the Commission will consider the hearing requests and determine whether to grant or deny them in accordance with section 55.211.

APPLICANT'S RESPONSE 2:

The City acknowledges this hearing request and ED's response

AFFECTED PERSON RESPONSE 2- I acknowledge the hearing request and ED response.

PUBLIC COMMENT 3:

A. Barochiere, Frank Barochiere, Jo Collin, and L.H. expressed concern that the proposed housing development will create nuisance noise.

EXECUTIVE DIRECTOR'S RESPONSE 3:

The TCEQ's jurisdiction over the permitting process is established by the Texas Legislature and is limited to issues set forth in statutes. While 30 TAC Chapter 309, specifically Subchapter B, contains some nuisance considerations, the TCEQ does not have jurisdiction to consider noise from a wastewater treatment facility, nor from any related development, when determining whether to approve or deny a permit application. However, the draft permit does not limit the ability of individual landowners 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.

APPLICANT'S RESPONSE 3:

The City's proposed wastewater treatment facility will have components installed to minimize noise from pumps and blowers associated with the typical of operations of a wastewater plant.

AFFECTED PERSON RESPONSE 3— I cannot find any place in the application that has components to minimize noise from pumps and blowers.

PUBLIC COMMENT 4:

Barbara Newton and Shannon Villegas requested a public meeting for this application.

EXECUTIVE DIRECTOR'S RESPONSE 4:

Under 30 TAC § 55.154, TCEQ must hold a public meeting when a member of the legislature, representing the general area in which the activity is proposed, requests that a public meeting be held or when the Executive Director determines that there is a substantial or significant degree of public interest in an application. Here, there was no request for a public meeting from a member of the legislature. Additionally, the Executive Director determined that two public meeting requests did not constitute substantial or significant public interest in this application. Therefore, a public meeting was not held.

APPLICANT'S RESPONSE 4:

The City acknowledges this public meeting request and ED's response.

AFFECTED PERSON RESPONSE 4—My belief is people who were interested did not know how to request the meeting properly. The TCEQ letters are daunting. The first newspaper notification was in a newspaper no one took. After I notified the city they reprinted in two papers. Unfortunately the town relies mostly on social media. If citizens B. Newton and S. Villegas would have been granted a hearing, more citizens would have shown up. Nothing is very transparent with permits.

PUBLIC COMMENT 5:

Stacie Bockemuhl, Kevin Christensen, Patricia Jan Keamey, Barbara Newton, and Jane E. Ridgway expressed concerns that discharge from the WWTF and runoff from the accompanying development will increase the likelihood of flooding events.

EXECUTIVE DIRECTOR'S RESPONSE 5:

The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters. The proposed permit includes effluent limits and other requirements that the WWTF must meet even during rainfall events and periods of flooding.

According to the application, the proposed site for the WWTF is located above the 100-year flood plain. For additional protection, the draft permit includes Other Requirement No. 5, which requires the City of Josephine to

AFFECTED PERSON RESPONSE 5— It is noticeable that the City did not respond to the Executive Director on this point. The City has flooded on Caddo Street many times which is next to the current city sewage lagoon which feeds into the “unnamed tributary/ditch” and then to the creek when run-off from storms occurs. Perhaps it is time that the TCEQ's rules committee identifies a need for a rule change, drafts a proposed rule, and presents it to the Commission for approval. I would maintain the city may not be protecting against flood hazard as stated in my initial response. There is no current Flood Mitigation Plan to my knowledge. Last one was approved in 2022, but hopefully will be updated with the influx of residents.

- **The current Wastewater Master Plan page 15 treats the NEW SBR plant on Caddo St. as expansion and add.** This means more than 750,000 a day will go in the creek.

6.4 Lagoon Wastewater Treatment Plant

The City of Josephine currently owns and operates a lagoon wastewater treatment plant. The treatment train includes an aeration oxidation ditch and two mixed lagoons. The current permit allows for a daily average flow of 0.07 MGD. The WWTP is located in the northeast area of the city and existing flows from the west region of the city are lifted to the lagoon wastewater treatment plant.

A project to expand the current wastewater treatment plant and add an additional 0.75 MGD treatment capacity is currently under design by DBI. DBI is also pursuing a new wastewater permit with the TCEQ. This master plan report assumes the 0.75 MGD addition will be incorporated onsite.

6.5 SBR Wastewater Treatment Plant

The Josephine Municipal Utility District (MUD) constructed the Sequencing Batch Reactor (SBR) treatment plant for the Magnolia Phase 1 – 10 subdivision. The City of Josephine owns and operates the WWTP. The plant is currently permitted to treat a daily average flow of 0.5 MGD with a final phased expansion to 1.5 MGD. The WWTP currently includes one treatment train and in general includes the following treatment units: headworks with fine screens, influent lift station, sequencing batch reactor basins, post-flow equalization basin, and aerobic digester basin, filtration, and UV disinfection.

• **Kimley»Horn**

Page 15

PUBLIC COMMENT 6:

Stacie Bockemuhl, Jo Collin, James M. Ridgway, and Jane E. Ridgway expressed concerns about the proposed WWTF causing air pollution.

EXECUTIVE DIRECTOR'S RESPONSE 6:

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 that rule. The Applicant indicated in its application that the proposed facility would be an activated sludge process plant using sequencing batch reactors, which does not make a significant contribution of air contaminants to the atmosphere pursuant to the Texas Health and Safety Code §§ 382.057 and 382.05196. The WWTF is therefore permitted by rule with respect to air emissions.

APPLICANT'S RESPONSE 6:

The proposed wastewater treatment facility will be an activated sludge process plant with sequencing batch reactors, as mentioned by the executive director's response. The facility will also have odor control units installed at lift stations to minimize potential odors.

AFFECTED PERSON RESPONSE 6—Before February, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter about odor mitigation and we thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM usually we still get some odor at our home. Either it has not been done, or the units are not working.

PUBLIC COMMENT 7:

Kevin Christensen, Patricia Jan Kearney, Jane E. Ridgway, and James M. Ridgway expressed concerns that the proposed facility will create nuisance odors.

EXECUTIVE DIRECTOR'S RESPONSE 7:

30 TAC § 309.13(e) requires domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor. According to the application, the applicant intends to locate treatment units at least 150 feet from the nearest property line. This requirement is also incorporated into the proposed permit. Additionally, foul odors may exist when effluent contains an insufficient amount of dissolved oxygen. The draft permit restricts the amount of oxygen demanding constituents to simultaneously reduce the odors in discharged effluent and prevent degradation of receiving waters.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 7:

Buffer zone requirements for the proposed wastewater facilities will be met. Also, as stated in Applicant's Response 6, odor control units will be installed at the on-site lift stations to help minimize potential odors.

- **AFFECTED PERSON RESPONSE 7** –150 ft from a property line just doesn't make sense to people who smell odors that travel. I live more than 150 feet from the Sewer Property line. As stated in Comment 6 between 7 PM & 10 PM usually we still get some odor at our home, either from WWTP#2 or could be WWTP#1. I lean towards WWTP#2. Either units have not been installed, or the units are not working.

PUBLIC COMMENT 8:

Kevin Christensen asked for the WWTF to be moved to a different location.

EXECUTIVE DIRECTOR'S RESPONSE 8:

The ED acknowledges the opposition to the proposed location of the WWTF. Texas Water Code § 26.027, authorizes the TCEQ to issue permits for discharges into water in the state. The ED evaluates applications for wastewater treatment plants based on the information provided in the application. The ED can recommend issuance or denial of an application based on whether the application complies with the Texas Water Code and TCEQ regulations. The Applicant is the entity that proposes the location of the facility, point of discharge, and the discharge route rather than the ED. The ED's review evaluates the impact of the discharge on the receiving waters; however, the TCEQ's permitting authority does not include the ability to mandate a different location for the facility if the location in the application complies with 30 TAC Chapter 309, Subchapter B (Location Standards), specifically 30 TAC § 309.13 pertaining to "Unsuitable Site Characteristics" for a treatment facility. Instead, the ED may only evaluate a proposed location for a wastewater treatment facility according to the Location Standards in the TCEQ regulations and the effect of the treated wastewater on the uses of the receiving stream starting at the point of discharge.

APPLICANT'S RESPONSE 8:

The proposed wastewater treatment facility is proposed to be constructed on an existing wastewater treatment site with an operating wastewater treatment currently owned and operated by the City. The City's existing northern sewer collection system flows to the site. Relocation of the plant would be cost prohibitive for the City to acquire additional land and relocate the existing sewer collection system.

- **AFFECTED PERSON RESPONSE 8** –It would be costly to the city and since they have spent money allocated bond money for sewer on other projects. There is not more land in the city vicinity since developers have purchased it all. It does not seem feasible.

PUBLIC COMMENT 9:

Stacie Bockemehl and Jane E. Ridgway were concerned that nearby landowners were not properly notified.

EXECUTIVE DIRECTOR'S RESPONSE 9:

There are two public notices regarding this permit action, the Notice of Receipt of Application and Intent to Obtain a Wastewater Permit (NORI), and the Notice of Application and Preliminary Decision (NAPD). The TCEQ's notice rules require applicants to provide public notices for wastewater permits by publishing the NORI in a "newspaper of largest circulation in the county in which the facility is located or proposed to be located. If the facility is located or proposed to be located in a municipality, the applicant [must] publish notice in any newspaper of general circulation in the municipality."¹ After the Office of the Chief Clerk has mailed the preliminary decision and the NAPD to the applicant, they are required to publish the NAPD "at least once in a newspaper regularly published or circulated within each county where the proposed facility or discharge is located and in each county affected by the discharge."²

For a history of the published notices regarding this application, please see the first paragraph of section C, Procedural History.

Additionally, the TCEQ's notice rules for a new permit or major amendment require mailed notice of the NORI and NAPD to landowners named on the application map and persons on the mailing list maintained by the Office of the Chief Clerk.³ The applicant is required to submit a landowner map as part of the application materials. The landowner map must include the property boundaries of landowners surrounding the applicant's property and the property boundaries of all landowners surrounding the discharge point and on both sides of the discharge route for one full stream mile downstream of the discharge point. Anyone who submits a comment or contested case hearing request before the end of the public comment period is also added to the mailing list for that permit action.

APPLICANT'S RESPONSE 9:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was additionally published in the *Herald Banner-Greenville, Hunt County, Texas* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 9 The additional newspaper notice in January was run after I notified the city/engineer that the first newspaper used for the notice was in a paper no one subscribes to. Farmerville Times and Herald Banner have always been the papers for public notices for Josephine. There are 5 property owners below that have in property that backs up to the Creek and they did not receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

6-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the book at City Hall in December.

2-12-2024-DBI Report excerpt -

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise during the month of February and is open for public comment.

This is all Stacie Bockemehl received. No letter was attached. It's no wonder people did not respond.

Senate Bill 709 (84th Legislative Session, 2015) amended the Texas Water Code by adding new Section 5.5553, which requires the Texas Commission on Environmental Quality (TCEQ) to provide written notice to you at least thirty (30) days prior to the TCEQ's issuance of draft permits for applications that are located in your district.

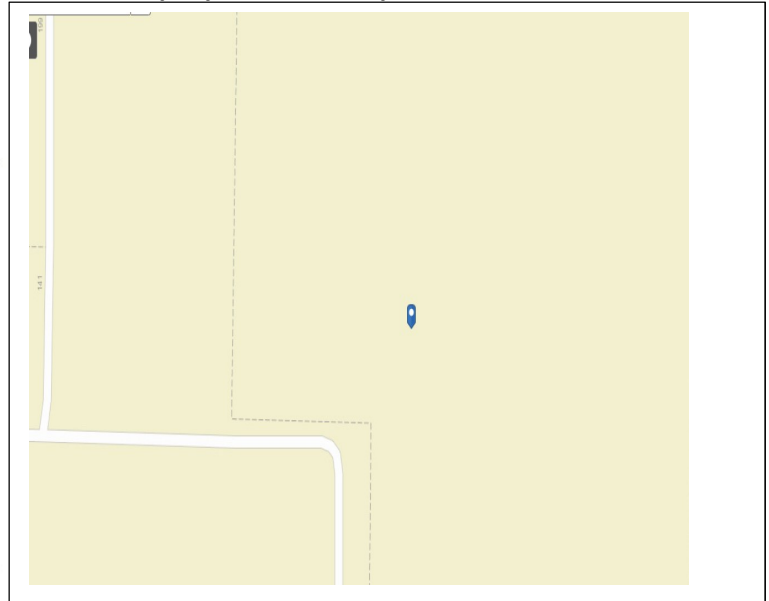
City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the TCEQ for proposed Texas Pollutant Discharge Elimination System No. WQ0010887003 (EPA I.D. No. TX0144517) to authorize the discharge of treated wastewater at a volume not to exceed a daily average flow of 750,000 gallons per day. The domestic wastewater treatment facility will be located at 601 East Caddo Street, in Collin County, Texas 75189. The discharge route will be from the plant site to an unnamed tributary, thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment No. 0507 of the Sabine River Basin. TCEQ received this application on May 1, 2023. The permit application will be available for viewing and copying at Josephine City Hall, 201 South Main Street, Josephine, Texas prior to the date this notice is published in the newspaper. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For the exact location, refer to the application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-96.298888,33.066111&level=18>

TCEQ is preparing the initial draft permit. At the time the draft permit is issued, the applicant will be required to publish notice in a newspaper of general circulation, and the TCEQ will provide a copy of the notice of draft permit to persons who have requested to be on a mailing list.

Questions regarding this application may be directed to Mr. Firoj Vahora by calling 512-239-4540.

Issuance Date: June 14, 2023



The 6/14/2023 entry on <https://www14.tceq.texas.gov/epic/eCID/> shows "Letter", but this was NOT a letter in my opinion. Very cryptic. Stacie did not know what it meant until I contacted her.

PUBLIC COMMENT 10:

James M. Ridgway commented that the permit application was improperly filled out.

EXECUTIVE DIRECTOR'S RESPONSE 10:

TCEQ performed an administrative review of the application, upon receipt, to ensure that all required information was provided therein. TCEQ determined that the application was administratively complete on June 6, 2023. The review included TCEQ staff reviewing all administrative information provided in the application.

TCEQ also performed a technical review of the application to ensure that the applicant adequately addressed all required technical issues to show that wastewater from the facility would be treated to required standards and to establish effluent limits that will ensure protection of the receiving water bodies and their existing uses. TCEQ reviewed the proposed discharge route, the designated uses and dissolved oxygen criteria of the receiving water bodies, antidegradation analysis of the discharges, and identification of any endangered species that may be present in the receiving water bodies. Based on the review and analysis, TCEQ established effluent limits and conditions designed to maintain the receiving water body's designated uses and protect human health and aquatic life.

APPLICANT'S RESPONSE 10:

The City acknowledges the submission of an administratively and technically complete application as determined by TCEQ and acknowledged by the ED's response above.

AFFECTED PERSON RESPONSE 10 –See response 9 above – Eight (8) Landowner's were left off the application. In addition there are many other items identified in Response to Executive Director's Response to hearing Requests, Item 3 above.

PUBLIC COMMENT 11:

A. Barochiere, Frank Barochiere, Jo Collin, Aaron Hensley, and H.L. expressed general opposition to the draft permit.

EXECUTIVE DIRECTOR'S RESPONSE 11:

The ED acknowledges these comments.

APPLICANT'S RESPONSE 11:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 11 – I acknowledge this comment and ED's response.

PUBLIC COMMENT 12:

A. Barochiere and Frank Barochiere expressed concerns about the impacts of development surrounding the proposed WWTF.



EXECUTIVE DIRECTOR'S RESPONSE 12:

The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ does not have jurisdiction to consider the possibilities of how future development surrounding the WWTF will impact area residence as a part of the wastewater permitting process.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 12:

The City is experiencing rapid growth thereby requiring wastewater treatment facility improvements/upgrades in order to remain compliant with the requirements of TCEQ. The proposed wastewater treatment facility will serve the referenced development in the area.

AFFECTED PERSON RESPONSE 12 – I acknowledge the ED response.

PUBLIC COMMENT 13:

James M. Ridgway and Jane E. Ridgway expressed concern that discharged effluent would negatively impact wildlife.

EXECUTIVE DIRECTOR'S RESPONSE 13:

30 TAC § 307.6(b)(4) requires water in the state to be maintained to preclude adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. While the TSWQS and the IPs do not specifically designate criteria for the protection of livestock, terrestrial wildlife, or domestic animals, the criteria designated for the protection of human health and aquatic life should preclude adverse impacts to livestock, terrestrial wildlife, and domestic animals.

The Executive Director has determined that the draft permit would be protective of the environment, including aquatic and terrestrial wildlife. Potential water quality issues that could negatively affect wildlife – excessive salinity, high nitrogen content, bacterial contamination, depressed dissolved oxygen, and heavy growths of blue-green algae – are not expected in the receiving waters provided the Applicant complies with proposed permit.

APPLICANT'S RESPONSE 13:

The City intends to comply with the proposed permit in order to prevent the discharge effluent that would have adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals.

AFFECTED PERSON RESPONSE 13 -The city has not engaged in funding for PFAS and emerging contaminants, though PFAS has been brought up at council meetings. Because the city buys water from NTMWD it is seen at NTMWD problem, not Josephine. However, as the fastest growing city in North Texas, or so it is advertised, additional in writing protection on a TCEQ form would be welcomed. An effort to apply for funding at TWDB could help. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov <https://www.twdb.texas.gov/financial/programs/ec/index.asp>

- Funding for PFAS <https://www.tceq.texas.gov/assistance/resources/the-advocate-1/funding-available-for-pfas-and-emerging-contaminants>
- Eco-environment The wooded Brushy Creek area behind my backyard neighbor houses hawks, birds, egrets, fowl, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's. Though chemicals treating sewer are not supposed to be harmful to fish, fowl, animals, an increase in the amount of flow may negate that thought.

Wildlife - Wastewater will affect wildlife, TCEQ says that that water in the state is to be safe for humans, therefore it is safe for wildlife. However, it has been determined that water has PFAS. Nearly all municipal wastewater treatment plants have measurable levels of PFAS in their discharge. The vast majority of that PFAS comes from upstream sources — such as industries, household products, and human waste — and flows through the facilities.

Reference Public Comment 5 – City Wastewater Master Plans says an ADDITIONAL .75 MGD plant.

PUBLIC COMMENT 14:

Pamela Sardo commented that the NORI and the NAPD should not have been published in the *Collin County Commercial Record* because the subscription fee is too high.

EXECUTIVE DIRECTOR'S RESPONSE 14:

Under 30 TAC §§ 39.405(f)(1) and 39.418(b)(1), the NORI must be published in the newspaper of largest circulation in the county in which the proposed WWTF is located, or, if the facility is located in a municipality, then the applicant may publish the NORI in any newspaper of general circulation. Under 30 TAC § 39.419(b), the NAPD must be published at least once in the same newspaper as the NORI.

Here, the NORI and NAPD were both published in the *Collin County Commercial Record*, but the NAPD was also published in the *Harald Banner-Collin County* and in *The Farmersville Times/C&S Media-Collin County*.

APPLICANT'S RESPONSE 14:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was also published in the *Herald Banner-Greenville, Hunt County TX* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 14 – The city only published in the local papers after I notified them several people did get notified that live close to me. They told Dr. Sardo that the Collin County Commercial Register was used because they use it for bidding. Using Collin Co. Commercial Record shows it was not transparent to Citizens, because it is for commercial. It was not transparent. The first notification to City Council about the Permit was on DBI Report for 1-6-2024, even though it had been applied for in May.

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
972-834-8686
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087

To: All interested persons on the attached mailing list

RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024
City of Josephine (Applicant)
Responses to Executive Director of the TCEQ, Public Interest Counsel of TCEQ and Applicant

In preparation for the hearing on the above mentioned permit application, I am sending my responses to comply with rules set forth in TCEQ letter dated Sept 4, 2024 setting the docket number. The commission rules entitle all recipients of time hearing requests/requests for reconsideration to file a formal written response to Applicant, the Executive Director and the Public Interest Counsel of the TCEQ by or on September 30, 2024. I am responding to correspondence from the Executive Director's Office and the Office of Public Interest Counsel which were both to me on Sept 16, 2024. I had to go online to obtain the filing from the City of Josephine in order to respond.

There are responses to each of the 3 parties in the document following this letter.

Thank you in advance for your consideration.

Best Regards,

Jane Ridgway

MAILING LIST
City of Josephine
TCEQ Docket No./TCEQ Expediente N.º 2024-1228-MWD;
TPDES Permit No./TPDES Permiso N.º WQ0010887003

FOR THE APPLICANT/PARA EL
SOLICITANTE

Lisa Palomba, City Administrator
City of Josephine
P.O. Box 99
Josephine, Texas 75164

Eddy Daniel, P.E.
City Engineer, Dunaway, LLC
P.O. Box 606
Farmerville, Texas 75442

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

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

Abdur Rahim, Technical Staff
Texas Commission on Environmental
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Water Quality Division, MC-148
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Austin, Texas 78711

Ryan Vise, Deputy Director
Texas Commission on Environmental
Quality
External Relations Division
Public Education Program, MC-108
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FOR PUBLIC INTEREST COUNSEL/PARA
ABOGADOS DE INTERÉS PÚBLICO
via electronic mail/vía correo electrónico:

Garrett T. Arthur, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711

FOR ALTERNATIVE DISPUTE
RESOLUTION/PARA LA RESOLUCIÓN
ALTERNATIVA DE DISPUTAS
via electronic mail/vía correo electrónico:

Kyle Lucas
Texas Commission on Environmental
Quality
Alternative Dispute Resolution, MC-222
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Austin, Texas 78711

FOR THE CHIEF CLERK/PARA EL
SECRETARIO OFICIAL
via eFilings:

Docket Clerk
Texas Commission on Environmental
Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711
<https://www.tceq.texas.gov/goto/efilings>

REQUESTER(S)/INTERESTED PERSON(S)/
SOLICITANTE(S)/ PERSONA(S)
INTERESADA(S)
See attached list/Ver lista adjunta.

REQUESTER(S)/ SOLICITANTE(S)

Christensen, Kevin
201 Monarch Ln
Josephine Tx 75173-7152

Ridgway, James M
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, James M
5754 FM 6
Josephine Tx 75189-4000

Ridgway, Jane E
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, Jane E
5754 FM 6
Josephine Tx 75189-4000

BAROCHIERE , A
300 PATINA ST
JOSEPHINE TX 75189-6020

BAROCHIERE , FRANK
300 PATINA ST
JOSEPHINE TX 75189-6020

BOCKEMEHL , MRS STACIE
PO BOX 233
CADDO MILLS TX 75135-0233

CHRISTENSEN , KEVIN
201 MONARCH LN
JOSEPHINE TX 75173-7152

COLLIN , JO
300 CHUCK WAGON DR
JOSEPHINE TX 75189-5442

DUPUIS , JACOB
DUNAWAY
118 MCKINNEY ST
FARMERSVILLE TX 75442-2214

FLORES , SARAH
303 WAGON WHEEL DR
JOSEPHINE TX 75189-5385

HENSLEY , AARON
513 PLUM DR
JOSEPHINE TX 75173-8536

KEARNEY , MS PATRICIA JAN
PO BOX 193
JOSEPHINE TX 75164-0193

L , H
308 CHUCK WAGON DR
JOSEPHINE TX 75189-5442

NEWTON , BARBARA
PO BOX 415
JOSEPHINE TX 75164-0415

RIDGWAY , JANE E
PO BOX 127
CADDO MILLS TX 75135-0127

RIDGWAY , JANE E
5754 FM 6
JOSEPHINE TX 75189-4000

RIDGWAY , JAMES M
PO BOX 127
CADDO MILLS TX 75135-0127

RIDGWAY , JAMES M
5754 FM 6
JOSEPHINE TX 75189-4000

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2006 HARVEST LN
JOSEPHINE TX 75173-7075

VILLEGAS , SHANNON
106 MILTON ST
JOSEPHINE TX 75173-8528

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087
RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024

**CONTINUED REQUEST FOR A CONTESTED CASE HEARING ON
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
TPDES PERMIT NUMBER WQ0010887003**

Name of Person Contesting: Jane Ridgway
Mailing Address: P O Box 127, Caddo Mills, TX 75135-0127
Daytime Phone: 972-834-8686
Fax Number: None
My Physical Property Location
and Homestead 5754 FM 6, Josephine, TX 75189 - Hunt County
Email: jridgway1971@gmail.com (no "e" in ridgway)
Applicant: City of Josephine - TPDES PERMIT NUMBER WQ0010887003

Response to Executive Director's Response to Hearing Requests (with OPIC Comments)

VII. ANALYSIS OF THE HEARING REQUESTS

A. WHETHER THE REQUEST COMPLIED WITH 30 TAC §§ 55.201(c) AND (d).

1. Jane Ridgway filed four timely, written Requests that provided the requisite contact information, raised issues that form the basis of her Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Ms. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Ms. Ridgway believes she will be affected by the application in a way not common to the public. Ms. Ridgway's Requests stated that she lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Ms. Ridgway's property is 0.36 miles away from the proposed facility. Ms. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, flooding and erosion, air quality, and economic impacts.

The ED recommends finding that the Requests of Ms. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges my compliance to the TAC. Thank you.

2. James Ridgway filed two timely, written Requests that provided the requisite contact information, raised issues that form the basis of his Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Mr. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Mr. Ridgway believes he will be affected by the application in a way not common to the general public. Mr. Ridgway's Requests stated that he lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Mr. Ridgway's property is 0.36 miles away from the proposed facility. Mr. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, and flooding.

The ED recommends finding that the Requests of Mr. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledged his compliance to the TAC.

B. WHETHER REQUESTOR IS AN AFFECTED PERSON UNDER 30 TAC § 55.203.

1. Jane Ridgway filed four Requests that effectively identified personal, justiciable interests affected by the application. Ms. Ridgway's Requests stated that she was close to the proposed facility and that she is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Ms. Ridgway's property is situated 0.36 miles away from the proposed facility. Ms. Ridgway's proximity to the proposed facility, in conjunction with the issues Ms. Ridgway raised, lead the ED to determine that Ms. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Ms. Ridgway is an affected person under 30 TAC § 55.203 and grant her hearing request.

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges I am an affected person and granting the hearing request. Thank you.

2. James Ridgway filed two Requests that effectively identified personal, justiciable interests affected by the application. Mr. Ridgway's Requests stated that he was close to the proposed facility and that he is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Mr. Ridgway's property is situated 0.36 miles away from the proposed facility. Mr. Ridgway's proximity to the proposed facility, in conjunction with the issues Mr. Ridgway raised, lead the ED to determine that Mr. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Mr. Ridgway is an affected person under 30 TC § 55.203 and grant his hearing request.

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledges he is an affected person and for granting the hearing request.

VIII. ISSUES RAISED IN THE HEARING REQUEST:

1. **Whether the draft permit adequately prevents nuisance odors as required by 30 TAC § 309.13(e).**

(RTC Response No. 7) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit does not control nuisance odors in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 1. Nuisance Odors - Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

Jane Ridgway Response - I appreciate the possible referral from the ED on nuisance odor issue, and OPIC positive response. Before February 2024, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter dated February 1 to Lisa Polomba, City Administrator about odor mitigation and installing odor control equipment. I thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM on most days we still get odor at our home. Either mitigation has not been done, or the units are not working. The permit includes information from Evoqua, but their information alludes to pipeline distribution of wastewater. "A liquid phase dosing program can be used to prevent odorous compounds from forming in wastewater. Chemicals, such as Bioxide® Solution are added directly into the wastewater stream along the wastewater pipeline. This plant will dump into a manmade ditch.

2. **Whether the draft permit is adequately protective of aquatic and terrestrial wildlife.**

(RTC Response No. 13) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit is not protective of aquatic and terrestrial wildlife in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 3. Wildlife - As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

Jane Ridgway Response- Thank you. I appreciate the possible referral from the ED on this issue, and also the OPIC for finding the issue relevant. The Natural wooded creek area behind the Bowman home (my backyard neighbor) has hawks, birds, egrets, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's while 20 swamp rabbits come out at Bowman's. I do have my rabbit and egret photos. These critters come to my property except the beaver.

TCEQ states that that water in the state is to be safe for humans; therefore it is safe for wildlife. However, it has been determined that wastewater has PFAS. It has been found PFAS is harmful wildlife.

<https://news.mongabay.com/2023/09/pfas-forever-chemicals-harming-wildlife-the-world-over-study/>. NTMWD supplies water to Josephine which contains PFAS. City Staff think PFAS mitigation is NTMWD issue. NTMWD is addressing PFAS incoming water, but Josephine should help with wastewater. If not addressed at wastewater level, PFAS will continue to be distributed to ditch/creeks/Lake Tawakoni until However, as the fastest growing city in North Texas, additional PFAS treatment for wastewater to humans at Lake Tawakoni, and to protect aquatic and terrestrial wildlife both in writing and action seems prudent. Perhaps EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS include PFAS monitoring under *Other Requirements which I cannot find.

The City could apply for funding at TWDB if my research is good. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov

3. Whether the application was correctly determined to be administratively and technically complete.

(RTC Response No. 10) This issue involves a disputed question of mixed fact and law. If it can be shown that the application information, on which the draft permit is based, was not complete, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 4. Application Accuracy - Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

Jane Ridgway Response- I wish to thank the ED for the referral and also the OPIC. As the definition of not complete is which can also mean "incomplete" means something is not complete or finished, and may be lacking a necessary part, element, or step. Possibly inaccurate. Another review of the application and our findings is below. We would like to know if these were rectified.

TCEQ Core Data Form Section II

Customer Information Item 9. Federal Tax ID is missing. Cities need one to pay employees.

Domestic Technical Worksheet TCEQ-10054

Section 2 – B. and C. Not answered. "No" should have been checked.

Section 4 – B Flow characteristics

If a stream, manmade channel or ditch was checked above provide the following. For existing discharges, check one of the following that best characterizes the area upstream of the discharge. For new discharges, characterize the area *downstream* of the discharge. (Check one) .

There were no boxes checked in the section "Check the method used to characterize the area upstream (or downstream) for new dischargers. Please note that in Section 4, Description of Immediate Receiving Waters, A. Receiving water type, the last box "Manmade channel or ditches" was check marked. This is the first time I realized the Unnamed Tributary was in fact a manmade channel or ditch.

Section 4 – C-Downstream Perennial confluences.

List the names of all perennial streams the join the receiving water within 3 miles downstream of the discharge point. This was answered "none". I checked map at <https://en-us.topographic-map.com/map-sdhms8/Josephine/?center=33.06373%2C-96.29229&zoom=16&overlay=0> . Since my house is .36 miles, it looks like the unnamed tributary and Brushy Creek should be listed. If so, then the answer to Item D would be incorrect.

Section 4 – E. Normal dry weather characteristics. “No Flows” was entered, but could be incorrect. There is water in the creek behind the Bockemehl in summer. It does not dry up. Maybe the person who filled out the application did not go completely downstream. The stream does curve and get very deep at points. It gets deeper and wide and does rush the land.

Section 5 . General Characteristics of the Waterbody Obstructions – Item C. Water body aesthetics. As a person who sees this very frequently, the answer should be Natural Area: Trees and/or native vegetation: some development evident (from fields, pastures, dwellings) water clarity discolored. (page 32 of 80)

Application for a Domestic Wastewater Permit Administrative Report 1.0

Section 10- TPDES Discharge Information (Instructions Page 31) Item A – no boxes checked. Item B -No boxes checked.

Texas Commission on Environmental Quality Supplemental Permit information (SPIF) page 19 of 24

Item Provide description of effluent discharge route. - I believe this should state From a manmade ditch called unnamed tributary , thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment 0507 of the Sabine River Basin. Unnamed tributaries appear to be recreational in Texas, which defines as a little creek, or seep, or spring, or bog, or wetland without a name begins its life as surface water when it emerges from the ground. If this is true, the Josephine wastewater is and would continue to be dumping into what is surfaced groundwater and that might not be good.

Domestic Technical Report 1.0 Page 3 of 80

Section 4. Unbuilt Phases – Neither box was checked.

Section 5. Closure Plans

Have any treatment units been taken out of service permanently or will units be taken out of service in the next 5 years. **Neither YES or NO was checked.** With this section not being checked, and with the Wastewater Master Plan stating the Wastewater Plant 3 is additional the answer is open to interpretation. It is open ended and information available to public online conflicts with the Justification of permit description, next item.

Domestic Technical Report 1.1 Page 21 of 80

Section 1 Justification for Permit –

- A. Justification of permit need – Provide a detailed discussion of the need for any phase(s) not currently permitted. Failure to provide sufficient justification may result in the Executive Director recommending denial of the proposed phases(s) or permit.

This proposed treatment plant will serve a housing development. The developer is proposing a final build out of 4,000 to 6,000 single family housing. The City of Josephine will own and operate this plant (WWPT #3)The city currently has a lagoon treatment plant (WWTP#1 WQ0010887001, permitted flows 070 MGD),which will eventually be decommissioned, and those influent flows sent to this proposed treatment plant.

This is either wrong, or city was/is not being transparent about the lagoon going away. Per City’s Comprehensive Plan, 961 homes are anticipated spread among many developers. I do not see 4,000 – 6,000 houses in one housing development, except for DR Horton who is funding an addition to City of Josephine Wastewater #2 in the Magnolia Subdivision. The addition to City of Josephine Wastewater #2 was supposed to serve Riverfield which is 4,000 to 6,000 homes in back of Bowman and Ridgway and Bockelmehl properties. I can however get 5,249 houses in other Josephine sub-divisions (961) plus Horton’s Wildflower (3061). I don’t think the lagoon will be decommissioned, given the evidence in Wastewater Master Plan and this application gaps.

Section 5 Facility Site – A. Is facility above the 100 year floodplain was checked yes, so no method of protection was listed. This does not correlate with the Permit Backup for Hearing on page 34, Other Requirements Item 4. states “The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.”

Public Involvement Plan Form Page 1 of 4 - misrepresented

The last box “Public Involvement Plan not applicable to this application” was checked. But, the city and engineer know the fact that the growth in the area served is 4 times as many residents in the last 5 years, citizens should have been apprised of the expansion. Two people did ask for a public meeting and if all landowners had been notified, there would have been more I’m sure. The plant is in far east Collin County, but the **applicant left out the part that the plant is in the heart of the city and the original town.** With a public hearing, there would have been understanding that citizens would be incurring more bond debt.

4. Whether adjacent and downstream landowners received proper notice pursuant to TCEQ's rules.

(RTC Response No. 9) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly notify adjacent and downstream landowners in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response- Thank you to the ED and OPIC for acknowledging this point. There are **5** property owners below that have in property that backs up to a creek that runs to Brushy Creek and **they did not** receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit that is on display at Josephine City Hall. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

These citizens are within .36 miles and would be affected parties.

6-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the permit book at City Hall in late December.

First mention of the permit at council was in a DBI/Dunaway report in February 2024 even though the permit was made in May

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise

2023. **2-12-2024-DBI Report excerpt** - during the month of February and is open for public comment.

5. Whether Applicant properly published notice in accordance with 30 TAC Chapter 39.

(RTC Response Nos. 9 and 14) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly publish notice in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response - I appreciate that the ED acknowledges this point, as well as OPIC. The initial notice was published in The Collin County Commercial Record Dec. 5 2023, which per their website is "Collin County's newspaper for **current court and commercial information.**" It costs \$200 a year. Few if any citizens in Josephine subscribe to it. Dr. Sardo was told the Collin county Commercial Register was used because the city uses it for bidding. The Collin County Commercial Register is not transparent for Josephine citizens. After my notification to the city it ran again. I spoke with Eddy Daniel (one of the Josephine Engineers) after seeing the permit by accident in City Hall on Dec. 23, 2023. After the call with Eddy and my speaking at January City Council about the application and some of my concerns, the notice was run on January 18 in Farmerville Times and Greenville Herald Banner since the wastewater runs into Hunt County. I could not find the Greenville Herald Banner posting on the Texas Public Notices Website. [https://www.texaspublicnotices.com/\(S\(ay0fq1pl5hj4bxsorbgxb0pn\)\)/Search.aspx](https://www.texaspublicnotices.com/(S(ay0fq1pl5hj4bxsorbgxb0pn))/Search.aspx)

VIEW	Farmersville, The Farmersville Times Thursday, January 18, 2024
APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010887003 , to authorize the discharge of t ... click 'view' to open the full text.	
VIEW	McKinney, Collin County Commercial Record Tuesday, December 05, 2023
Texas Commission on Environmental Quality NOTICE OF APPLICATION AND PRELIMINARY DECISION FOR TPDES PERMIT FOR MUNICIPAL WASTEWATER NEW PERMIT NO. WQ001087003 APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environ ... click 'view' to open the full text.	

6. Whether the draft permit properly considered possible increases in instances of flooding and erosion.

(RTC Response No. 5) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response - Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- My response it that flooding issues must be relevant to the Wastewater Plant as TCEQ includes flood mitigation in the permit. On page 34 in the Backup Filed for the ED's Consideration of Hearing Requests, Other Requirements Item 4. states "The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood."

The RTC Response No 5 was: The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters.

I contend TCEQ does have jurisdiction to address flooding in the permit. If the City is going to protect the plant, deflected water during flooding, it would stand to reason deflected water(or pumped water) can enhance flooding for the citizens downstream. There has been and is continuing development behind the sewer plant location. There is a disconnect between the permit backup for the hearing and the Domestic Technical Report 1.1 Section 5 Facility Instructions.

In the current Wastewater Master Plan on page 15, engineer creating the document treats the NEW SBR plant on Caddo St. as an expansion/additional. This means more than 750,000 a day will go in the creek. I cannot locate any application item in the permit that indicates what type of protection the wastewater treatment facility has. If this statement is important enough to be in the permit, and a flood study has not been completed since 2009 and the land to the North of the sewer plant is being developed, it could become very important to the sewer plant. Thank you for your consideration.

7. Whether the draft permit is protective of air quality.

(RTC Response No. 6) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response -Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- After reviewing the application/TCEQ Permitting forms that were on display at City Hall, I find no line item for air quality, only mention of nuisance odors. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits, as it continues to come up in many permitting processes. Thank you.

8. Whether the draft permit properly considered potential economic impacts.

(No RTC Response) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

Jane Ridgway Response- After reviewing I find no line item for economic impact on TCEQ Permitting forms that were on display at City Hall. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits. Thank you.

Jane Ridgway - Office of Public Interest Counsel – Sept 26, 2024 Response.

Jane Ridgway Response – I concur with the OPIC on item 1-4. Item 6 – I will acknowledge and accept reluctantly.

With OPIC Item 5 my response is the same as noted on to the ED on item 6. Thank you very much for considering our concerns.

Section III.B

Section III Analysis of Hearing Request B. The affected requestors raised the following disputed issues:

1. Whether the draft permit is adequately protective against nuisance odors.
2. Whether there was adequate notice of the application and draft permit.
3. Whether the draft permit is adequately protective of wildlife.
4. Whether the application was accurately completed

1.Nuisance Odors

Affected requestors raised concerns about the proposed facility's emission of nuisance odors. TCEQ regulates nuisance conditions under 30 TAC § 309.13(e) which requires applicants to implement a nuisance odor abatement plan. Further, permits issued by TCEQ do 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.

Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

2. Notice

A requestor raised concerns about notice. Her concerns focused on whether all required, nearby landowners were properly notified. Chapter 39 contains requirements relating to notice publication, alternative language publication, mailing of notice, and posting of the application in a public place within the county. **The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.**

3. Wildlife

Requestors raised concerns about adverse effects to water quality and the consequential impacts on wildlife. The Commission is responsible for the protection of water quality under Texas Water Code (TWC) Chapter 26 and 30 TAC Chapters 307 and 309. The Texas Surface Water Quality Standards (Standards) in Chapter 307 require that the proposed permit "maintain the quality of water in the state consistent with public health and enjoyment, propagation and protection of terrestrial and aquatic life, operation of existing industries, and ... economic development of the state...." 30 TAC § 307.1. According to § 307.6(b)(4) of the Standards, "Water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, or domestic animals, **resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three.**" Additionally, "[s]urface waters must not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life." 30 TAC § 307.4(d).

As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

4. Application Accuracy

TCEQ rules require that if an applicant becomes aware that it failed to submit relevant facts or submitted incorrect information in a permit application, the applicant is required to promptly submit such facts and information. 30 TAC § 305.125(19). Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

5. Flooding

TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider flooding when making a decision on issuance of this permit. Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

6. Air Pollution

Requestors raised concerns regarding the proposed facility's emission of air pollutants. TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider air quality when making a decision on issuance of this TPDES permit, unless there is an associated water quality concern. Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

V. CONCLUSION

Having found that Jane E. Ridgway and James M. Ridgway qualify as affected persons in this matter, OPIC respectfully recommends the Commission grant their hearing requests and refer Issues No. 1-4 specified in Section III.B for a contested case hearing at SOAH with a maximum duration of 180 days. OPIC further recommends the Commission deny all pending requests for reconsideration

Jane Ridgway - Response to City of Josephine Comments 9-26-2024

PUBLIC COMMENT 1:

Aaron Hensley commented that the proposed development will be inclusive of certain people and will use municipal resources.

EXECUTIVE DIRECTOR'S RESPONSE 1:

The ED acknowledges this comment.

APPLICANT'S RESPONSE 1:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 1- I don't know how to comment on this issue, I accept ED's response.

PUBLIC COMMENT 2:

James M. Ridgway, Jane E. Ridgway, and Kevin Christensen requested a contested case hearing on this application.

EXECUTIVE DIRECTOR'S RESPONSE 2:

The ED acknowledges the hearing requests.

To request a contested case hearing, the parties must follow the hearing request procedures found in 30 TAC Chapter 55. 30 TAC § 55.201(a) requires that a hearing request is filed no later than thirty days after the Office of the Chief Clerk mails the ED's Response to Comment. A hearing requestor must meet the affected person requirements found in 30 TAC § 55.203. The hearing request itself must meet the requirements found in section 55.201(c) and (d). All timely filed hearing requests will be processed in accordance with section 55.209. Unless the case is directly referred to the State Office of Administrative Hearings under section 55.210, the Commission will consider the hearing requests and determine whether to grant or deny them in accordance with section 55.211.

APPLICANT'S RESPONSE 2:

The City acknowledges this hearing request and ED's response

AFFECTED PERSON RESPONSE 2- I acknowledge the hearing request and ED response.

PUBLIC COMMENT 3:

A. Barochiere, Frank Barochiere, Jo Collin, and L.H. expressed concern that the proposed housing development will create nuisance noise.

EXECUTIVE DIRECTOR'S RESPONSE 3:

The TCEQ's jurisdiction over the permitting process is established by the Texas Legislature and is limited to issues set forth in statutes. While 30 TAC Chapter 309, specifically Subchapter B, contains some nuisance considerations, the TCEQ does not have jurisdiction to consider noise from a wastewater treatment facility, nor from any related development, when determining whether to approve or deny a permit application. However, the draft permit does not limit the ability of individual landowners 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.

APPLICANT'S RESPONSE 3:

The City's proposed wastewater treatment facility will have components installed to minimize noise from pumps and blowers associated with the typical of operations of a wastewater plant.

AFFECTED PERSON RESPONSE 3— I cannot find any place in the application that has components to minimize noise from pumps and blowers.

PUBLIC COMMENT 4:

Barbara Newton and Shannon Villegas requested a public meeting for this application.

EXECUTIVE DIRECTOR'S RESPONSE 4:

Under 30 TAC § 55.154, TCEQ must hold a public meeting when a member of the legislature, representing the general area in which the activity is proposed, requests that a public meeting be held or when the Executive Director determines that there is a substantial or significant degree of public interest in an application. Here, there was no request for a public meeting from a member of the legislature. Additionally, the Executive Director determined that two public meeting requests did not constitute substantial or significant public interest in this application. Therefore, a public meeting was not held.

APPLICANT'S RESPONSE 4:

The City acknowledges this public meeting request and ED's response.

AFFECTED PERSON RESPONSE 4—My belief is people who were interested did not know how to request the meeting properly. The TCEQ letters are daunting. The first newspaper notification was in a newspaper no one took. After I notified the city they reprinted in two papers. Unfortunately the town relies mostly on social media. If citizens B. Newton and S. Villegas would have been granted a hearing, more citizens would have shown up. Nothing is very transparent with permits.

PUBLIC COMMENT 5:

Stacie Bockemuhl, Kevin Christensen, Patricia Jan Keamey, Barbara Newton, and Jane E. Ridgway expressed concerns that discharge from the WWTF and runoff from the accompanying development will increase the likelihood of flooding events.

EXECUTIVE DIRECTOR'S RESPONSE 5:

The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters. The proposed permit includes effluent limits and other requirements that the WWTF must meet even during rainfall events and periods of flooding.

According to the application, the proposed site for the WWTF is located above the 100-year flood plain. For additional protection, the draft permit includes Other Requirement No. 5, which requires the City of Josephine to

AFFECTED PERSON RESPONSE 5— It is noticeable that the City did not respond to the Executive Director on this point. The City has flooded on Caddo Street many times which is next to the current city sewage lagoon which feeds into the “unnamed tributary/ditch” and then to the creek when run-off from storms occurs. Perhaps it is time that the TCEQ's rules committee identifies a need for a rule change, drafts a proposed rule, and presents it to the Commission for approval. I would maintain the city may not be protecting against flood hazard as stated in my initial response. There is no current Flood Mitigation Plan to my knowledge. Last one was approved in 2022, but hopefully will be updated with the influx of residents.

- **The current Wastewater Master Plan page 15 treats the NEW SBR plant on Caddo St. as expansion and add.** This means more than 750,000 a day will go in the creek.

6.4 Lagoon Wastewater Treatment Plant

The City of Josephine currently owns and operates a lagoon wastewater treatment plant. The treatment train includes an aeration oxidation ditch and two mixed lagoons. The current permit allows for a daily average flow of 0.07 MGD. The WWTP is located in the northeast area of the city and existing flows from the west region of the city are lifted to the lagoon wastewater treatment plant.

A project to expand the current wastewater treatment plant and add an additional 0.75 MGD treatment capacity is currently under design by DBI. DBI is also pursuing a new wastewater permit with the TCEQ. This master plan report assumes the 0.75 MGD addition will be incorporated onsite.

6.5 SBR Wastewater Treatment Plant

The Josephine Municipal Utility District (MUD) constructed the Sequencing Batch Reactor (SBR) treatment plant for the Magnolia Phase 1 – 10 subdivision. The City of Josephine owns and operates the WWTP. The plant is currently permitted to treat a daily average flow of 0.5 MGD with a final phased expansion to 1.5 MGD. The WWTP currently includes one treatment train and in general includes the following treatment units: headworks with fine screens, influent lift station, sequencing batch reactor basins, post-flow equalization basin, and aerobic digester basin, filtration, and UV disinfection.

• **Kimley»Horn**

Page 15

PUBLIC COMMENT 6:

Stacie Bockemuhl, Jo Collin, James M. Ridgway, and Jane E. Ridgway expressed concerns about the proposed WWTF causing air pollution.

EXECUTIVE DIRECTOR'S RESPONSE 6:

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 that rule. The Applicant indicated in its application that the proposed facility would be an activated sludge process plant using sequencing batch reactors, which does not make a significant contribution of air contaminants to the atmosphere pursuant to the Texas Health and Safety Code §§ 382.057 and 382.05196. The WWTF is therefore permitted by rule with respect to air emissions.

APPLICANT'S RESPONSE 6:

The proposed wastewater treatment facility will be an activated sludge process plant with sequencing batch reactors, as mentioned by the executive director's response. The facility will also have odor control units installed at lift stations to minimize potential odors.

AFFECTED PERSON RESPONSE 6—Before February, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter about odor mitigation and we thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM usually we still get some odor at our home. Either it has not been done, or the units are not working.

PUBLIC COMMENT 7:

Kevin Christensen, Patricia Jan Kearney, Jane E. Ridgway, and James M. Ridgway expressed concerns that the proposed facility will create nuisance odors.

EXECUTIVE DIRECTOR'S RESPONSE 7:

30 TAC § 309.13(e) requires domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor. According to the application, the applicant intends to locate treatment units at least 150 feet from the nearest property line. This requirement is also incorporated into the proposed permit. Additionally, foul odors may exist when effluent contains an insufficient amount of dissolved oxygen. The draft permit restricts the amount of oxygen demanding constituents to simultaneously reduce the odors in discharged effluent and prevent degradation of receiving waters.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 7:

Buffer zone requirements for the proposed wastewater facilities will be met. Also, as stated in Applicant's Response 6, odor control units will be installed at the on-site lift stations to help minimize potential odors.

- **AFFECTED PERSON RESPONSE 7** –150 ft from a property line just doesn't make sense to people who smell odors that travel. I live more than 150 feet from the Sewer Property line. As stated in Comment 6 between 7 PM & 10 PM usually we still get some odor at our home, either from WWTP#2 or could be WWTP#1. I lean towards WWTP#2. Either units have not been installed, or the units are not working.

PUBLIC COMMENT 8:

Kevin Christensen asked for the WWTF to be moved to a different location.

EXECUTIVE DIRECTOR'S RESPONSE 8:

The ED acknowledges the opposition to the proposed location of the WWTF. Texas Water Code § 26.027, authorizes the TCEQ to issue permits for discharges into water in the state. The ED evaluates applications for wastewater treatment plants based on the information provided in the application. The ED can recommend issuance or denial of an application based on whether the application complies with the Texas Water Code and TCEQ regulations. The Applicant is the entity that proposes the location of the facility, point of discharge, and the discharge route rather than the ED. The ED's review evaluates the impact of the discharge on the receiving waters; however, the TCEQ's permitting authority does not include the ability to mandate a different location for the facility if the location in the application complies with 30 TAC Chapter 309, Subchapter B (Location Standards), specifically 30 TAC § 309.13 pertaining to "Unsuitable Site Characteristics" for a treatment facility. Instead, the ED may only evaluate a proposed location for a wastewater treatment facility according to the Location Standards in the TCEQ regulations and the effect of the treated wastewater on the uses of the receiving stream starting at the point of discharge.

APPLICANT'S RESPONSE 8:

The proposed wastewater treatment facility is proposed to be constructed on an existing wastewater treatment site with an operating wastewater treatment currently owned and operated by the City. The City's existing northern sewer collection system flows to the site. Relocation of the plant would be cost prohibitive for the City to acquire additional land and relocate the existing sewer collection system.

- **AFFECTED PERSON RESPONSE 8** –It would be costly to the city and since they have spent money allocated bond money for sewer on other projects. There is not more land in the city vicinity since developers have purchased it all. It does not seem feasible.

PUBLIC COMMENT 9:

Stacie Bockemehl and Jane E. Ridgway were concerned that nearby landowners were not properly notified.

EXECUTIVE DIRECTOR'S RESPONSE 9:

There are two public notices regarding this permit action, the Notice of Receipt of Application and Intent to Obtain a Wastewater Permit (NORI), and the Notice of Application and Preliminary Decision (NAPD). The TCEQ's notice rules require applicants to provide public notices for wastewater permits by publishing the NORI in a "newspaper of largest circulation in the county in which the facility is located or proposed to be located. If the facility is located or proposed to be located in a municipality, the applicant [must] publish notice in any newspaper of general circulation in the municipality."¹⁴ After the Office of the Chief Clerk has mailed the preliminary decision and the NAPD to the applicant, they are required to publish the NAPD "at least once in a newspaper regularly published or circulated within each county where the proposed facility or discharge is located and in each county affected by the discharge."¹⁵

For a history of the published notices regarding this application, please see the first paragraph of section C, Procedural History.

Additionally, the TCEQ's notice rules for a new permit or major amendment require mailed notice of the NORI and NAPD to landowners named on the application map and persons on the mailing list maintained by the Office of the Chief Clerk.¹⁶ The applicant is required to submit a landowner map as part of the application materials. The landowner map must include the property boundaries of landowners surrounding the applicant's property and the property boundaries of all landowners surrounding the discharge point and on both sides of the discharge route for one full stream mile downstream of the discharge point. Anyone who submits a comment or contested case hearing request before the end of the public comment period is also added to the mailing list for that permit action.

APPLICANT'S RESPONSE 9:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was additionally published in the *Herald Banner-Greenville, Hunt County, Texas* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 9 The additional newspaper notice in January was run after I notified the city/engineer that the first newspaper used for the notice was in a paper no one subscribes to. Farmerville Times and Herald Banner have always been the papers for public notices for Josephine. There are 5 property owners below that have in property that backs up to the Creek and they did not receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

6-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the book at City Hall in December.

2-12-2024-DBI Report excerpt -

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise during the month of February and is open for public comment.

This is all Stacie Bockemehl received. No letter was attached. It's no wonder people did not respond.

Senate Bill 709 (84th Legislative Session, 2015) amended the Texas Water Code by adding new Section 5.5553, which requires the Texas Commission on Environmental Quality (TCEQ) to provide written notice to you at least thirty (30) days prior to the TCEQ's issuance of draft permits for applications that are located in your district.

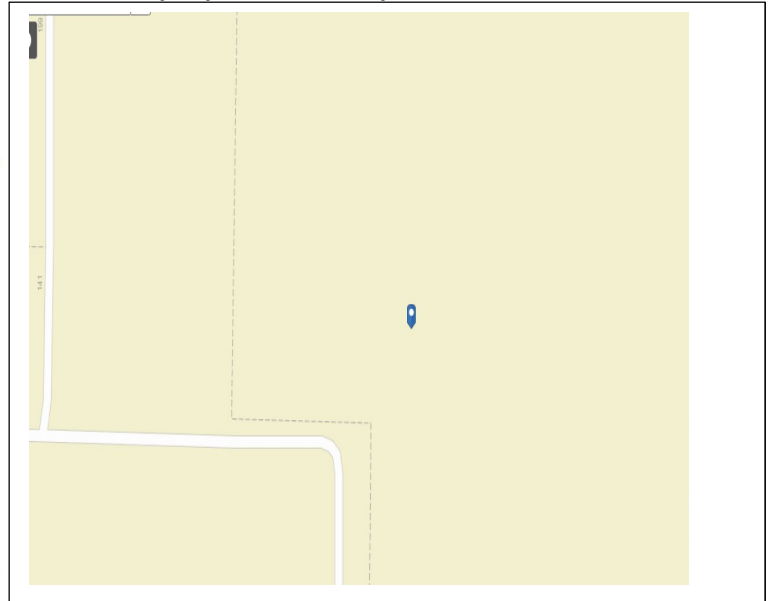
City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the TCEQ for proposed Texas Pollutant Discharge Elimination System No. WQ0010887003 (EPA I.D. No. TX0144517) to authorize the discharge of treated wastewater at a volume not to exceed a daily average flow of 750,000 gallons per day. The domestic wastewater treatment facility will be located at 601 East Caddo Street, in Collin County, Texas 75189. The discharge route will be from the plant site to an unnamed tributary, thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment No. 0507 of the Sabine River Basin. TCEQ received this application on May 1, 2023. The permit application will be available for viewing and copying at Josephine City Hall, 201 South Main Street, Josephine, Texas prior to the date this notice is published in the newspaper. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For the exact location, refer to the application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-96.298888,33.066111&level=18>

TCEQ is preparing the initial draft permit. At the time the draft permit is issued, the applicant will be required to publish notice in a newspaper of general circulation, and the TCEQ will provide a copy of the notice of draft permit to persons who have requested to be on a mailing list.

Questions regarding this application may be directed to Mr. Firoj Vahora by calling 512-239-4540.

Issuance Date: June 14, 2023



The 6/14/2023 entry on <https://www14.tceq.texas.gov/epic/eCID/> shows "Letter", but this was NOT a letter in my opinion. Very cryptic. Stacie did not know what it meant until I contacted her.

PUBLIC COMMENT 10:

James M. Ridgway commented that the permit application was improperly filled out.

EXECUTIVE DIRECTOR'S RESPONSE 10:

TCEQ performed an administrative review of the application, upon receipt, to ensure that all required information was provided therein. TCEQ determined that the application was administratively complete on June 6, 2023. The review included TCEQ staff reviewing all administrative information provided in the application.

TCEQ also performed a technical review of the application to ensure that the applicant adequately addressed all required technical issues to show that wastewater from the facility would be treated to required standards and to establish effluent limits that will ensure protection of the receiving water bodies and their existing uses. TCEQ reviewed the proposed discharge route, the designated uses and dissolved oxygen criteria of the receiving water bodies, antidegradation analysis of the discharges, and identification of any endangered species that may be present in the receiving water bodies. Based on the review and analysis, TCEQ established effluent limits and conditions designed to maintain the receiving water body's designated uses and protect human health and aquatic life.

APPLICANT'S RESPONSE 10:

The City acknowledges the submission of an administratively and technically complete application as determined by TCEQ and acknowledged by the ED's response above.

AFFECTED PERSON RESPONSE 10 –See response 9 above – Eight (8) Landowner's were left off the application. In addition there are many other items identified in Response to Executive Director's Response to hearing Requests, Item 3 above.

PUBLIC COMMENT 11:

A. Barochiere, Frank Barochiere, Jo Collin, Aaron Hensley, and H.L. expressed general opposition to the draft permit.

EXECUTIVE DIRECTOR'S RESPONSE 11:

The ED acknowledges these comments.

APPLICANT'S RESPONSE 11:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 11 – I acknowledge this comment and ED's response.

PUBLIC COMMENT 12:

A. Barochiere and Frank Barochiere expressed concerns about the impacts of development surrounding the proposed WWTF.



EXECUTIVE DIRECTOR'S RESPONSE 12:

The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ does not have jurisdiction to consider the possibilities of how future development surrounding the WWTF will impact area residence as a part of the wastewater permitting process.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 12:

The City is experiencing rapid growth thereby requiring wastewater treatment facility improvements/upgrades in order to remain compliant with the requirements of TCEQ. The proposed wastewater treatment facility will serve the referenced development in the area.

AFFECTED PERSON RESPONSE 12 – I acknowledge the ED response.

PUBLIC COMMENT 13:

James M. Ridgway and Jane E. Ridgway expressed concern that discharged effluent would negatively impact wildlife.

EXECUTIVE DIRECTOR'S RESPONSE 13:

30 TAC § 307.6(b)(4) requires water in the state to be maintained to preclude adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. While the TSWQS and the IPs do not specifically designate criteria for the protection of livestock, terrestrial wildlife, or domestic animals, the criteria designated for the protection of human health and aquatic life should preclude adverse impacts to livestock, terrestrial wildlife, and domestic animals.

The Executive Director has determined that the draft permit would be protective of the environment, including aquatic and terrestrial wildlife. Potential water quality issues that could negatively affect wildlife – excessive salinity, high nitrogen content, bacterial contamination, depressed dissolved oxygen, and heavy growths of blue-green algae – are not expected in the receiving waters provided the Applicant complies with proposed permit.

APPLICANT'S RESPONSE 13:

The City intends to comply with the proposed permit in order to prevent the discharge effluent that would have adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals.

AFFECTED PERSON RESPONSE 13 -The city has not engaged in funding for PFAS and emerging contaminants, though PFAS has been brought up at council meetings. Because the city buys water from NTMWD it is seen at NTMWD problem, not Josephine. However, as the fastest growing city in North Texas, or so it is advertised, additional in writing protection on a TCEQ form would be welcomed. An effort to apply for funding at TWDB could help. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov <https://www.twdb.texas.gov/financial/programs/ec/index.asp>

- Funding for PFAS <https://www.tceq.texas.gov/assistance/resources/the-advocate-1/funding-available-for-pfas-and-emerging-contaminants>
- Eco-environment The wooded Brushy Creek area behind my backyard neighbor houses hawks, birds, egrets, fowl, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's. Though chemicals treating sewer are not supposed to be harmful to fish, fowl, animals, an increase in the amount of flow may negate that thought.

Wildlife - Wastewater will affect wildlife, TCEQ says that that water in the state is to be safe for humans, therefore it is safe for wildlife. However, it has been determined that water has PFAS. Nearly all municipal wastewater treatment plants have measurable levels of PFAS in their discharge. The vast majority of that PFAS comes from upstream sources — such as industries, household products, and human waste — and flows through the facilities.

Reference Public Comment 5 – City Wastewater Master Plans says an ADDITIONAL .75 MGD plant.

PUBLIC COMMENT 14:

Pamela Sardo commented that the NORI and the NAPD should not have been published in the *Collin County Commercial Record* because the subscription fee is too high.

EXECUTIVE DIRECTOR'S RESPONSE 14:

Under 30 TAC §§ 39.405(f)(1) and 39.418(b)(1), the NORI must be published in the newspaper of largest circulation in the county in which the proposed WWTF is located, or, if the facility is located in a municipality, then the applicant may publish the NORI in any newspaper of general circulation. Under 30 TAC § 39.419(b), the NAPD must be published at least once in the same newspaper as the NORI.

Here, the NORI and NAPD were both published in the *Collin County Commercial Record*, but the NAPD was also published in the *Harald Banner-Collin County* and in *The Farmersville Times/C&S Media-Collin County*.

APPLICANT'S RESPONSE 14:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was also published in the *Herald Banner-Greenville, Hunt County TX* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 14 – The city only published in the local papers after I notified them several people did get notified that live close to me. They told Dr. Sardo that the *Collin County Commercial Register* was used because they use it for bidding. Using *Collin Co. Commercial Record* shows it was not transparent to Citizens, because it is for commercial. It was not transparent. The first notification to City Council about the Permit was on DBI Report for 1-6-2024, even though it had been applied for in May.

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
972-834-8686
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087

To: All interested persons on the attached mailing list

RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024
City of Josephine (Applicant)
Responses to Executive Director of the TCEQ, Public Interest Counsel of TCEQ and Applicant

In preparation for the hearing on the above mentioned permit application, I am sending my responses to comply with rules set forth in TCEQ letter dated Sept 4, 2024 setting the docket number. The commission rules entitle all recipients of time hearing requests/requests for reconsideration to file a formal written response to Applicant, the Executive Director and the Public Interest Counsel of the TCEQ by or on September 30, 2024. I am responding to correspondence from the Executive Director's Office and the Office of Public Interest Counsel which were both to me on Sept 16, 2024. I had to go online to obtain the filing from the City of Josephine in order to respond.

There are responses to each of the 3 parties in the document following this letter.

Thank you in advance for your consideration.

Best Regards,

Jane Ridgway

MAILING LIST
City of Josephine
TCEQ Docket No./TCEQ Expediente N.º 2024-1228-MWD;
TPDES Permit No./TPDES Permiso N.º WQ0010887003

FOR THE APPLICANT/PARA EL
SOLICITANTE

Lisa Palomba, City Administrator
City of Josephine
P.O. Box 99
Josephine, Texas 75164

Eddy Daniel, P.E.
City Engineer, Dunaway, LLC
P.O. Box 606
Farmerville, Texas 75442

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

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

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

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

FOR PUBLIC INTEREST COUNSEL/PARA
ABOGADOS DE INTERÉS PÚBLICO
via electronic mail/vía correo electrónico:

Garrett T. Arthur, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711

FOR ALTERNATIVE DISPUTE
RESOLUTION/PARA LA RESOLUCIÓN
ALTERNATIVA DE DISPUTAS
via electronic mail/vía correo electrónico:

Kyle Lucas
Texas Commission on Environmental
Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, Texas 78711

FOR THE CHIEF CLERK/PARA EL
SECRETARIO OFICIAL
via eFilings:

Docket Clerk
Texas Commission on Environmental
Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711
<https://www.tceq.texas.gov/goto/efilings>

REQUESTER(S)/INTERESTED PERSON(S)/
SOLICITANTE(S)/ PERSONA(S)
INTERESADA(S)
See attached list/Ver lista adjunta.

REQUESTER(S)/ SOLICITANTE(S)

Christensen, Kevin
201 Monarch Ln
Josephine Tx 75173-7152

Ridgway, James M
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, James M
5754 FM 6
Josephine Tx 75189-4000

Ridgway, Jane E
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, Jane E
5754 FM 6
Josephine Tx 75189-4000

BAROCHIERE , A
300 PATINA ST
JOSEPHINE TX 75189-6020

BAROCHIERE , FRANK
300 PATINA ST
JOSEPHINE TX 75189-6020

BOCKEMEHL , MRS STACIE
PO BOX 233
CADDO MILLS TX 75135-0233

CHRISTENSEN , KEVIN
201 MONARCH LN
JOSEPHINE TX 75173-7152

COLLIN , JO
300 CHUCK WAGON DR
JOSEPHINE TX 75189-5442

DUPUIS , JACOB
DUNAWAY
118 MCKINNEY ST
FARMERSVILLE TX 75442-2214

FLORES , SARAH
303 WAGON WHEEL DR
JOSEPHINE TX 75189-5385

HENSLEY , AARON
513 PLUM DR
JOSEPHINE TX 75173-8536

KEARNEY , MS PATRICIA JAN
PO BOX 193
JOSEPHINE TX 75164-0193

L , H
308 CHUCK WAGON DR
JOSEPHINE TX 75189-5442

NEWTON , BARBARA
PO BOX 415
JOSEPHINE TX 75164-0415

RIDGWAY , JANE E
PO BOX 127
CADDO MILLS TX 75135-0127

RIDGWAY , JANE E
5754 FM 6
JOSEPHINE TX 75189-4000

RIDGWAY , JAMES M
PO BOX 127
CADDO MILLS TX 75135-0127

RIDGWAY , JAMES M
5754 FM 6
JOSEPHINE TX 75189-4000

SARDO , DR. PAMELA
2006 HARVEST LN
JOSEPHINE TX 75173-7075

VILLEGAS , SHANNON
106 MILTON ST
JOSEPHINE TX 75173-8528

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087
RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024

**CONTINUED REQUEST FOR A CONTESTED CASE HEARING ON
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
TPDES PERMIT NUMBER WQ0010887003**

Name of Person Contesting: Jane Ridgway
Mailing Address: P O Box 127, Caddo Mills, TX 75135-0127
Daytime Phone: 972-834-8686
Fax Number: None
My Physical Property Location
and Homestead 5754 FM 6, Josephine, TX 75189 - Hunt County
Email: jridgway1971@gmail.com (no "e" in ridgway)
Applicant: City of Josephine - TPDES PERMIT NUMBER WQ0010887003

Response to Executive Director's Response to Hearing Requests (with OPIC Comments)

VII. ANALYSIS OF THE HEARING REQUESTS

A. WHETHER THE REQUEST COMPLIED WITH 30 TAC §§ 55.201(c) AND (d).

1. Jane Ridgway filed four timely, written Requests that provided the requisite contact information, raised issues that form the basis of her Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Ms. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Ms. Ridgway believes she will be affected by the application in a way not common to the public. Ms. Ridgway's Requests stated that she lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Ms. Ridgway's property is 0.36 miles away from the proposed facility. Ms. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, flooding and erosion, air quality, and economic impacts.

The ED recommends finding that the Requests of Ms. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges my compliance to the TAC. Thank you.

2. James Ridgway filed two timely, written Requests that provided the requisite contact information, raised issues that form the basis of his Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Mr. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Mr. Ridgway believes he will be affected by the application in a way not common to the general public. Mr. Ridgway's Requests stated that he lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Mr. Ridgway's property is 0.36 miles away from the proposed facility. Mr. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, and flooding.

The ED recommends finding that the Requests of Mr. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledged his compliance to the TAC.

B. WHETHER REQUESTOR IS AN AFFECTED PERSON UNDER 30 TAC § 55.203.

1. Jane Ridgway filed four Requests that effectively identified personal, justiciable interests affected by the application. Ms. Ridgway's Requests stated that she was close to the proposed facility and that she is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Ms. Ridgway's property is situated 0.36 miles away from the proposed facility. Ms. Ridgway's proximity to the proposed facility, in conjunction with the issues Ms. Ridgway raised, lead the ED to determine that Ms. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Ms. Ridgway is an affected person under 30 TAC § 55.203 and grant her hearing request.

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges I am an affected person and granting the hearing request. Thank you.

2. James Ridgway filed two Requests that effectively identified personal, justiciable interests affected by the application. Mr. Ridgway's Requests stated that he was close to the proposed facility and that he is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Mr. Ridgway's property is situated 0.36 miles away from the proposed facility. Mr. Ridgway's proximity to the proposed facility, in conjunction with the issues Mr. Ridgway raised, lead the ED to determine that Mr. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Mr. Ridgway is an affected person under 30 TC § 55.203 and grant his hearing request.

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledges he is an affected person and for granting the hearing request.

VIII. ISSUES RAISED IN THE HEARING REQUEST:

1. **Whether the draft permit adequately prevents nuisance odors as required by 30 TAC § 309.13(e).**

(RTC Response No. 7) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit does not control nuisance odors in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 1. Nuisance Odors - Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

Jane Ridgway Response - I appreciate the possible referral from the ED on nuisance odor issue, and OPIC positive response. Before February 2024, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter dated February 1 to Lisa Polomba, City Administrator about odor mitigation and installing odor control equipment. I thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM on most days we still get odor at our home. Either mitigation has not been done, or the units are not working. The permit includes information from Evoqua, but their information alludes to pipeline distribution of wastewater. "A liquid phase dosing program can be used to prevent odorous compounds from forming in wastewater. Chemicals, such as Bioxide® Solution are added directly into the wastewater stream along the wastewater pipeline. This plant will dump into a manmade ditch.

2. **Whether the draft permit is adequately protective of aquatic and terrestrial wildlife.**

(RTC Response No. 13) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit is not protective of aquatic and terrestrial wildlife in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 3. Wildlife - As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

Jane Ridgway Response- Thank you. I appreciate the possible referral from the ED on this issue, and also the OPIC for finding the issue relevant. The Natural wooded creek area behind the Bowman home (my backyard neighbor) has hawks, birds, egrets, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's while 20 swamp rabbits come out at Bowman's. I do have my rabbit and egret photos. These critters come to my property except the beaver.

TCEQ states that that water in the state is to be safe for humans; therefore it is safe for wildlife. However, it has been determined that wastewater has PFAS. It has been found PFAS is harmful wildlife.

<https://news.mongabay.com/2023/09/pfas-forever-chemicals-harming-wildlife-the-world-over-study/>. NTMWD supplies water to Josephine which contains PFAS. City Staff think PFAS mitigation is NTMWD issue. NTMWD is addressing PFAS incoming water, but Josephine should help with wastewater. If not addressed at wastewater level, PFAS will continue to be distributed to ditch/creeks/Lake Tawakoni until However, as the fastest growing city in North Texas, additional PFAS treatment for wastewater to humans at Lake Tawakoni, and to protect aquatic and terrestrial wildlife both in writing and action seems prudent. Perhaps EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS include PFAS monitoring under *Other Requirements which I cannot find.

The City could apply for funding at TWDB if my research is good. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov

3. Whether the application was correctly determined to be administratively and technically complete.

(RTC Response No. 10) This issue involves a disputed question of mixed fact and law. If it can be shown that the application information, on which the draft permit is based, was not complete, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 4. Application Accuracy - Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

Jane Ridgway Response- I wish to thank the ED for the referral and also the OPIC. As the definition of not complete is which can also mean "incomplete" means something is not complete or finished, and may be lacking a necessary part, element, or step. Possibly inaccurate. Another review of the application and our findings is below. We would like to know if these were rectified.

TCEQ Core Data Form Section II

Customer Information Item 9. Federal Tax ID is missing. Cities need one to pay employees.

Domestic Technical Worksheet TCEQ-10054

Section 2 – B. and C. Not answered. "No" should have been checked.

Section 4 – B Flow characteristics

If a stream, manmade channel or ditch was checked above provide the following. For existing discharges, check one of the following that best characterizes the area upstream of the discharge. For new discharges, characterize the area *downstream* of the discharge. (Check one) .

There were no boxes checked in the section "Check the method used to characterize the area upstream (or downstream) for new dischargers. Please note that in Section 4, Description of Immediate Receiving Waters, A. Receiving water type, the last box "Manmade channel or ditches" was check marked. This is the first time I realized the Unnamed Tributary was in fact a manmade channel or ditch.

Section 4 – C-Downstream Perennial confluences.

List the names of all perennial streams the join the receiving water within 3 miles downstream of the discharge point. This was answered "none". I checked map at <https://en-us.topographic-map.com/map-sdhms8/Josephine/?center=33.06373%2C-96.29229&zoom=16&overlay=0> . Since my house is .36 miles, it looks like the unnamed tributary and Brushy Creek should be listed. If so, then the answer to Item D would be incorrect.

Section 4 – E. Normal dry weather characteristics. “No Flows” was entered, but could be incorrect. There is water in the creek behind the Bockemehl in summer. It does not dry up. Maybe the person who filled out the application did not go completely downstream. The stream does curve and get very deep at points. It gets deeper and wide and does rush the land.

Section 5 . General Characteristics of the Waterbody Obstructions – Item C. Water body aesthetics. As a person who sees this very frequently, the answer should be Natural Area: Trees and/or native vegetation: some development evident (from fields, pastures, dwellings) water clarity discolored. (page 32 of 80)

Application for a Domestic Wastewater Permit Administrative Report 1.0

Section 10- TPDES Discharge Information (Instructions Page 31) Item A – no boxes checked. Item B -No boxes checked.

Texas Commission on Environmental Quality Supplemental Permit information (SPIF) page 19 of 24

Item Provide description of effluent discharge route. - I believe this should state From a manmade ditch called unnamed tributary , thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment 0507 of the Sabine River Basin. Unnamed tributaries appear to be recreational in Texas, which defines as a little creek, or seep, or spring, or bog, or wetland without a name begins its life as surface water when it emerges from the ground. If this is true, the Josephine wastewater is and would continue to be dumping into what is surfaced groundwater and that might not be good.

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Section 4. Unbuilt Phases – Neither box was checked.

Section 5. Closure Plans

Have any treatment units been taken out of service permanently or will units be taken out of service in the next 5 years. **Neither YES or NO was checked.** With this section not being checked, and with the Wastewater Master Plan stating the Wastewater Plant 3 is additional the answer is open to interpretation. It is open ended and information available to public online conflicts with the Justification of permit description, next item.

Domestic Technical Report 1.1 Page 21 of 80

Section 1 Justification for Permit –

- A. Justification of permit need – Provide a detailed discussion of the need for any phase(s) not currently permitted. Failure to provide sufficient justification may result in the Executive Director recommending denial of the proposed phases(s) or permit.

This proposed treatment plant will serve a housing development. The developer is proposing a final build out of 4,000 to 6,000 single family housing. The City of Josephine will own and operate this plant (WWPT #3)The city currently has a lagoon treatment plant (WWTP#1 WQ0010887001, permitted flows 070 MGD),which will eventually be decommissioned, and those influent flows sent to this proposed treatment plant.

This is either wrong, or city was/is not being transparent about the lagoon going away. Per City’s Comprehensive Plan, 961 homes are anticipated spread among many developers. I do not see 4,000 – 6,000 houses in one housing development, except for DR Horton who is funding an addition to City of Josephine Wastewater #2 in the Magnolia Subdivision. The addition to City of Josephine Wastewater #2 was supposed to serve Riverfield which is 4,000 to 6,000 homes in back of Bowman and Ridgway and Bockelmehl properties. I can however get 5,249 houses in other Josephine sub-divisions (961) plus Horton’s Wildflower (3061). I don’t think the lagoon will be decommissioned, given the evidence in Wastewater Master Plan and this application gaps.

Section 5 Facility Site – A. Is facility above the 100 year floodplain was checked yes, so no method of protection was listed. This does not correlate with the Permit Backup for Hearing on page 34, Other Requirements Item 4. states “The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.”

Public Involvement Plan Form Page 1 of 4 - misrepresented

The last box “Public Involvement Plan not applicable to this application” was checked. But, the city and engineer know the fact that the growth in the area served is 4 times as many residents in the last 5 years, citizens should have been apprised of the expansion. Two people did ask for a public meeting and if all landowners had been notified, there would have been more I’m sure. The plant is in far east Collin County, but the **applicant left out the part that the plant is in the heart of the city and the original town.** With a public hearing, there would have been understanding that citizens would be incurring more bond debt.

4. Whether adjacent and downstream landowners received proper notice pursuant to TCEQ's rules.

(RTC Response No. 9) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly notify adjacent and downstream landowners in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response- Thank you to the ED and OPIC for acknowledging this point. There are **5** property owners below that have in property that backs up to a creek that runs to Brushy Creek and **they did not** receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit that is on display at Josephine City Hall. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

These citizens are within .36 miles and would be affected parties.

6-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the permit book at City Hall in late December.

First mention of the permit at council was in a DBI/Dunaway report in February 2024 even though the permit was made in May

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise

2023. **2-12-2024-DBI Report excerpt** - during the month of February and is open for public comment.

5. Whether Applicant properly published notice in accordance with 30 TAC Chapter 39.

(RTC Response Nos. 9 and 14) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly publish notice in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response - I appreciate that the ED acknowledges this point, as well as OPIC. The initial notice was published in The Collin County Commercial Record Dec. 5 2023, which per their website is "Collin County's newspaper for **current court and commercial information.**" It costs \$200 a year. Few if any citizens in Josephine subscribe to it. Dr. Sardo was told the Collin county Commercial Register was used because the city uses it for bidding. The Collin County Commercial Register is not transparent for Josephine citizens. After my notification to the city it ran again. I spoke with Eddy Daniel (one of the Josephine Engineers) after seeing the permit by accident in City Hall on Dec. 23, 2023. After the call with Eddy and my speaking at January City Council about the application and some of my concerns, the notice was run on January 18 in Farmerville Times and Greenville Herald Banner since the wastewater runs into Hunt County. I could not find the Greenville Herald Banner posting on the Texas Public Notices Website. [https://www.texaspublicnotices.com/\(S\(ay0fq1pl5hj4bxsorbgxb0pn\)\)/Search.aspx](https://www.texaspublicnotices.com/(S(ay0fq1pl5hj4bxsorbgxb0pn))/Search.aspx)

VIEW	Farmersville, The Farmersville Times Thursday, January 18, 2024
APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010887003 , to authorize the discharge of t ... click 'view' to open the full text.	
VIEW	McKinney, Collin County Commercial Record Tuesday, December 05, 2023
Texas Commission on Environmental Quality NOTICE OF APPLICATION AND PRELIMINARY DECISION FOR TPDES PERMIT FOR MUNICIPAL WASTEWATER NEW PERMIT NO. WQ001087003 APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environ ... click 'view' to open the full text.	

6. Whether the draft permit properly considered possible increases in instances of flooding and erosion.

(RTC Response No. 5) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response - Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- My response it that flooding issues must be relevant to the Wastewater Plant as TCEQ includes flood mitigation in the permit. On page 34 in the Backup Filed for the ED's Consideration of Hearing Requests, Other Requirements Item 4. states "The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood."

The RTC Response No 5 was: The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters.

I contend TCEQ does have jurisdiction to address flooding in the permit. If the City is going to protect the plant, deflected water during flooding, it would stand to reason deflected water(or pumped water) can enhance flooding for the citizens downstream. There has been and is continuing development behind the sewer plant location. There is a disconnect between the permit backup for the hearing and the Domestic Technical Report 1.1 Section 5 Facility Instructions.

In the current Wastewater Master Plan on page 15, engineer creating the document treats the NEW SBR plant on Caddo St. as an expansion/additional. This means more than 750,000 a day will go in the creek. I cannot locate any application item in the permit that indicates what type of protection the wastewater treatment facility has.

If this statement is important enough to be in the permit, and a flood study has not been completed since 2009 and the land to the North of the sewer plant is being developed, it could become very important to the sewer plant.

Thank you for your consideration.

7. Whether the draft permit is protective of air quality.

(RTC Response No. 6) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response -Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- After reviewing the application/TCEQ Permitting forms that were on display at City Hall, I find no line item for air quality, only mention of nuisance odors. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits, as it continues to come up in many permitting processes. Thank you.

8. Whether the draft permit properly considered potential economic impacts.

(No RTC Response) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

Jane Ridgway Response- After reviewing I find no line item for economic impact on TCEQ Permitting forms that were on display at City Hall. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits. Thank you.

Jane Ridgway - Office of Public Interest Counsel – Sept 26, 2024 Response.

Jane Ridgway Response – I concur with the OPIC on item 1-4. Item 6 – I will acknowledge and accept reluctantly.

With OPIC Item 5 my response is the same as noted on to the ED on item 6. Thank you very much for considering our concerns.

Section III.B

Section III Analysis of Hearing Request B. The affected requestors raised the following disputed issues:

1. Whether the draft permit is adequately protective against nuisance odors.
2. Whether there was adequate notice of the application and draft permit.
3. Whether the draft permit is adequately protective of wildlife.
4. Whether the application was accurately completed

1.Nuisance Odors

Affected requestors raised concerns about the proposed facility's emission of nuisance odors. TCEQ regulates nuisance conditions under 30 TAC § 309.13(e) which requires applicants to implement a nuisance odor abatement plan. Further, permits issued by TCEQ do 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.

Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

2. Notice

A requestor raised concerns about notice. Her concerns focused on whether all required, nearby landowners were properly notified. Chapter 39 contains requirements relating to notice publication, alternative language publication, mailing of notice, and posting of the application in a public place within the county. **The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.**

3. Wildlife

Requestors raised concerns about adverse effects to water quality and the consequential impacts on wildlife. The Commission is responsible for the protection of water quality under Texas Water Code (TWC) Chapter 26 and 30 TAC Chapters 307 and 309. The Texas Surface Water Quality Standards (Standards) in Chapter 307 require that the proposed permit "maintain the quality of water in the state consistent with public health and enjoyment, propagation and protection of terrestrial and aquatic life, operation of existing industries, and ... economic development of the state...." 30 TAC § 307.1. According to § 307.6(b)(4) of the Standards, "Water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, or domestic animals, **resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three.**" Additionally, "[s]urface waters must not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life." 30 TAC § 307.4(d).

As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

4. Application Accuracy

TCEQ rules require that if an applicant becomes aware that it failed to submit relevant facts or submitted incorrect information in a permit application, the applicant is required to promptly submit such facts and information. 30 TAC § 305.125(19). Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

5. Flooding

TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider flooding when making a decision on issuance of this permit. Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

6. Air Pollution

Requestors raised concerns regarding the proposed facility's emission of air pollutants. TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider air quality when making a decision on issuance of this TPDES permit, unless there is an associated water quality concern. Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

V. CONCLUSION

Having found that Jane E. Ridgway and James M. Ridgway qualify as affected persons in this matter, OPIC respectfully recommends the Commission grant their hearing requests and refer Issues No. 1-4 specified in Section III.B for a contested case hearing at SOAH with a maximum duration of 180 days. OPIC further recommends the Commission deny all pending requests for reconsideration

Jane Ridgway - Response to City of Josephine Comments 9-26-2024

PUBLIC COMMENT 1:

Aaron Hensley commented that the proposed development will be inclusive of certain people and will use municipal resources.

EXECUTIVE DIRECTOR'S RESPONSE 1:

The ED acknowledges this comment.

APPLICANT'S RESPONSE 1:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 1- I don't know how to comment on this issue, I accept ED's response.

PUBLIC COMMENT 2:

James M. Ridgway, Jane E. Ridgway, and Kevin Christensen requested a contested case hearing on this application.

EXECUTIVE DIRECTOR'S RESPONSE 2:

The ED acknowledges the hearing requests.

To request a contested case hearing, the parties must follow the hearing request procedures found in 30 TAC Chapter 55. 30 TAC § 55.201(a) requires that a hearing request is filed no later than thirty days after the Office of the Chief Clerk mails the ED's Response to Comment. A hearing requestor must meet the affected person requirements found in 30 TAC § 55.203. The hearing request itself must meet the requirements found in section 55.201(c) and (d). All timely filed hearing requests will be processed in accordance with section 55.209. Unless the case is directly referred to the State Office of Administrative Hearings under section 55.210, the Commission will consider the hearing requests and determine whether to grant or deny them in accordance with section 55.211.

APPLICANT'S RESPONSE 2:

The City acknowledges this hearing request and ED's response

AFFECTED PERSON RESPONSE 2- I acknowledge the hearing request and ED response.

PUBLIC COMMENT 3:

A. Barochiere, Frank Barochiere, Jo Collin, and L.H. expressed concern that the proposed housing development will create nuisance noise.

EXECUTIVE DIRECTOR'S RESPONSE 3:

The TCEQ's jurisdiction over the permitting process is established by the Texas Legislature and is limited to issues set forth in statutes. While 30 TAC Chapter 309, specifically Subchapter B, contains some nuisance considerations, the TCEQ does not have jurisdiction to consider noise from a wastewater treatment facility, nor from any related development, when determining whether to approve or deny a permit application. However, the draft permit does not limit the ability of individual landowners 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.

APPLICANT'S RESPONSE 3:

The City's proposed wastewater treatment facility will have components installed to minimize noise from pumps and blowers associated with the typical of operations of a wastewater plant.

AFFECTED PERSON RESPONSE 3— I cannot find any place in the application that has components to minimize noise from pumps and blowers.

PUBLIC COMMENT 4:

Barbara Newton and Shannon Villegas requested a public meeting for this application.

EXECUTIVE DIRECTOR'S RESPONSE 4:

Under 30 TAC § 55.154, TCEQ must hold a public meeting when a member of the legislature, representing the general area in which the activity is proposed, requests that a public meeting be held or when the Executive Director determines that there is a substantial or significant degree of public interest in an application. Here, there was no request for a public meeting from a member of the legislature. Additionally, the Executive Director determined that two public meeting requests did not constitute substantial or significant public interest in this application. Therefore, a public meeting was not held.

APPLICANT'S RESPONSE 4:

The City acknowledges this public meeting request and ED's response.

AFFECTED PERSON RESPONSE 4—My belief is people who were interested did not know how to request the meeting properly. The TCEQ letters are daunting. The first newspaper notification was in a newspaper no one took. After I notified the city they reprinted in two papers. Unfortunately the town relies mostly on social media. If citizens B. Newton and S. Villegas would have been granted a hearing, more citizens would have shown up. Nothing is very transparent with permits.

PUBLIC COMMENT 5:

Stacie Bockemuhl, Kevin Christensen, Patricia Jan Keamey, Barbara Newton, and Jane E. Ridgway expressed concerns that discharge from the WWTF and runoff from the accompanying development will increase the likelihood of flooding events.

EXECUTIVE DIRECTOR'S RESPONSE 5:

The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters. The proposed permit includes effluent limits and other requirements that the WWTF must meet even during rainfall events and periods of flooding.

According to the application, the proposed site for the WWTF is located above the 100-year flood plain. For additional protection, the draft permit includes Other Requirement No. 5, which requires the City of Josephine to

AFFECTED PERSON RESPONSE 5— It is noticeable that the City did not respond to the Executive Director on this point. The City has flooded on Caddo Street many times which is next to the current city sewage lagoon which feeds into the “unnamed tributary/ditch” and then to the creek when run-off from storms occurs. Perhaps it is time that the TCEQ's rules committee identifies a need for a rule change, drafts a proposed rule, and presents it to the Commission for approval. I would maintain the city may not be protecting against flood hazard as stated in my initial response. There is no current Flood Mitigation Plan to my knowledge. Last one was approved in 2022, but hopefully will be updated with the influx of residents.

- **The current Wastewater Master Plan page 15 treats the NEW SBR plant on Caddo St. as expansion and add.** This means more than 750,000 a day will go in the creek.

6.4 Lagoon Wastewater Treatment Plant

The City of Josephine currently owns and operates a lagoon wastewater treatment plant. The treatment train includes an aeration oxidation ditch and two mixed lagoons. The current permit allows for a daily average flow of 0.07 MGD. The WWTP is located in the northeast area of the city and existing flows from the west region of the city are lifted to the lagoon wastewater treatment plant.

A project to expand the current wastewater treatment plant and add an additional 0.75 MGD treatment capacity is currently under design by DBI. DBI is also pursuing a new wastewater permit with the TCEQ. This master plan report assumes the 0.75 MGD addition will be incorporated onsite.

6.5 SBR Wastewater Treatment Plant

The Josephine Municipal Utility District (MUD) constructed the Sequencing Batch Reactor (SBR) treatment plant for the Magnolia Phase 1 – 10 subdivision. The City of Josephine owns and operates the WWTP. The plant is currently permitted to treat a daily average flow of 0.5 MGD with a final phased expansion to 1.5 MGD. The WWTP currently includes one treatment train and in general includes the following treatment units: headworks with fine screens, influent lift station, sequencing batch reactor basins, post-flow equalization basin, and aerobic digester basin, filtration, and UV disinfection.

• **Kimley»Horn**

Page 15

PUBLIC COMMENT 6:

Stacie Bockemuhl, Jo Collin, James M. Ridgway, and Jane E. Ridgway expressed concerns about the proposed WWTF causing air pollution.

EXECUTIVE DIRECTOR'S RESPONSE 6:

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 that rule. The Applicant indicated in its application that the proposed facility would be an activated sludge process plant using sequencing batch reactors, which does not make a significant contribution of air contaminants to the atmosphere pursuant to the Texas Health and Safety Code §§ 382.057 and 382.05196. The WWTF is therefore permitted by rule with respect to air emissions.

APPLICANT'S RESPONSE 6:

The proposed wastewater treatment facility will be an activated sludge process plant with sequencing batch reactors, as mentioned by the executive director's response. The facility will also have odor control units installed at lift stations to minimize potential odors.

AFFECTED PERSON RESPONSE 6—Before February, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter about odor mitigation and we thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM usually we still get some odor at our home. Either it has not been done, or the units are not working.

PUBLIC COMMENT 7:

Kevin Christensen, Patricia Jan Kearney, Jane E. Ridgway, and James M. Ridgway expressed concerns that the proposed facility will create nuisance odors.

EXECUTIVE DIRECTOR'S RESPONSE 7:

30 TAC § 309.13(e) requires domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor. According to the application, the applicant intends to locate treatment units at least 150 feet from the nearest property line. This requirement is also incorporated into the proposed permit. Additionally, foul odors may exist when effluent contains an insufficient amount of dissolved oxygen. The draft permit restricts the amount of oxygen demanding constituents to simultaneously reduce the odors in discharged effluent and prevent degradation of receiving waters.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 7:

Buffer zone requirements for the proposed wastewater facilities will be met. Also, as stated in Applicant's Response 6, odor control units will be installed at the on-site lift stations to help minimize potential odors.

- **AFFECTED PERSON RESPONSE 7** –150 ft from a property line just doesn't make sense to people who smell odors that travel. I live more than 150 feet from the Sewer Property line. As stated in Comment 6 between 7 PM & 10 PM usually we still get some odor at our home, either from WWTP#2 or could be WWTP#1. I lean towards WWTP#2. Either units have not been installed, or the units are not working.

PUBLIC COMMENT 8:

Kevin Christensen asked for the WWTF to be moved to a different location.

EXECUTIVE DIRECTOR'S RESPONSE 8:

The ED acknowledges the opposition to the proposed location of the WWTF. Texas Water Code § 26.027, authorizes the TCEQ to issue permits for discharges into water in the state. The ED evaluates applications for wastewater treatment plants based on the information provided in the application. The ED can recommend issuance or denial of an application based on whether the application complies with the Texas Water Code and TCEQ regulations. The Applicant is the entity that proposes the location of the facility, point of discharge, and the discharge route rather than the ED. The ED's review evaluates the impact of the discharge on the receiving waters; however, the TCEQ's permitting authority does not include the ability to mandate a different location for the facility if the location in the application complies with 30 TAC Chapter 309, Subchapter B (Location Standards), specifically 30 TAC § 309.13 pertaining to "Unsuitable Site Characteristics" for a treatment facility. Instead, the ED may only evaluate a proposed location for a wastewater treatment facility according to the Location Standards in the TCEQ regulations and the effect of the treated wastewater on the uses of the receiving stream starting at the point of discharge.

APPLICANT'S RESPONSE 8:

The proposed wastewater treatment facility is proposed to be constructed on an existing wastewater treatment site with an operating wastewater treatment currently owned and operated by the City. The City's existing northern sewer collection system flows to the site. Relocation of the plant would be cost prohibitive for the City to acquire additional land and relocate the existing sewer collection system.

- **AFFECTED PERSON RESPONSE 8** –It would be costly to the city and since they have spent money allocated bond money for sewer on other projects. There is not more land in the city vicinity since developers have purchased it all. It does not seem feasible.

PUBLIC COMMENT 9:

Stacie Bockemehl and Jane E. Ridgway were concerned that nearby landowners were not properly notified.

EXECUTIVE DIRECTOR'S RESPONSE 9:

There are two public notices regarding this permit action, the Notice of Receipt of Application and Intent to Obtain a Wastewater Permit (NORI), and the Notice of Application and Preliminary Decision (NAPD). The TCEQ's notice rules require applicants to provide public notices for wastewater permits by publishing the NORI in a "newspaper of largest circulation in the county in which the facility is located or proposed to be located. If the facility is located or proposed to be located in a municipality, the applicant [must] publish notice in any newspaper of general circulation in the municipality."¹ After the Office of the Chief Clerk has mailed the preliminary decision and the NAPD to the applicant, they are required to publish the NAPD "at least once in a newspaper regularly published or circulated within each county where the proposed facility or discharge is located and in each county affected by the discharge."²

For a history of the published notices regarding this application, please see the first paragraph of section C, Procedural History.

Additionally, the TCEQ's notice rules for a new permit or major amendment require mailed notice of the NORI and NAPD to landowners named on the application map and persons on the mailing list maintained by the Office of the Chief Clerk.³ The applicant is required to submit a landowner map as part of the application materials. The landowner map must include the property boundaries of landowners surrounding the applicant's property and the property boundaries of all landowners surrounding the discharge point and on both sides of the discharge route for one full stream mile downstream of the discharge point. Anyone who submits a comment or contested case hearing request before the end of the public comment period is also added to the mailing list for that permit action.

APPLICANT'S RESPONSE 9:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was additionally published in the *Herald Banner-Greenville, Hunt County, Texas* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 9 The additional newspaper notice in January was run after I notified the city/engineer that the first newspaper used for the notice was in a paper no one subscribes to. Farmerville Times and Herald Banner have always been the papers for public notices for Josephine. There are 5 property owners below that have in property that backs up to the Creek and they did not receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

6-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the book at City Hall in December.

2-12-2024-DBI Report excerpt -

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise during the month of February and is open for public comment.

This is all Stacie Bockemehl received. No letter was attached. It's no wonder people did not respond.

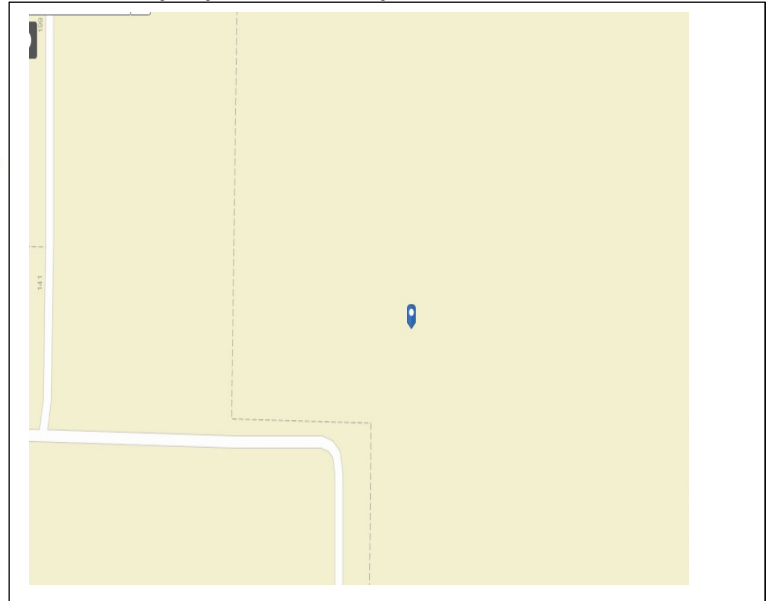
Senate Bill 709 (84th Legislative Session, 2015) amended the Texas Water Code by adding new Section 5.5553, which requires the Texas Commission on Environmental Quality (TCEQ) to provide written notice to you at least thirty (30) days prior to the TCEQ's issuance of draft permits for applications that are located in your district.

City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the TCEQ for proposed Texas Pollutant Discharge Elimination System No. WQ0010887003 (EPA I.D. No. TX0144517) to authorize the discharge of treated wastewater at a volume not to exceed a daily average flow of 750,000 gallons per day. The domestic wastewater treatment facility will be located at 601 East Caddo Street, in Collin County, Texas 75189. The discharge route will be from the plant site to an unnamed tributary, thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment No. 0507 of the Sabine River Basin. TCEQ received this application on May 1, 2023. The permit application will be available for viewing and copying at Josephine City Hall, 201 South Main Street, Josephine, Texas prior to the date this notice is published in the newspaper. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For the exact location, refer to the application.
<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-96.298888,33.066111&level=18>

TCEQ is preparing the initial draft permit. At the time the draft permit is issued, the applicant will be required to publish notice in a newspaper of general circulation, and the TCEQ will provide a copy of the notice of draft permit to persons who have requested to be on a mailing list.

Questions regarding this application may be directed to Mr. Firoj Vahora by calling 512-239-4540.

Issuance Date: June 14, 2023



The 6/14/2023 entry on <https://www14.tceq.texas.gov/epic/eCID/> shows "Letter", but this was NOT a letter in my opinion. Very cryptic. Stacie did not know what it meant until I contacted her.

PUBLIC COMMENT 10:

James M. Ridgway commented that the permit application was improperly filled out.

EXECUTIVE DIRECTOR'S RESPONSE 10:

TCEQ performed an administrative review of the application, upon receipt, to ensure that all required information was provided therein. TCEQ determined that the application was administratively complete on June 6, 2023. The review included TCEQ staff reviewing all administrative information provided in the application.

TCEQ also performed a technical review of the application to ensure that the applicant adequately addressed all required technical issues to show that wastewater from the facility would be treated to required standards and to establish effluent limits that will ensure protection of the receiving water bodies and their existing uses. TCEQ reviewed the proposed discharge route, the designated uses and dissolved oxygen criteria of the receiving water bodies, antidegradation analysis of the discharges, and identification of any endangered species that may be present in the receiving water bodies. Based on the review and analysis, TCEQ established effluent limits and conditions designed to maintain the receiving water body's designated uses and protect human health and aquatic life.

APPLICANT'S RESPONSE 10:

The City acknowledges the submission of an administratively and technically complete application as determined by TCEQ and acknowledged by the ED's response above.

AFFECTED PERSON RESPONSE 10 –See response 9 above – Eight (8) Landowner's were left off the application. In addition there are many other items identified in Response to Executive Director's Response to hearing Requests, Item 3 above.

PUBLIC COMMENT 11:

A. Barochiere, Frank Barochiere, Jo Collin, Aaron Hensley, and H.L. expressed general opposition to the draft permit.

EXECUTIVE DIRECTOR'S RESPONSE 11:

The ED acknowledges these comments.

APPLICANT'S RESPONSE 11:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 11 – I acknowledge this comment and ED's response.

PUBLIC COMMENT 12:

A. Barochiere and Frank Barochiere expressed concerns about the impacts of development surrounding the proposed WWTF.



EXECUTIVE DIRECTOR'S RESPONSE 12:

The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ does not have jurisdiction to consider the possibilities of how future development surrounding the WWTF will impact area residence as a part of the wastewater permitting process.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 12:

The City is experiencing rapid growth thereby requiring wastewater treatment facility improvements/upgrades in order to remain compliant with the requirements of TCEQ. The proposed wastewater treatment facility will serve the referenced development in the area.

AFFECTED PERSON RESPONSE 12 – I acknowledge the ED response.

PUBLIC COMMENT 13:

James M. Ridgway and Jane E. Ridgway expressed concern that discharged effluent would negatively impact wildlife.

EXECUTIVE DIRECTOR'S RESPONSE 13:

30 TAC § 307.6(b)(4) requires water in the state to be maintained to preclude adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. While the TSWQS and the IPs do not specifically designate criteria for the protection of livestock, terrestrial wildlife, or domestic animals, the criteria designated for the protection of human health and aquatic life should preclude adverse impacts to livestock, terrestrial wildlife, and domestic animals.

The Executive Director has determined that the draft permit would be protective of the environment, including aquatic and terrestrial wildlife. Potential water quality issues that could negatively affect wildlife – excessive salinity, high nitrogen content, bacterial contamination, depressed dissolved oxygen, and heavy growths of blue-green algae – are not expected in the receiving waters provided the Applicant complies with proposed permit.

APPLICANT'S RESPONSE 13:

The City intends to comply with the proposed permit in order to prevent the discharge effluent that would have adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals.

AFFECTED PERSON RESPONSE 13 -The city has not engaged in funding for PFAS and emerging contaminants, though PFAS has been brought up at council meetings. Because the city buys water from NTMWD it is seen at NTMWD problem, not Josephine. However, as the fastest growing city in North Texas, or so it is advertised, additional in writing protection on a TCEQ form would be welcomed. An effort to apply for funding at TWDB could help. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov <https://www.twdb.texas.gov/financial/programs/ec/index.asp>

- Funding for PFAS <https://www.tceq.texas.gov/assistance/resources/the-advocate-1/funding-available-for-pfas-and-emerging-contaminants>
- Eco-environment The wooded Brushy Creek area behind my backyard neighbor houses hawks, birds, egrets, fowl, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's. Though chemicals treating sewer are not supposed to be harmful to fish, fowl, animals, an increase in the amount of flow may negate that thought.

Wildlife - Wastewater will affect wildlife, TCEQ says that that water in the state is to be safe for humans, therefore it is safe for wildlife. However, it has been determined that water has PFAS. Nearly all municipal wastewater treatment plants have measurable levels of PFAS in their discharge. The vast majority of that PFAS comes from upstream sources — such as industries, household products, and human waste — and flows through the facilities.

Reference Public Comment 5 – City Wastewater Master Plans says an ADDITIONAL .75 MGD plant.

PUBLIC COMMENT 14:

Pamela Sardo commented that the NORI and the NAPD should not have been published in the *Collin County Commercial Record* because the subscription fee is too high.

EXECUTIVE DIRECTOR'S RESPONSE 14:

Under 30 TAC §§ 39.405(f)(1) and 39.418(b)(1), the NORI must be published in the newspaper of largest circulation in the county in which the proposed WWTF is located, or, if the facility is located in a municipality, then the applicant may publish the NORI in any newspaper of general circulation. Under 30 TAC § 39.419(b), the NAPD must be published at least once in the same newspaper as the NORI.

Here, the NORI and NAPD were both published in the *Collin County Commercial Record*, but the NAPD was also published in the *Harald Banner-Collin County* and in *The Farmersville Times/C&S Media-Collin County*.

APPLICANT'S RESPONSE 14:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was also published in the *Herald Banner-Greenville, Hunt County TX* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 14 – The city only published in the local papers after I notified them several people did get notified that live close to me. They told Dr. Sardo that the Collin County Commercial Register was used because they use it for bidding. Using Collin Co. Commercial Record shows it was not transparent to Citizens, because it is for commercial. It was not transparent. The first notification to City Council about the Permit was on DBI Report for 1-6-2024, even though it had been applied for in May.

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
972-834-8686
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087

To: All interested persons on the attached mailing list

RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024
City of Josephine (Applicant)
Responses to Executive Director of the TCEQ, Public Interest Counsel of TCEQ and Applicant

In preparation for the hearing on the above mentioned permit application, I am sending my responses to comply with rules set forth in TCEQ letter dated Sept 4, 2024 setting the docket number. The commission rules entitle all recipients of time hearing requests/requests for reconsideration to file a formal written response to Applicant, the Executive Director and the Public Interest Counsel of the TCEQ by or on September 30, 2024. I am responding to correspondence from the Executive Director's Office and the Office of Public Interest Counsel which were both to me on Sept 16, 2024. I had to go online to obtain the filing from the City of Josephine in order to respond.

There are responses to each of the 3 parties in the document following this letter.

Thank you in advance for your consideration.

Best Regards,

Jane Ridgway

MAILING LIST
City of Josephine
TCEQ Docket No./TCEQ Expediente N.º 2024-1228-MWD;
TPDES Permit No./TPDES Permiso N.º WQ0010887003

FOR THE APPLICANT/PARA EL
SOLICITANTE

Lisa Palomba, City Administrator
City of Josephine
P.O. Box 99
Josephine, Texas 75164

Eddy Daniel, P.E.
City Engineer, Dunaway, LLC
P.O. Box 606
Farmerville, Texas 75442

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

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

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

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

FOR PUBLIC INTEREST COUNSEL/PARA
ABOGADOS DE INTERÉS PÚBLICO
via electronic mail/vía correo electrónico:

Garrett T. Arthur, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711

FOR ALTERNATIVE DISPUTE
RESOLUTION/PARA LA RESOLUCIÓN
ALTERNATIVA DE DISPUTAS
via electronic mail/vía correo electrónico:

Kyle Lucas
Texas Commission on Environmental
Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, Texas 78711

FOR THE CHIEF CLERK/PARA EL
SECRETARIO OFICIAL
via eFilings:

Docket Clerk
Texas Commission on Environmental
Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711
<https://www.tceq.texas.gov/goto/efilings>

REQUESTER(S)/INTERESTED PERSON(S)/
SOLICITANTE(S)/ PERSONA(S)
INTERESADA(S)
See attached list/Ver lista adjunta.

REQUESTER(S)/ SOLICITANTE(S)

Christensen, Kevin
201 Monarch Ln
Josephine Tx 75173-7152

Ridgway, James M
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, James M
5754 FM 6
Josephine Tx 75189-4000

Ridgway, Jane E
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, Jane E
5754 FM 6
Josephine Tx 75189-4000

BAROCHIERE , A
300 PATINA ST
JOSEPHINE TX 75189-6020

BAROCHIERE , FRANK
300 PATINA ST
JOSEPHINE TX 75189-6020

BOCKEMEHL , MRS STACIE
PO BOX 233
CADDO MILLS TX 75135-0233

CHRISTENSEN , KEVIN
201 MONARCH LN
JOSEPHINE TX 75173-7152

COLLIN , JO
300 CHUCK WAGON DR
JOSEPHINE TX 75189-5442

DUPUIS , JACOB
DUNAWAY
118 MCKINNEY ST
FARMERSVILLE TX 75442-2214

FLORES , SARAH
303 WAGON WHEEL DR
JOSEPHINE TX 75189-5385

HENSLEY , AARON
513 PLUM DR
JOSEPHINE TX 75173-8536

KEARNEY , MS PATRICIA JAN
PO BOX 193
JOSEPHINE TX 75164-0193

L , H
308 CHUCK WAGON DR
JOSEPHINE TX 75189-5442

NEWTON , BARBARA
PO BOX 415
JOSEPHINE TX 75164-0415

RIDGWAY , JANE E
PO BOX 127
CADDO MILLS TX 75135-0127

RIDGWAY , JANE E
5754 FM 6
JOSEPHINE TX 75189-4000

RIDGWAY , JAMES M
PO BOX 127
CADDO MILLS TX 75135-0127

RIDGWAY , JAMES M
5754 FM 6
JOSEPHINE TX 75189-4000

SARDO , DR. PAMELA
2006 HARVEST LN
JOSEPHINE TX 75173-7075

VILLEGAS , SHANNON
106 MILTON ST
JOSEPHINE TX 75173-8528

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087
RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024

**CONTINUED REQUEST FOR A CONTESTED CASE HEARING ON
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
TPDES PERMIT NUMBER WQ0010887003**

Name of Person Contesting: Jane Ridgway
Mailing Address: P O Box 127, Caddo Mills, TX 75135-0127
Daytime Phone: 972-834-8686
Fax Number: None
My Physical Property Location
and Homestead 5754 FM 6, Josephine, TX 75189 - Hunt County
Email: jridgway1971@gmail.com (no "e" in ridgway)
Applicant: City of Josephine - TPDES PERMIT NUMBER WQ0010887003

Response to Executive Director's Response to Hearing Requests (with OPIC Comments)

VII. ANALYSIS OF THE HEARING REQUESTS

A. WHETHER THE REQUEST COMPLIED WITH 30 TAC §§ 55.201(c) AND (d).

1. Jane Ridgway filed four timely, written Requests that provided the requisite contact information, raised issues that form the basis of her Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Ms. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Ms. Ridgway believes she will be affected by the application in a way not common to the public. Ms. Ridgway's Requests stated that she lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Ms. Ridgway's property is 0.36 miles away from the proposed facility. Ms. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, flooding and erosion, air quality, and economic impacts.

The ED recommends finding that the Requests of Ms. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges my compliance to the TAC. Thank you.

2. James Ridgway filed two timely, written Requests that provided the requisite contact information, raised issues that form the basis of his Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Mr. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Mr. Ridgway believes he will be affected by the application in a way not common to the general public. Mr. Ridgway's Requests stated that he lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Mr. Ridgway's property is 0.36 miles away from the proposed facility. Mr. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, and flooding.

The ED recommends finding that the Requests of Mr. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledged his compliance to the TAC.

B. WHETHER REQUESTOR IS AN AFFECTED PERSON UNDER 30 TAC § 55.203.

1. Jane Ridgway filed four Requests that effectively identified personal, justiciable interests affected by the application. Ms. Ridgway's Requests stated that she was close to the proposed facility and that she is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Ms. Ridgway's property is situated 0.36 miles away from the proposed facility. Ms. Ridgway's proximity to the proposed facility, in conjunction with the issues Ms. Ridgway raised, lead the ED to determine that Ms. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Ms. Ridgway is an affected person under 30 TAC § 55.203 and grant her hearing request.

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges I am an affected person and granting the hearing request. Thank you.

2. James Ridgway filed two Requests that effectively identified personal, justiciable interests affected by the application. Mr. Ridgway's Requests stated that he was close to the proposed facility and that he is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Mr. Ridgway's property is situated 0.36 miles away from the proposed facility. Mr. Ridgway's proximity to the proposed facility, in conjunction with the issues Mr. Ridgway raised, lead the ED to determine that Mr. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Mr. Ridgway is an affected person under 30 TC § 55.203 and grant his hearing request.

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledges he is an affected person and for granting the hearing request.

VIII. ISSUES RAISED IN THE HEARING REQUEST:

1. **Whether the draft permit adequately prevents nuisance odors as required by 30 TAC § 309.13(e).**

(RTC Response No. 7) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit does not control nuisance odors in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 1. Nuisance Odors - Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

Jane Ridgway Response - I appreciate the possible referral from the ED on nuisance odor issue, and OPIC positive response. Before February 2024, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter dated February 1 to Lisa Polomba, City Administrator about odor mitigation and installing odor control equipment. I thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM on most days we still get odor at our home. Either mitigation has not been done, or the units are not working. The permit includes information from Evoqua, but their information alludes to pipeline distribution of wastewater. "A liquid phase dosing program can be used to prevent odorous compounds from forming in wastewater. Chemicals, such as Bioxide® Solution are added directly into the wastewater stream along the wastewater pipeline. This plant will dump into a manmade ditch.

2. **Whether the draft permit is adequately protective of aquatic and terrestrial wildlife.**

(RTC Response No. 13) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit is not protective of aquatic and terrestrial wildlife in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 3. Wildlife - As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

Jane Ridgway Response- Thank you. I appreciate the possible referral from the ED on this issue, and also the OPIC for finding the issue relevant. The Natural wooded creek area behind the Bowman home (my backyard neighbor) has hawks, birds, egrets, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's while 20 swamp rabbits come out at Bowman's. I do have my rabbit and egret photos. These critters come to my property except the beaver.

TCEQ states that that water in the state is to be safe for humans; therefore it is safe for wildlife. However, it has been determined that wastewater has PFAS. It has been found PFAS is harmful wildlife.

<https://news.mongabay.com/2023/09/pfas-forever-chemicals-harming-wildlife-the-world-over-study/>. NTMWD supplies water to Josephine which contains PFAS. City Staff think PFAS mitigation is NTMWD issue. NTMWD is addressing PFAS incoming water, but Josephine should help with wastewater. If not addressed at wastewater level, PFAS will continue to be distributed to ditch/creeks/Lake Tawakoni until However, as the fastest growing city in North Texas, additional PFAS treatment for wastewater to humans at Lake Tawakoni, and to protect aquatic and terrestrial wildlife both in writing and action seems prudent. Perhaps EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS include PFAS monitoring under *Other Requirements which I cannot find.

The City could apply for funding at TWDB if my research is good. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov

3. Whether the application was correctly determined to be administratively and technically complete.

(RTC Response No. 10) This issue involves a disputed question of mixed fact and law. If it can be shown that the application information, on which the draft permit is based, was not complete, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 4. Application Accuracy - Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

Jane Ridgway Response- I wish to thank the ED for the referral and also the OPIC. As the definition of not complete is which can also mean "incomplete" means something is not complete or finished, and may be lacking a necessary part, element, or step. Possibly inaccurate. Another review of the application and our findings is below. We would like to know if these were rectified.

TCEQ Core Data Form Section II

Customer Information Item 9. Federal Tax ID is missing. Cities need one to pay employees.

Domestic Technical Worksheet TCEQ-10054

Section 2 – B. and C. Not answered. "No" should have been checked.

Section 4 – B Flow characteristics

If a stream, manmade channel or ditch was checked above provide the following. For existing discharges, check one of the following that best characterizes the area upstream of the discharge. For new discharges, characterize the area *downstream* of the discharge. (Check one) .

There were no boxes checked in the section "Check the method used to characterize the area upstream (or downstream) for new dischargers. Please note that in Section 4, Description of Immediate Receiving Waters, A. Receiving water type, the last box "Manmade channel or ditches" was check marked. This is the first time I realized the Unnamed Tributary was in fact a manmade channel or ditch.

Section 4 – C-Downstream Perennial confluences.

List the names of all perennial streams the join the receiving water within 3 miles downstream of the discharge point. This was answered "none". I checked map at <https://en-us.topographic-map.com/map-sdhms8/Josephine/?center=33.06373%2C-96.29229&zoom=16&overlay=0> . Since my house is .36 miles, it looks like the unnamed tributary and Brushy Creek should be listed. If so, then the answer to Item D would be incorrect.

Section 4 – E. Normal dry weather characteristics. “No Flows” was entered, but could be incorrect. There is water in the creek behind the Bockemehl in summer. It does not dry up. Maybe the person who filled out the application did not go completely downstream. The stream does curve and get very deep at points. It gets deeper and wide and does rush the land.

Section 5 . General Characteristics of the Waterbody Obstructions – Item C. Water body aesthetics. As a person who sees this very frequently, the answer should be Natural Area: Trees and/or native vegetation: some development evident (from fields, pastures, dwellings) water clarity discolored. (page 32 of 80)

Application for a Domestic Wastewater Permit Administrative Report 1.0

Section 10- TPDES Discharge Information (Instructions Page 31) Item A – no boxes checked. Item B -No boxes checked.

Texas Commission on Environmental Quality Supplemental Permit information (SPIF) page 19 of 24

Item Provide description of effluent discharge route. - I believe this should state From a manmade ditch called unnamed tributary , thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment 0507 of the Sabine River Basin. Unnamed tributaries appear to be recreational in Texas, which defines as a little creek, or seep, or spring, or bog, or wetland without a name begins its life as surface water when it emerges from the ground. If this is true, the Josephine wastewater is and would continue to be dumping into what is surfaced groundwater and that might not be good.

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Section 4. Unbuilt Phases – Neither box was checked.

Section 5. Closure Plans

Have any treatment units been taken out of service permanently or will units be taken out of service in the next 5 years. **Neither YES or NO was checked.** With this section not being checked, and with the Wastewater Master Plan stating the Wastewater Plant 3 is **additional the answer is open to interpretation**. It is open ended and information available to public online conflicts with the Justification of permit description, next item.

Domestic Technical Report 1.1 Page 21 of 80

Section 1 Justification for Permit –

- A. Justification of permit need – Provide a detailed discussion of the need for any phase(s) not currently permitted. Failure to provide sufficient justification may result in the Executive Director recommending denial of the proposed phases(s) or permit.

This proposed treatment plant will serve a housing development. The developer is proposing a final build out of 4,000 to 6,000 single family housing. The City of Josephine will own and operate this plant (WWPT #3)The city currently has a lagoon treatment plant (WWTP#1 WQ0010887001, permitted flows 070 MGD),which will eventually be decommissioned, and those influent flows sent to this proposed treatment plant.

This is either wrong, or city was/is not being transparent about the lagoon going away. Per City’s Comprehensive Plan, 961 homes are anticipated spread among many developers. I do not see 4,000 – 6,000 houses in one housing development, except for DR Horton who is funding an addition to City of Josephine Wastewater #2 in the Magnolia Subdivision. The addition to City of Josephine Wastewater #2 was supposed to serve Riverfield which is 4,000 to 6,000 homes in back of Bowman and Ridgway and Bockelmehl properties. I can however get 5,249 houses in other Josephine sub-divisions (961) plus Horton’s Wildflower (3061). I don’t think the lagoon will be decommissioned, given the evidence in Wastewater Master Plan and this application gaps.

Section 5 Facility Site – A. Is facility above the 100 year floodplain was checked yes, so no method of protection was listed. This does not correlate with the Permit Backup for Hearing on page 34, Other Requirements Item 4. states “The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.”

Public Involvement Plan Form Page 1 of 4 - misrepresented

The last box “Public Involvement Plan not applicable to this application” was checked. But, the city and engineer know the fact that the growth in the area served is 4 times as many residents in the last 5 years, citizens should have been apprised of the expansion. Two people did ask for a public meeting and if all landowners had been notified, there would have been more I’m sure. The plant is in far east Collin County, but the **applicant left out the part that the plant is in the heart of the city and the original town**. With a public hearing, there would have been understanding that citizens would be incurring more bond debt.

4. Whether adjacent and downstream landowners received proper notice pursuant to TCEQ's rules.

(RTC Response No. 9) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly notify adjacent and downstream landowners in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response- Thank you to the ED and OPIC for acknowledging this point. There are **5** property owners below that have in property that backs up to a creek that runs to Brushy Creek and **they did not** receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit that is on display at Josephine City Hall. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

These citizens are within .36 miles and would be affected parties.

6-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the permit book at City Hall in late December.

First mention of the permit at council was in a DBI/Dunaway report in February 2024 even though the permit was made in May

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise

2023. **2-12-2024-DBI Report excerpt -** during the month of February and is open for public comment.

5. Whether Applicant properly published notice in accordance with 30 TAC Chapter 39.

(RTC Response Nos. 9 and 14) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly publish notice in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response - I appreciate that the ED acknowledges this point, as well as OPIC. The initial notice was published in The Collin County Commercial Record Dec. 5 2023, which per their website is "Collin County's newspaper for **current court and commercial information.**" It costs \$200 a year. Few if any citizens in Josephine subscribe to it. Dr. Sardo was told the Collin county Commercial Register was used because the city uses it for bidding. The Collin County Commercial Register is not transparent for Josephine citizens. After my notification to the city it ran again. I spoke with Eddy Daniel (one of the Josephine Engineers) after seeing the permit by accident in City Hall on Dec. 23, 2023. After the call with Eddy and my speaking at January City Council about the application and some of my concerns, the notice was run on January 18 in Farmerville Times and Greenville Herald Banner since the wastewater runs into Hunt County. I could not find the Greenville Herald Banner posting on the Texas Public Notices Website. [https://www.texaspublicnotices.com/\(S\(ay0fq1pl5hj4bxsorbgxb0pn\)\)/Search.aspx](https://www.texaspublicnotices.com/(S(ay0fq1pl5hj4bxsorbgxb0pn))/Search.aspx)

VIEW	Farmersville, The Farmersville Times Thursday, January 18, 2024
APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010887003 , to authorize the discharge of t ... click 'view' to open the full text.	
VIEW	McKinney, Collin County Commercial Record Tuesday, December 05, 2023
Texas Commission on Environmental Quality NOTICE OF APPLICATION AND PRELIMINARY DECISION FOR TPDES PERMIT FOR MUNICIPAL WASTEWATER NEW PERMIT NO. WQ001087003 APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environ ... click 'view' to open the full text.	

6. Whether the draft permit properly considered possible increases in instances of flooding and erosion.

(RTC Response No. 5) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response - Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- My response it that flooding issues must be relevant to the Wastewater Plant as TCEQ includes flood mitigation in the permit. On page 34 in the Backup Filed for the ED's Consideration of Hearing Requests, Other Requirements Item 4. states "The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood."

The RTC Response No 5 was: The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters.

I contend TCEQ does have jurisdiction to address flooding in the permit. If the City is going to protect the plant, deflected water during flooding, it would stand to reason deflected water(or pumped water) can enhance flooding for the citizens downstream. There has been and is continuing development behind the sewer plant location. There is a disconnect between the permit backup for the hearing and the Domestic Technical Report 1.1 Section 5 Facility Instructions.

In the current Wastewater Master Plan on page 15, engineer creating the document treats the NEW SBR plant on Caddo St. as an expansion/additional. This means more than 750,000 a day will go in the creek. I cannot locate any application item in the permit that indicates what type of protection the wastewater treatment facility has.

If this statement is important enough to be in the permit, and a flood study has not been completed since 2009 and the land to the North of the sewer plant is being developed, it could become very important to the sewer plant.

Thank you for your consideration.

7. Whether the draft permit is protective of air quality.

(RTC Response No. 6) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response -Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- After reviewing the application/TCEQ Permitting forms that were on display at City Hall, I find no line item for air quality, only mention of nuisance odors. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits, as it continues to come up in many permitting processes. Thank you.

8. Whether the draft permit properly considered potential economic impacts.

(No RTC Response) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

Jane Ridgway Response- After reviewing I find no line item for economic impact on TCEQ Permitting forms that were on display at City Hall. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits. Thank you.

Jane Ridgway - Office of Public Interest Counsel – Sept 26, 2024 Response.

Jane Ridgway Response – I concur with the OPIC on item 1-4. Item 6 – I will acknowledge and accept reluctantly.

With OPIC Item 5 my response is the same as noted on to the ED on item 6. Thank you very much for considering our concerns.

Section III.B

Section III Analysis of Hearing Request B. The affected requestors raised the following disputed issues:

1. Whether the draft permit is adequately protective against nuisance odors.
2. Whether there was adequate notice of the application and draft permit.
3. Whether the draft permit is adequately protective of wildlife.
4. Whether the application was accurately completed

1.Nuisance Odors

Affected requestors raised concerns about the proposed facility's emission of nuisance odors. TCEQ regulates nuisance conditions under 30 TAC § 309.13(e) which requires applicants to implement a nuisance odor abatement plan. Further, permits issued by TCEQ do 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.

Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

2. Notice

A requestor raised concerns about notice. Her concerns focused on whether all required, nearby landowners were properly notified. Chapter 39 contains requirements relating to notice publication, alternative language publication, mailing of notice, and posting of the application in a public place within the county. **The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.**

3. Wildlife

Requestors raised concerns about adverse effects to water quality and the consequential impacts on wildlife. The Commission is responsible for the protection of water quality under Texas Water Code (TWC) Chapter 26 and 30 TAC Chapters 307 and 309. The Texas Surface Water Quality Standards (Standards) in Chapter 307 require that the proposed permit "maintain the quality of water in the state consistent with public health and enjoyment, propagation and protection of terrestrial and aquatic life, operation of existing industries, and ... economic development of the state...." 30 TAC § 307.1. According to § 307.6(b)(4) of the Standards, "Water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, or domestic animals, **resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three.**" Additionally, "[s]urface waters must not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life." 30 TAC § 307.4(d).

As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

4. Application Accuracy

TCEQ rules require that if an applicant becomes aware that it failed to submit relevant facts or submitted incorrect information in a permit application, the applicant is required to promptly submit such facts and information. 30 TAC § 305.125(19). Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

5. Flooding

TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider flooding when making a decision on issuance of this permit. Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

6. Air Pollution

Requestors raised concerns regarding the proposed facility's emission of air pollutants. TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider air quality when making a decision on issuance of this TPDES permit, unless there is an associated water quality concern. Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

V. CONCLUSION

Having found that Jane E. Ridgway and James M. Ridgway qualify as affected persons in this matter, OPIC respectfully recommends the Commission grant their hearing requests and refer Issues No. 1-4 specified in Section III.B for a contested case hearing at SOAH with a maximum duration of 180 days. OPIC further recommends the Commission deny all pending requests for reconsideration

Jane Ridgway - Response to City of Josephine Comments 9-26-2024

PUBLIC COMMENT 1:

Aaron Hensley commented that the proposed development will be inclusive of certain people and will use municipal resources.

EXECUTIVE DIRECTOR'S RESPONSE 1:

The ED acknowledges this comment.

APPLICANT'S RESPONSE 1:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 1- I don't know how to comment on this issue, I accept ED's response.

PUBLIC COMMENT 2:

James M. Ridgway, Jane E. Ridgway, and Kevin Christensen requested a contested case hearing on this application.

EXECUTIVE DIRECTOR'S RESPONSE 2:

The ED acknowledges the hearing requests.

To request a contested case hearing, the parties must follow the hearing request procedures found in 30 TAC Chapter 55. 30 TAC § 55.201(a) requires that a hearing request is filed no later than thirty days after the Office of the Chief Clerk mails the ED's Response to Comment. A hearing requestor must meet the affected person requirements found in 30 TAC § 55.203. The hearing request itself must meet the requirements found in section 55.201(c) and (d). All timely filed hearing requests will be processed in accordance with section 55.209. Unless the case is directly referred to the State Office of Administrative Hearings under section 55.210, the Commission will consider the hearing requests and determine whether to grant or deny them in accordance with section 55.211.

APPLICANT'S RESPONSE 2:

The City acknowledges this hearing request and ED's response

AFFECTED PERSON RESPONSE 2- I acknowledge the hearing request and ED response.

PUBLIC COMMENT 3:

A. Barochiere, Frank Barochiere, Jo Collin, and L.H. expressed concern that the proposed housing development will create nuisance noise.

EXECUTIVE DIRECTOR'S RESPONSE 3:

The TCEQ's jurisdiction over the permitting process is established by the Texas Legislature and is limited to issues set forth in statutes. While 30 TAC Chapter 309, specifically Subchapter B, contains some nuisance considerations, the TCEQ does not have jurisdiction to consider noise from a wastewater treatment facility, nor from any related development, when determining whether to approve or deny a permit application. However, the draft permit does not limit the ability of individual landowners 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.

APPLICANT'S RESPONSE 3:

The City's proposed wastewater treatment facility will have components installed to minimize noise from pumps and blowers associated with the typical of operations of a wastewater plant.

AFFECTED PERSON RESPONSE 3— I cannot find any place in the application that has components to minimize noise from pumps and blowers.

PUBLIC COMMENT 4:

Barbara Newton and Shannon Villegas requested a public meeting for this application.

EXECUTIVE DIRECTOR'S RESPONSE 4:

Under 30 TAC § 55.154, TCEQ must hold a public meeting when a member of the legislature, representing the general area in which the activity is proposed, requests that a public meeting be held or when the Executive Director determines that there is a substantial or significant degree of public interest in an application. Here, there was no request for a public meeting from a member of the legislature. Additionally, the Executive Director determined that two public meeting requests did not constitute substantial or significant public interest in this application. Therefore, a public meeting was not held.

APPLICANT'S RESPONSE 4:

The City acknowledges this public meeting request and ED's response.

AFFECTED PERSON RESPONSE 4—My belief is people who were interested did not know how to request the meeting properly. The TCEQ letters are daunting. The first newspaper notification was in a newspaper no one took. After I notified the city they reprinted in two papers. Unfortunately the town relies mostly on social media. If citizens B. Newton and S. Villegas would have been granted a hearing, more citizens would have shown up. Nothing is very transparent with permits.

PUBLIC COMMENT 5:

Stacie Bockemuhl, Kevin Christensen, Patricia Jan Keamey, Barbara Newton, and Jane E. Ridgway expressed concerns that discharge from the WWTF and runoff from the accompanying development will increase the likelihood of flooding events.

EXECUTIVE DIRECTOR'S RESPONSE 5:

The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters. The proposed permit includes effluent limits and other requirements that the WWTF must meet even during rainfall events and periods of flooding.

According to the application, the proposed site for the WWTF is located above the 100-year flood plain. For additional protection, the draft permit includes Other Requirement No. 5, which requires the City of Josephine to

AFFECTED PERSON RESPONSE 5— It is noticeable that the City did not respond to the Executive Director on this point. The City has flooded on Caddo Street many times which is next to the current city sewage lagoon which feeds into the “unnamed tributary/ditch” and then to the creek when run-off from storms occurs. Perhaps it is time that the TCEQ's rules committee identifies a need for a rule change, drafts a proposed rule, and presents it to the Commission for approval. I would maintain the city may not be protecting against flood hazard as stated in my initial response. There is no current Flood Mitigation Plan to my knowledge. Last one was approved in 2022, but hopefully will be updated with the influx of residents.

- **The current Wastewater Master Plan page 15 treats the NEW SBR plant on Caddo St. as expansion and add.** This means more than 750,000 a day will go in the creek.

6.4 Lagoon Wastewater Treatment Plant

The City of Josephine currently owns and operates a lagoon wastewater treatment plant. The treatment train includes an aeration oxidation ditch and two mixed lagoons. The current permit allows for a daily average flow of 0.07 MGD. The WWTP is located in the northeast area of the city and existing flows from the west region of the city are lifted to the lagoon wastewater treatment plant.

A project to expand the current wastewater treatment plant and add an additional 0.75 MGD treatment capacity is currently under design by DBI. DBI is also pursuing a new wastewater permit with the TCEQ. This master plan report assumes the 0.75 MGD addition will be incorporated onsite.

6.5 SBR Wastewater Treatment Plant

The Josephine Municipal Utility District (MUD) constructed the Sequencing Batch Reactor (SBR) treatment plant for the Magnolia Phase 1 – 10 subdivision. The City of Josephine owns and operates the WWTP. The plant is currently permitted to treat a daily average flow of 0.5 MGD with a final phased expansion to 1.5 MGD. The WWTP currently includes one treatment train and in general includes the following treatment units: headworks with fine screens, influent lift station, sequencing batch reactor basins, post-flow equalization basin, and aerobic digester basin, filtration, and UV disinfection.

• **Kimley»Horn**

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PUBLIC COMMENT 6:

Stacie Bockemuhl, Jo Collin, James M. Ridgway, and Jane E. Ridgway expressed concerns about the proposed WWTF causing air pollution.

EXECUTIVE DIRECTOR'S RESPONSE 6:

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 that rule. The Applicant indicated in its application that the proposed facility would be an activated sludge process plant using sequencing batch reactors, which does not make a significant contribution of air contaminants to the atmosphere pursuant to the Texas Health and Safety Code §§ 382.057 and 382.05196. The WWTF is therefore permitted by rule with respect to air emissions.

APPLICANT'S RESPONSE 6:

The proposed wastewater treatment facility will be an activated sludge process plant with sequencing batch reactors, as mentioned by the executive director's response. The facility will also have odor control units installed at lift stations to minimize potential odors.

AFFECTED PERSON RESPONSE 6—Before February, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter about odor mitigation and we thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM usually we still get some odor at our home. Either it has not been done, or the units are not working.

PUBLIC COMMENT 7:

Kevin Christensen, Patricia Jan Kearney, Jane E. Ridgway, and James M. Ridgway expressed concerns that the proposed facility will create nuisance odors.

EXECUTIVE DIRECTOR'S RESPONSE 7:

30 TAC § 309.13(e) requires domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor. According to the application, the applicant intends to locate treatment units at least 150 feet from the nearest property line. This requirement is also incorporated into the proposed permit. Additionally, foul odors may exist when effluent contains an insufficient amount of dissolved oxygen. The draft permit restricts the amount of oxygen demanding constituents to simultaneously reduce the odors in discharged effluent and prevent degradation of receiving waters.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 7:

Buffer zone requirements for the proposed wastewater facilities will be met. Also, as stated in Applicant's Response 6, odor control units will be installed at the on-site lift stations to help minimize potential odors.

- **AFFECTED PERSON RESPONSE 7** –150 ft from a property line just doesn't make sense to people who smell odors that travel. I live more than 150 feet from the Sewer Property line. As stated in Comment 6 between 7 PM & 10 PM usually we still get some odor at our home, either from WWTP#2 or could be WWTP#1. I lean towards WWTP#2. Either units have not been installed, or the units are not working.

PUBLIC COMMENT 8:

Kevin Christensen asked for the WWTF to be moved to a different location.

EXECUTIVE DIRECTOR'S RESPONSE 8:

The ED acknowledges the opposition to the proposed location of the WWTF. Texas Water Code § 26.027, authorizes the TCEQ to issue permits for discharges into water in the state. The ED evaluates applications for wastewater treatment plants based on the information provided in the application. The ED can recommend issuance or denial of an application based on whether the application complies with the Texas Water Code and TCEQ regulations. The Applicant is the entity that proposes the location of the facility, point of discharge, and the discharge route rather than the ED. The ED's review evaluates the impact of the discharge on the receiving waters; however, the TCEQ's permitting authority does not include the ability to mandate a different location for the facility if the location in the application complies with 30 TAC Chapter 309, Subchapter B (Location Standards), specifically 30 TAC § 309.13 pertaining to "Unsuitable Site Characteristics" for a treatment facility. Instead, the ED may only evaluate a proposed location for a wastewater treatment facility according to the Location Standards in the TCEQ regulations and the effect of the treated wastewater on the uses of the receiving stream starting at the point of discharge.

APPLICANT'S RESPONSE 8:

The proposed wastewater treatment facility is proposed to be constructed on an existing wastewater treatment site with an operating wastewater treatment currently owned and operated by the City. The City's existing northern sewer collection system flows to the site. Relocation of the plant would be cost prohibitive for the City to acquire additional land and relocate the existing sewer collection system.

- **AFFECTED PERSON RESPONSE 8** –It would be costly to the city and since they have spent money allocated bond money for sewer on other projects. There is not more land in the city vicinity since developers have purchased it all. It does not seem feasible.

PUBLIC COMMENT 9:

Stacie Bockemehl and Jane E. Ridgway were concerned that nearby landowners were not properly notified.

EXECUTIVE DIRECTOR'S RESPONSE 9:

There are two public notices regarding this permit action, the Notice of Receipt of Application and Intent to Obtain a Wastewater Permit (NORI), and the Notice of Application and Preliminary Decision (NAPD). The TCEQ's notice rules require applicants to provide public notices for wastewater permits by publishing the NORI in a "newspaper of largest circulation in the county in which the facility is located or proposed to be located. If the facility is located or proposed to be located in a municipality, the applicant [must] publish notice in any newspaper of general circulation in the municipality."¹ After the Office of the Chief Clerk has mailed the preliminary decision and the NAPD to the applicant, they are required to publish the NAPD "at least once in a newspaper regularly published or circulated within each county where the proposed facility or discharge is located and in each county affected by the discharge."²

For a history of the published notices regarding this application, please see the first paragraph of section C, Procedural History.

Additionally, the TCEQ's notice rules for a new permit or major amendment require mailed notice of the NORI and NAPD to landowners named on the application map and persons on the mailing list maintained by the Office of the Chief Clerk.³ The applicant is required to submit a landowner map as part of the application materials. The landowner map must include the property boundaries of landowners surrounding the applicant's property and the property boundaries of all landowners surrounding the discharge point and on both sides of the discharge route for one full stream mile downstream of the discharge point. Anyone who submits a comment or contested case hearing request before the end of the public comment period is also added to the mailing list for that permit action.

APPLICANT'S RESPONSE 9:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was additionally published in the *Herald Banner-Greenville, Hunt County, Texas* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 9 The additional newspaper notice in January was run after I notified the city/engineer that the first newspaper used for the notice was in a paper no one subscribes to. Farmerville Times and Herald Banner have always been the papers for public notices for Josephine. There are 5 property owners below that have in property that backs up to the Creek and they did not receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

6-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the book at City Hall in December.

2-12-2024-DBI Report excerpt -

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise during the month of February and is open for public comment.

This is all Stacie Bockemehl received. No letter was attached. It's no wonder people did not respond.

Senate Bill 709 (84th Legislative Session, 2015) amended the Texas Water Code by adding new Section 5.5553, which requires the Texas Commission on Environmental Quality (TCEQ) to provide written notice to you at least thirty (30) days prior to the TCEQ's issuance of draft permits for applications that are located in your district.

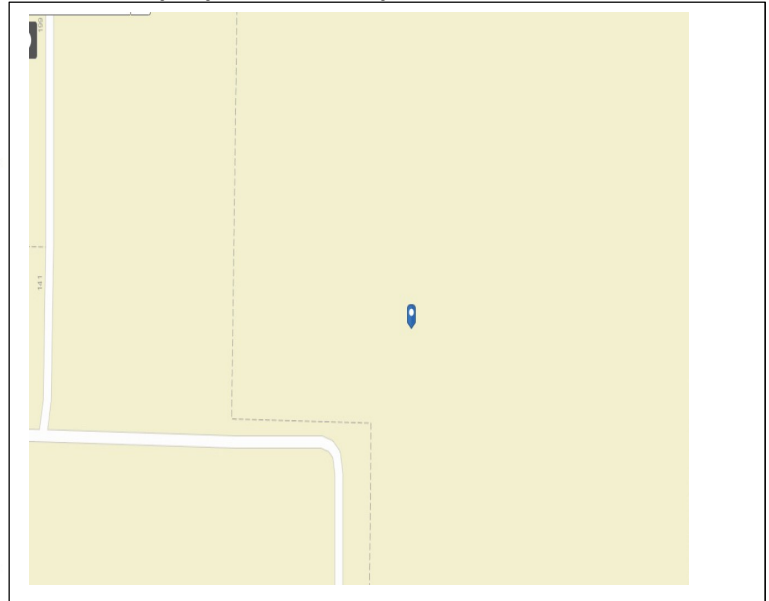
City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the TCEQ for proposed Texas Pollutant Discharge Elimination System No. WQ0010887003 (EPA I.D. No. TX0144517) to authorize the discharge of treated wastewater at a volume not to exceed a daily average flow of 750,000 gallons per day. The domestic wastewater treatment facility will be located at 601 East Caddo Street, in Collin County, Texas 75189. The discharge route will be from the plant site to an unnamed tributary, thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment No. 0507 of the Sabine River Basin. TCEQ received this application on May 1, 2023. The permit application will be available for viewing and copying at Josephine City Hall, 201 South Main Street, Josephine, Texas prior to the date this notice is published in the newspaper. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For the exact location, refer to the application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-96.298888,33.066111&level=18>

TCEQ is preparing the initial draft permit. At the time the draft permit is issued, the applicant will be required to publish notice in a newspaper of general circulation, and the TCEQ will provide a copy of the notice of draft permit to persons who have requested to be on a mailing list.

Questions regarding this application may be directed to Mr. Firoj Vahora by calling 512-239-4540.

Issuance Date: June 14, 2023



The 6/14/2023 entry on <https://www14.tceq.texas.gov/epic/eCID/> shows "Letter", but this was NOT a letter in my opinion. Very cryptic. Stacie did not know what it meant until I contacted her.

PUBLIC COMMENT 10:

James M. Ridgway commented that the permit application was improperly filled out.

EXECUTIVE DIRECTOR'S RESPONSE 10:

TCEQ performed an administrative review of the application, upon receipt, to ensure that all required information was provided therein. TCEQ determined that the application was administratively complete on June 6, 2023. The review included TCEQ staff reviewing all administrative information provided in the application.

TCEQ also performed a technical review of the application to ensure that the applicant adequately addressed all required technical issues to show that wastewater from the facility would be treated to required standards and to establish effluent limits that will ensure protection of the receiving water bodies and their existing uses. TCEQ reviewed the proposed discharge route, the designated uses and dissolved oxygen criteria of the receiving water bodies, antidegradation analysis of the discharges, and identification of any endangered species that may be present in the receiving water bodies. Based on the review and analysis, TCEQ established effluent limits and conditions designed to maintain the receiving water body's designated uses and protect human health and aquatic life.

APPLICANT'S RESPONSE 10:

The City acknowledges the submission of an administratively and technically complete application as determined by TCEQ and acknowledged by the ED's response above.

AFFECTED PERSON RESPONSE 10 –See response 9 above – Eight (8) Landowner's were left off the application. In addition there are many other items identified in Response to Executive Director's Response to hearing Requests, Item 3 above.

PUBLIC COMMENT 11:

A. Barochiere, Frank Barochiere, Jo Collin, Aaron Hensley, and H.L. expressed general opposition to the draft permit.

EXECUTIVE DIRECTOR'S RESPONSE 11:

The ED acknowledges these comments.

APPLICANT'S RESPONSE 11:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 11 – I acknowledge this comment and ED's response.

PUBLIC COMMENT 12:

A. Barochiere and Frank Barochiere expressed concerns about the impacts of development surrounding the proposed WWTF.



EXECUTIVE DIRECTOR'S RESPONSE 12:

The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ does not have jurisdiction to consider the possibilities of how future development surrounding the WWTF will impact area residence as a part of the wastewater permitting process.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 12:

The City is experiencing rapid growth thereby requiring wastewater treatment facility improvements/upgrades in order to remain compliant with the requirements of TCEQ. The proposed wastewater treatment facility will serve the referenced development in the area.

AFFECTED PERSON RESPONSE 12 – I acknowledge the ED response.

PUBLIC COMMENT 13:

James M. Ridgway and Jane E. Ridgway expressed concern that discharged effluent would negatively impact wildlife.

EXECUTIVE DIRECTOR'S RESPONSE 13:

30 TAC § 307.6(b)(4) requires water in the state to be maintained to preclude adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. While the TSWQS and the IPs do not specifically designate criteria for the protection of livestock, terrestrial wildlife, or domestic animals, the criteria designated for the protection of human health and aquatic life should preclude adverse impacts to livestock, terrestrial wildlife, and domestic animals.

The Executive Director has determined that the draft permit would be protective of the environment, including aquatic and terrestrial wildlife. Potential water quality issues that could negatively affect wildlife – excessive salinity, high nitrogen content, bacterial contamination, depressed dissolved oxygen, and heavy growths of blue-green algae – are not expected in the receiving waters provided the Applicant complies with proposed permit.

APPLICANT'S RESPONSE 13:

The City intends to comply with the proposed permit in order to prevent the discharge effluent that would have adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals.

AFFECTED PERSON RESPONSE 13 -The city has not engaged in funding for PFAS and emerging contaminants, though PFAS has been brought up at council meetings. Because the city buys water from NTMWD it is seen at NTMWD problem, not Josephine. However, as the fastest growing city in North Texas, or so it is advertised, additional in writing protection on a TCEQ form would be welcomed. An effort to apply for funding at TWDB could help. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov <https://www.twdb.texas.gov/financial/programs/ec/index.asp>

- Funding for PFAS <https://www.tceq.texas.gov/assistance/resources/the-advocate-1/funding-available-for-pfas-and-emerging-contaminants>
- Eco-environment The wooded Brushy Creek area behind my backyard neighbor houses hawks, birds, egrets, fowl, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's. Though chemicals treating sewer are not supposed to be harmful to fish, fowl, animals, an increase in the amount of flow may negate that thought.

Wildlife - Wastewater will affect wildlife, TCEQ says that that water in the state is to be safe for humans, therefore it is safe for wildlife. However, it has been determined that water has PFAS. Nearly all municipal wastewater treatment plants have measurable levels of PFAS in their discharge. The vast majority of that PFAS comes from upstream sources — such as industries, household products, and human waste — and flows through the facilities.

Reference Public Comment 5 – City Wastewater Master Plans says an ADDITIONAL .75 MGD plant.

PUBLIC COMMENT 14:

Pamela Sardo commented that the NORI and the NAPD should not have been published in the *Collin County Commercial Record* because the subscription fee is too high.

EXECUTIVE DIRECTOR'S RESPONSE 14:

Under 30 TAC §§ 39.405(f)(1) and 39.418(b)(1), the NORI must be published in the newspaper of largest circulation in the county in which the proposed WWTF is located, or, if the facility is located in a municipality, then the applicant may publish the NORI in any newspaper of general circulation. Under 30 TAC § 39.419(b), the NAPD must be published at least once in the same newspaper as the NORI.

Here, the NORI and NAPD were both published in the *Collin County Commercial Record*, but the NAPD was also published in the *Harald Banner-Collin County* and in *The Farmersville Times/C&S Media-Collin County*.

APPLICANT'S RESPONSE 14:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was also published in the *Herald Banner-Greenville, Hunt County TX* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 14 – The city only published in the local papers after I notified them several people did get notified that live close to me. They told Dr. Sardo that the Collin County Commercial Register was used because they use it for bidding. Using Collin Co. Commercial Record shows it was not transparent to Citizens, because it is for commercial. It was not transparent. The first notification to City Council about the Permit was on DBI Report for 1-6-2024, even though it had been applied for in May.

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
972-834-8686
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087

To: All interested persons on the attached mailing list

RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024
City of Josephine (Applicant)
Responses to Executive Director of the TCEQ, Public Interest Counsel of TCEQ and Applicant

In preparation for the hearing on the above mentioned permit application, I am sending my responses to comply with rules set forth in TCEQ letter dated Sept 4, 2024 setting the docket number. The commission rules entitle all recipients of time hearing requests/requests for reconsideration to file a formal written response to Applicant, the Executive Director and the Public Interest Counsel of the TCEQ by or on September 30, 2024. I am responding to correspondence from the Executive Director's Office and the Office of Public Interest Counsel which were both to me on Sept 16, 2024. I had to go online to obtain the filing from the City of Josephine in order to respond.

There are responses to each of the 3 parties in the document following this letter.

Thank you in advance for your consideration.

Best Regards,

Jane Ridgway

MAILING LIST
City of Josephine
TCEQ Docket No./TCEQ Expediente N.º 2024-1228-MWD;
TPDES Permit No./TPDES Permiso N.º WQ0010887003

FOR THE APPLICANT/PARA EL
SOLICITANTE

Lisa Palomba, City Administrator
City of Josephine
P.O. Box 99
Josephine, Texas 75164

Eddy Daniel, P.E.
City Engineer, Dunaway, LLC
P.O. Box 606
Farmerville, Texas 75442

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

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

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

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

FOR PUBLIC INTEREST COUNSEL/PARA
ABOGADOS DE INTERÉS PÚBLICO
via electronic mail/vía correo electrónico:

Garrett T. Arthur, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711

FOR ALTERNATIVE DISPUTE
RESOLUTION/PARA LA RESOLUCIÓN
ALTERNATIVA DE DISPUTAS
via electronic mail/vía correo electrónico:

Kyle Lucas
Texas Commission on Environmental
Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, Texas 78711

FOR THE CHIEF CLERK/PARA EL
SECRETARIO OFICIAL
via eFilings:

Docket Clerk
Texas Commission on Environmental
Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711
<https://www.tceq.texas.gov/goto/efilings>

REQUESTER(S)/INTERESTED PERSON(S)/
SOLICITANTE(S)/ PERSONA(S)
INTERESADA(S)
See attached list/Ver lista adjunta.

REQUESTER(S)/ SOLICITANTE(S)

Christensen, Kevin
201 Monarch Ln
Josephine Tx 75173-7152

Ridgway, James M
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, James M
5754 FM 6
Josephine Tx 75189-4000

Ridgway, Jane E
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, Jane E
5754 FM 6
Josephine Tx 75189-4000

BAROCHIERE , A
300 PATINA ST
JOSEPHINE TX 75189-6020

BAROCHIERE , FRANK
300 PATINA ST
JOSEPHINE TX 75189-6020

BOCKEMEHL , MRS STACIE
PO BOX 233
CADDO MILLS TX 75135-0233

CHRISTENSEN , KEVIN
201 MONARCH LN
JOSEPHINE TX 75173-7152

COLLIN , JO
300 CHUCK WAGON DR
JOSEPHINE TX 75189-5442

DUPUIS , JACOB
DUNAWAY
118 MCKINNEY ST
FARMERSVILLE TX 75442-2214

FLORES , SARAH
303 WAGON WHEEL DR
JOSEPHINE TX 75189-5385

HENSLEY , AARON
513 PLUM DR
JOSEPHINE TX 75173-8536

KEARNEY , MS PATRICIA JAN
PO BOX 193
JOSEPHINE TX 75164-0193

L , H
308 CHUCK WAGON DR
JOSEPHINE TX 75189-5442

NEWTON , BARBARA
PO BOX 415
JOSEPHINE TX 75164-0415

RIDGWAY , JANE E
PO BOX 127
CADDO MILLS TX 75135-0127

RIDGWAY , JANE E
5754 FM 6
JOSEPHINE TX 75189-4000

RIDGWAY , JAMES M
PO BOX 127
CADDO MILLS TX 75135-0127

RIDGWAY , JAMES M
5754 FM 6
JOSEPHINE TX 75189-4000

SARDO , DR. PAMELA
2006 HARVEST LN
JOSEPHINE TX 75173-7075

VILLEGAS , SHANNON
106 MILTON ST
JOSEPHINE TX 75173-8528

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087
RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024

**CONTINUED REQUEST FOR A CONTESTED CASE HEARING ON
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
TPDES PERMIT NUMBER WQ0010887003**

Name of Person Contesting: Jane Ridgway
Mailing Address: P O Box 127, Caddo Mills, TX 75135-0127
Daytime Phone: 972-834-8686
Fax Number: None
My Physical Property Location
and Homestead 5754 FM 6, Josephine, TX 75189 - Hunt County
Email: jridgway1971@gmail.com (no "e" in ridgway)
Applicant: City of Josephine - TPDES PERMIT NUMBER WQ0010887003

Response to Executive Director's Response to Hearing Requests (with OPIC Comments)

VII. ANALYSIS OF THE HEARING REQUESTS

A. WHETHER THE REQUEST COMPLIED WITH 30 TAC §§ 55.201(c) AND (d).

1. Jane Ridgway filed four timely, written Requests that provided the requisite contact information, raised issues that form the basis of her Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Ms. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Ms. Ridgway believes she will be affected by the application in a way not common to the public. Ms. Ridgway's Requests stated that she lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Ms. Ridgway's property is 0.36 miles away from the proposed facility. Ms. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, flooding and erosion, air quality, and economic impacts.

The ED recommends finding that the Requests of Ms. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges my compliance to the TAC. Thank you.

2. James Ridgway filed two timely, written Requests that provided the requisite contact information, raised issues that form the basis of his Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Mr. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Mr. Ridgway believes he will be affected by the application in a way not common to the general public. Mr. Ridgway's Requests stated that he lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Mr. Ridgway's property is 0.36 miles away from the proposed facility. Mr. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, and flooding.

The ED recommends finding that the Requests of Mr. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledged his compliance to the TAC.

B. WHETHER REQUESTOR IS AN AFFECTED PERSON UNDER 30 TAC § 55.203.

1. Jane Ridgway filed four Requests that effectively identified personal, justiciable interests affected by the application. Ms. Ridgway's Requests stated that she was close to the proposed facility and that she is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Ms. Ridgway's property is situated 0.36 miles away from the proposed facility. Ms. Ridgway's proximity to the proposed facility, in conjunction with the issues Ms. Ridgway raised, lead the ED to determine that Ms. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Ms. Ridgway is an affected person under 30 TAC § 55.203 and grant her hearing request.

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges I am an affected person and granting the hearing request. Thank you.

2. James Ridgway filed two Requests that effectively identified personal, justiciable interests affected by the application. Mr. Ridgway's Requests stated that he was close to the proposed facility and that he is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Mr. Ridgway's property is situated 0.36 miles away from the proposed facility. Mr. Ridgway's proximity to the proposed facility, in conjunction with the issues Mr. Ridgway raised, lead the ED to determine that Mr. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Mr. Ridgway is an affected person under 30 TC § 55.203 and grant his hearing request.

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledges he is an affected person and for granting the hearing request.

VIII. ISSUES RAISED IN THE HEARING REQUEST:

1. **Whether the draft permit adequately prevents nuisance odors as required by 30 TAC § 309.13(e).**

(RTC Response No. 7) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit does not control nuisance odors in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 1. Nuisance Odors - Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

Jane Ridgway Response - I appreciate the possible referral from the ED on nuisance odor issue, and OPIC positive response. Before February 2024, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter dated February 1 to Lisa Polomba, City Administrator about odor mitigation and installing odor control equipment. I thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM on most days we still get odor at our home. Either mitigation has not been done, or the units are not working. The permit includes information from Evoqua, but their information alludes to pipeline distribution of wastewater. "A liquid phase dosing program can be used to prevent odorous compounds from forming in wastewater. Chemicals, such as Bioxide® Solution are added directly into the wastewater stream along the wastewater pipeline. This plant will dump into a manmade ditch.

2. **Whether the draft permit is adequately protective of aquatic and terrestrial wildlife.**

(RTC Response No. 13) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit is not protective of aquatic and terrestrial wildlife in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 3. Wildlife - As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

Jane Ridgway Response- Thank you. I appreciate the possible referral from the ED on this issue, and also the OPIC for finding the issue relevant. The Natural wooded creek area behind the Bowman home (my backyard neighbor) has hawks, birds, egrets, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's while 20 swamp rabbits come out at Bowman's. I do have my rabbit and egret photos. These critters come to my property except the beaver.

TCEQ states that that water in the state is to be safe for humans; therefore it is safe for wildlife. However, it has been determined that wastewater has PFAS. It has been found PFAS is harmful wildlife.

<https://news.mongabay.com/2023/09/pfas-forever-chemicals-harming-wildlife-the-world-over-study/>. NTMWD supplies water to Josephine which contains PFAS. City Staff think PFAS mitigation is NTMWD issue. NTMWD is addressing PFAS incoming water, but Josephine should help with wastewater. If not addressed at wastewater level, PFAS will continue to be distributed to ditch/creeks/Lake Tawakoni until However, as the fastest growing city in North Texas, additional PFAS treatment for wastewater to humans at Lake Tawakoni, and to protect aquatic and terrestrial wildlife both in writing and action seems prudent. Perhaps EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS include PFAS monitoring under *Other Requirements which I cannot find.

The City could apply for funding at TWDB if my research is good. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov

3. Whether the application was correctly determined to be administratively and technically complete.

(RTC Response No. 10) This issue involves a disputed question of mixed fact and law. If it can be shown that the application information, on which the draft permit is based, was not complete, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 4. Application Accuracy - Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

Jane Ridgway Response- I wish to thank the ED for the referral and also the OPIC. As the definition of not complete is which can also mean "incomplete" means something is not complete or finished, and may be lacking a necessary part, element, or step. Possibly inaccurate. Another review of the application and our findings is below. We would like to know if these were rectified.

TCEQ Core Data Form Section II

Customer Information Item 9. Federal Tax ID is missing. Cities need one to pay employees.

Domestic Technical Worksheet TCEQ-10054

Section 2 – B. and C. Not answered. "No" should have been checked.

Section 4 – B Flow characteristics

If a stream, manmade channel or ditch was checked above provide the following. For existing discharges, check one of the following that best characterizes the area upstream of the discharge. For new discharges, characterize the area *downstream* of the discharge. (Check one) .

There were no boxes checked in the section "Check the method used to characterize the area upstream (or downstream) for new dischargers. Please note that in Section 4, Description of Immediate Receiving Waters, A. Receiving water type, the last box "Manmade channel or ditches" was check marked. This is the first time I realized the Unnamed Tributary was in fact a manmade channel or ditch.

Section 4 – C-Downstream Perennial confluences.

List the names of all perennial streams the join the receiving water within 3 miles downstream of the discharge point. This was answered "none". I checked map at <https://en-us.topographic-map.com/map-sdhms8/Josephine/?center=33.06373%2C-96.29229&zoom=16&overlay=0> . Since my house is .36 miles, it looks like the unnamed tributary and Brushy Creek should be listed. If so, then the answer to Item D would be incorrect.

Section 4 – E. Normal dry weather characteristics. “No Flows” was entered, but could be incorrect. There is water in the creek behind the Bockemehl in summer. It does not dry up. Maybe the person who filled out the application did not go completely downstream. The stream does curve and get very deep at points. It gets deeper and wide and does rush the land.

Section 5 . General Characteristics of the Waterbody Obstructions – Item C. Water body aesthetics. As a person who sees this very frequently, the answer should be Natural Area: Trees and/or native vegetation: some development evident (from fields, pastures, dwellings) water clarity discolored. (page 32 of 80)

Application for a Domestic Wastewater Permit Administrative Report 1.0

Section 10- TPDES Discharge Information (Instructions Page 31) Item A – no boxes checked. Item B -No boxes checked.

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Item Provide description of effluent discharge route. - I believe this should state From a manmade ditch called unnamed tributary , thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment 0507 of the Sabine River Basin. Unnamed tributaries appear to be recreational in Texas, which defines as a little creek, or seep, or spring, or bog, or wetland without a name begins its life as surface water when it emerges from the ground. If this is true, the Josephine wastewater is and would continue to be dumping into what is surfaced groundwater and that might not be good.

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Section 4. Unbuilt Phases – Neither box was checked.

Section 5. Closure Plans

Have any treatment units been taken out of service permanently or will units be taken out of service in the next 5 years. **Neither YES or NO was checked.** With this section not being checked, and with the Wastewater Master Plan stating the Wastewater Plant 3 is additional the answer is open to interpretation. It is open ended and information available to public online conflicts with the Justification of permit description, next item.

Domestic Technical Report 1.1 Page 21 of 80

Section 1 Justification for Permit –

- A. Justification of permit need – Provide a detailed discussion of the need for any phase(s) not currently permitted. Failure to provide sufficient justification may result in the Executive Director recommending denial of the proposed phases(s) or permit.

This proposed treatment plant will serve a housing development. The developer is proposing a final build out of 4,000 to 6,000 single family housing. The City of Josephine will own and operate this plant (WWPT #3)The city currently has a lagoon treatment plant (WWTP#1 WQ0010887001, permitted flows 070 MGD),which will eventually be decommissioned, and those influent flows sent to this proposed treatment plant.

This is either wrong, or city was/is not being transparent about the lagoon going away. Per City’s Comprehensive Plan, 961 homes are anticipated spread among many developers. I do not see 4,000 – 6,000 houses in one housing development, except for DR Horton who is funding an addition to City of Josephine Wastewater #2 in the Magnolia Subdivision. The addition to City of Josephine Wastewater #2 was supposed to serve Riverfield which is 4,000 to 6,000 homes in back of Bowman and Ridgway and Bockelmehl properties. I can however get 5,249 houses in other Josephine sub-divisions (961) plus Horton’s Wildflower (3061). I don’t think the lagoon will be decommissioned, given the evidence in Wastewater Master Plan and this application gaps.

Section 5 Facility Site – A. Is facility above the 100 year floodplain was checked yes, so no method of protection was listed. This does not correlate with the Permit Backup for Hearing on page 34, Other Requirements Item 4. states “The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.”

Public Involvement Plan Form Page 1 of 4 - misrepresented

The last box “Public Involvement Plan not applicable to this application” was checked. But, the city and engineer know the fact that the growth in the area served is 4 times as many residents in the last 5 years, citizens should have been apprised of the expansion. Two people did ask for a public meeting and if all landowners had been notified, there would have been more I’m sure. The plant is in far east Collin County, but the **applicant left out the part that the plant is in the heart of the city and the original town.** With a public hearing, there would have been understanding that citizens would be incurring more bond debt.

4. Whether adjacent and downstream landowners received proper notice pursuant to TCEQ's rules.

(RTC Response No. 9) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly notify adjacent and downstream landowners in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response- Thank you to the ED and OPIC for acknowledging this point. There are **5** property owners below that have in property that backs up to a creek that runs to Brushy Creek and **they did not** receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit that is on display at Josephine City Hall. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

These citizens are within .36 miles and would be affected parties.

6-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the permit book at City Hall in late December.

First mention of the permit at council was in a DBI/Dunaway report in February 2024 even though the permit was made in May

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise

2023. **2-12-2024-DBI Report excerpt** - during the month of February and is open for public comment.

5. Whether Applicant properly published notice in accordance with 30 TAC Chapter 39.

(RTC Response Nos. 9 and 14) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly publish notice in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response - I appreciate that the ED acknowledges this point, as well as OPIC. The initial notice was published in The Collin County Commercial Record Dec. 5 2023, which per their website is "Collin County's newspaper for **current court and commercial information.**" It costs \$200 a year. Few if any citizens in Josephine subscribe to it. Dr. Sardo was told the Collin county Commercial Register was used because the city uses it for bidding. The Collin County Commercial Register is not transparent for Josephine citizens. After my notification to the city it ran again. I spoke with Eddy Daniel (one of the Josephine Engineers) after seeing the permit by accident in City Hall on Dec. 23, 2023. After the call with Eddy and my speaking at January City Council about the application and some of my concerns, the notice was run on January 18 in Farmerville Times and Greenville Herald Banner since the wastewater runs into Hunt County. I could not find the Greenville Herald Banner posting on the Texas Public Notices Website. [https://www.texaspublicnotices.com/\(S\(ay0fq1pl5hj4bxsorbgxb0pn\)\)/Search.aspx](https://www.texaspublicnotices.com/(S(ay0fq1pl5hj4bxsorbgxb0pn))/Search.aspx)

VIEW	Farmersville, The Farmersville Times Thursday, January 18, 2024
APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010887003 , to authorize the discharge of t ... click 'view' to open the full text.	
VIEW	McKinney, Collin County Commercial Record Tuesday, December 05, 2023
Texas Commission on Environmental Quality NOTICE OF APPLICATION AND PRELIMINARY DECISION FOR TPDES PERMIT FOR MUNICIPAL WASTEWATER NEW PERMIT NO. WQ001087003 APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environ ... click 'view' to open the full text.	

6. Whether the draft permit properly considered possible increases in instances of flooding and erosion.

(RTC Response No. 5) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response - Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- My response it that flooding issues must be relevant to the Wastewater Plant as TCEQ includes flood mitigation in the permit. On page 34 in the Backup Filed for the ED's Consideration of Hearing Requests, Other Requirements Item 4. states "The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood."

The RTC Response No 5 was: The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters.

I contend TCEQ does have jurisdiction to address flooding in the permit. If the City is going to protect the plant, deflected water during flooding, it would stand to reason deflected water(or pumped water) can enhance flooding for the citizens downstream. There has been and is continuing development behind the sewer plant location. There is a disconnect between the permit backup for the hearing and the Domestic Technical Report 1.1 Section 5 Facility Instructions.

In the current Wastewater Master Plan on page 15, engineer creating the document treats the NEW SBR plant on Caddo St. as an expansion/additional. This means more than 750,000 a day will go in the creek. I cannot locate any application item in the permit that indicates what type of protection the wastewater treatment facility has.

If this statement is important enough to be in the permit, and a flood study has not been completed since 2009 and the land to the North of the sewer plant is being developed, it could become very important to the sewer plant.

Thank you for your consideration.

7. Whether the draft permit is protective of air quality.

(RTC Response No. 6) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response -Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- After reviewing the application/TCEQ Permitting forms that were on display at City Hall, I find no line item for air quality, only mention of nuisance odors. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits, as it continues to come up in many permitting processes. Thank you.

8. Whether the draft permit properly considered potential economic impacts.

(No RTC Response) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

Jane Ridgway Response- After reviewing I find no line item for economic impact on TCEQ Permitting forms that were on display at City Hall. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits. Thank you.

Jane Ridgway - Office of Public Interest Counsel – Sept 26, 2024 Response.

Jane Ridgway Response – I concur with the OPIC on item 1-4. Item 6 – I will acknowledge and accept reluctantly.

With OPIC Item 5 my response is the same as noted on to the ED on item 6. Thank you very much for considering our concerns.

Section III.B

Section III Analysis of Hearing Request B. The affected requestors raised the following disputed issues:

1. Whether the draft permit is adequately protective against nuisance odors.
2. Whether there was adequate notice of the application and draft permit.
3. Whether the draft permit is adequately protective of wildlife.
4. Whether the application was accurately completed

1.Nuisance Odors

Affected requestors raised concerns about the proposed facility's emission of nuisance odors. TCEQ regulates nuisance conditions under 30 TAC § 309.13(e) which requires applicants to implement a nuisance odor abatement plan. Further, permits issued by TCEQ do 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.

Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

2. Notice

A requestor raised concerns about notice. Her concerns focused on whether all required, nearby landowners were properly notified. Chapter 39 contains requirements relating to notice publication, alternative language publication, mailing of notice, and posting of the application in a public place within the county. **The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.**

3. Wildlife

Requestors raised concerns about adverse effects to water quality and the consequential impacts on wildlife. The Commission is responsible for the protection of water quality under Texas Water Code (TWC) Chapter 26 and 30 TAC Chapters 307 and 309. The Texas Surface Water Quality Standards (Standards) in Chapter 307 require that the proposed permit "maintain the quality of water in the state consistent with public health and enjoyment, propagation and protection of terrestrial and aquatic life, operation of existing industries, and ... economic development of the state...." 30 TAC § 307.1. According to § 307.6(b)(4) of the Standards, "Water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, or domestic animals, **resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three.**" Additionally, "[s]urface waters must not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life." 30 TAC § 307.4(d).

As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

4. Application Accuracy

TCEQ rules require that if an applicant becomes aware that it failed to submit relevant facts or submitted incorrect information in a permit application, the applicant is required to promptly submit such facts and information. 30 TAC § 305.125(19). Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

5. Flooding

TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider flooding when making a decision on issuance of this permit. Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

6. Air Pollution

Requestors raised concerns regarding the proposed facility's emission of air pollutants. TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider air quality when making a decision on issuance of this TPDES permit, unless there is an associated water quality concern. Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

V. CONCLUSION

Having found that Jane E. Ridgway and James M. Ridgway qualify as affected persons in this matter, OPIC respectfully recommends the Commission grant their hearing requests and refer Issues No. 1-4 specified in Section III.B for a contested case hearing at SOAH with a maximum duration of 180 days. OPIC further recommends the Commission deny all pending requests for reconsideration

Jane Ridgway - Response to City of Josephine Comments 9-26-2024

PUBLIC COMMENT 1:

Aaron Hensley commented that the proposed development will be inclusive of certain people and will use municipal resources.

EXECUTIVE DIRECTOR'S RESPONSE 1:

The ED acknowledges this comment.

APPLICANT'S RESPONSE 1:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 1- I don't know how to comment on this issue, I accept ED's response.

PUBLIC COMMENT 2:

James M. Ridgway, Jane E. Ridgway, and Kevin Christensen requested a contested case hearing on this application.

EXECUTIVE DIRECTOR'S RESPONSE 2:

The ED acknowledges the hearing requests.

To request a contested case hearing, the parties must follow the hearing request procedures found in 30 TAC Chapter 55. 30 TAC § 55.201(a) requires that a hearing request is filed no later than thirty days after the Office of the Chief Clerk mails the ED's Response to Comment. A hearing requestor must meet the affected person requirements found in 30 TAC § 55.203. The hearing request itself must meet the requirements found in section 55.201(c) and (d). All timely filed hearing requests will be processed in accordance with section 55.209. Unless the case is directly referred to the State Office of Administrative Hearings under section 55.210, the Commission will consider the hearing requests and determine whether to grant or deny them in accordance with section 55.211.

APPLICANT'S RESPONSE 2:

The City acknowledges this hearing request and ED's response

AFFECTED PERSON RESPONSE 2- I acknowledge the hearing request and ED response.

PUBLIC COMMENT 3:

A. Barochiere, Frank Barochiere, Jo Collin, and L.H. expressed concern that the proposed housing development will create nuisance noise.

EXECUTIVE DIRECTOR'S RESPONSE 3:

The TCEQ's jurisdiction over the permitting process is established by the Texas Legislature and is limited to issues set forth in statutes. While 30 TAC Chapter 309, specifically Subchapter B, contains some nuisance considerations, the TCEQ does not have jurisdiction to consider noise from a wastewater treatment facility, nor from any related development, when determining whether to approve or deny a permit application. However, the draft permit does not limit the ability of individual landowners 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.

APPLICANT'S RESPONSE 3:

The City's proposed wastewater treatment facility will have components installed to minimize noise from pumps and blowers associated with the typical of operations of a wastewater plant.

AFFECTED PERSON RESPONSE 3— I cannot find any place in the application that has components to minimize noise from pumps and blowers.

PUBLIC COMMENT 4:

Barbara Newton and Shannon Villegas requested a public meeting for this application.

EXECUTIVE DIRECTOR'S RESPONSE 4:

Under 30 TAC § 55.154, TCEQ must hold a public meeting when a member of the legislature, representing the general area in which the activity is proposed, requests that a public meeting be held or when the Executive Director determines that there is a substantial or significant degree of public interest in an application. Here, there was no request for a public meeting from a member of the legislature. Additionally, the Executive Director determined that two public meeting requests did not constitute substantial or significant public interest in this application. Therefore, a public meeting was not held.

APPLICANT'S RESPONSE 4:

The City acknowledges this public meeting request and ED's response.

AFFECTED PERSON RESPONSE 4—My belief is people who were interested did not know how to request the meeting properly. The TCEQ letters are daunting. The first newspaper notification was in a newspaper no one took. After I notified the city they reprinted in two papers. Unfortunately the town relies mostly on social media. If citizens B. Newton and S. Villegas would have been granted a hearing, more citizens would have shown up. Nothing is very transparent with permits.

PUBLIC COMMENT 5:

Stacie Bockemuhl, Kevin Christensen, Patricia Jan Keamey, Barbara Newton, and Jane E. Ridgway expressed concerns that discharge from the WWTF and runoff from the accompanying development will increase the likelihood of flooding events.

EXECUTIVE DIRECTOR'S RESPONSE 5:

The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters. The proposed permit includes effluent limits and other requirements that the WWTF must meet even during rainfall events and periods of flooding.

According to the application, the proposed site for the WWTF is located above the 100-year flood plain. For additional protection, the draft permit includes Other Requirement No. 5, which requires the City of Josephine to

AFFECTED PERSON RESPONSE 5— It is noticeable that the City did not respond to the Executive Director on this point. The City has flooded on Caddo Street many times which is next to the current city sewage lagoon which feeds into the “unnamed tributary/ditch” and then to the creek when run-off from storms occurs. Perhaps it is time that the TCEQ's rules committee identifies a need for a rule change, drafts a proposed rule, and presents it to the Commission for approval. I would maintain the city may not be protecting against flood hazard as stated in my initial response. There is no current Flood Mitigation Plan to my knowledge. Last one was approved in 2022, but hopefully will be updated with the influx of residents.

- **The current Wastewater Master Plan page 15 treats the NEW SBR plant on Caddo St. as expansion and add.** This means more than 750,000 a day will go in the creek.

6.4 Lagoon Wastewater Treatment Plant

The City of Josephine currently owns and operates a lagoon wastewater treatment plant. The treatment train includes an aeration oxidation ditch and two mixed lagoons. The current permit allows for a daily average flow of 0.07 MGD. The WWTP is located in the northeast area of the city and existing flows from the west region of the city are lifted to the lagoon wastewater treatment plant.

A project to expand the current wastewater treatment plant and add an additional 0.75 MGD treatment capacity is currently under design by DBI. DBI is also pursuing a new wastewater permit with the TCEQ. This master plan report assumes the 0.75 MGD addition will be incorporated onsite.

6.5 SBR Wastewater Treatment Plant

The Josephine Municipal Utility District (MUD) constructed the Sequencing Batch Reactor (SBR) treatment plant for the Magnolia Phase 1 – 10 subdivision. The City of Josephine owns and operates the WWTP. The plant is currently permitted to treat a daily average flow of 0.5 MGD with a final phased expansion to 1.5 MGD. The WWTP currently includes one treatment train and in general includes the following treatment units: headworks with fine screens, influent lift station, sequencing batch reactor basins, post-flow equalization basin, and aerobic digester basin, filtration, and UV disinfection.

• **Kimley»Horn**

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PUBLIC COMMENT 6:

Stacie Bockemuhl, Jo Collin, James M. Ridgway, and Jane E. Ridgway expressed concerns about the proposed WWTF causing air pollution.

EXECUTIVE DIRECTOR'S RESPONSE 6:

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 that rule. The Applicant indicated in its application that the proposed facility would be an activated sludge process plant using sequencing batch reactors, which does not make a significant contribution of air contaminants to the atmosphere pursuant to the Texas Health and Safety Code §§ 382.057 and 382.05196. The WWTF is therefore permitted by rule with respect to air emissions.

APPLICANT'S RESPONSE 6:

The proposed wastewater treatment facility will be an activated sludge process plant with sequencing batch reactors, as mentioned by the executive director's response. The facility will also have odor control units installed at lift stations to minimize potential odors.

AFFECTED PERSON RESPONSE 6—Before February, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter about odor mitigation and we thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM usually we still get some odor at our home. Either it has not been done, or the units are not working.

PUBLIC COMMENT 7:

Kevin Christensen, Patricia Jan Kearney, Jane E. Ridgway, and James M. Ridgway expressed concerns that the proposed facility will create nuisance odors.

EXECUTIVE DIRECTOR'S RESPONSE 7:

30 TAC § 309.13(e) requires domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor. According to the application, the applicant intends to locate treatment units at least 150 feet from the nearest property line. This requirement is also incorporated into the proposed permit. Additionally, foul odors may exist when effluent contains an insufficient amount of dissolved oxygen. The draft permit restricts the amount of oxygen demanding constituents to simultaneously reduce the odors in discharged effluent and prevent degradation of receiving waters.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 7:

Buffer zone requirements for the proposed wastewater facilities will be met. Also, as stated in Applicant's Response 6, odor control units will be installed at the on-site lift stations to help minimize potential odors.

- **AFFECTED PERSON RESPONSE 7** –150 ft from a property line just doesn't make sense to people who smell odors that travel. I live more than 150 feet from the Sewer Property line. As stated in Comment 6 between 7 PM & 10 PM usually we still get some odor at our home, either from WWTP#2 or could be WWTP#1. I lean towards WWTP#2. Either units have not been installed, or the units are not working.

PUBLIC COMMENT 8:

Kevin Christensen asked for the WWTF to be moved to a different location.

EXECUTIVE DIRECTOR'S RESPONSE 8:

The ED acknowledges the opposition to the proposed location of the WWTF. Texas Water Code § 26.027, authorizes the TCEQ to issue permits for discharges into water in the state. The ED evaluates applications for wastewater treatment plants based on the information provided in the application. The ED can recommend issuance or denial of an application based on whether the application complies with the Texas Water Code and TCEQ regulations. The Applicant is the entity that proposes the location of the facility, point of discharge, and the discharge route rather than the ED. The ED's review evaluates the impact of the discharge on the receiving waters; however, the TCEQ's permitting authority does not include the ability to mandate a different location for the facility if the location in the application complies with 30 TAC Chapter 309, Subchapter B (Location Standards), specifically 30 TAC § 309.13 pertaining to "Unsuitable Site Characteristics" for a treatment facility. Instead, the ED may only evaluate a proposed location for a wastewater treatment facility according to the Location Standards in the TCEQ regulations and the effect of the treated wastewater on the uses of the receiving stream starting at the point of discharge.

APPLICANT'S RESPONSE 8:

The proposed wastewater treatment facility is proposed to be constructed on an existing wastewater treatment site with an operating wastewater treatment currently owned and operated by the City. The City's existing northern sewer collection system flows to the site. Relocation of the plant would be cost prohibitive for the City to acquire additional land and relocate the existing sewer collection system.

- **AFFECTED PERSON RESPONSE 8** –It would be costly to the city and since they have spent money allocated bond money for sewer on other projects. There is not more land in the city vicinity since developers have purchased it all. It does not seem feasible.

PUBLIC COMMENT 9:

Stacie Bockemehl and Jane E. Ridgway were concerned that nearby landowners were not properly notified.

EXECUTIVE DIRECTOR'S RESPONSE 9:

There are two public notices regarding this permit action, the Notice of Receipt of Application and Intent to Obtain a Wastewater Permit (NORI), and the Notice of Application and Preliminary Decision (NAPD). The TCEQ's notice rules require applicants to provide public notices for wastewater permits by publishing the NORI in a "newspaper of largest circulation in the county in which the facility is located or proposed to be located. If the facility is located or proposed to be located in a municipality, the applicant [must] publish notice in any newspaper of general circulation in the municipality."¹⁴ After the Office of the Chief Clerk has mailed the preliminary decision and the NAPD to the applicant, they are required to publish the NAPD "at least once in a newspaper regularly published or circulated within each county where the proposed facility or discharge is located and in each county affected by the discharge."¹⁵

For a history of the published notices regarding this application, please see the first paragraph of section C, Procedural History.

Additionally, the TCEQ's notice rules for a new permit or major amendment require mailed notice of the NORI and NAPD to landowners named on the application map and persons on the mailing list maintained by the Office of the Chief Clerk.¹⁶ The applicant is required to submit a landowner map as part of the application materials. The landowner map must include the property boundaries of landowners surrounding the applicant's property and the property boundaries of all landowners surrounding the discharge point and on both sides of the discharge route for one full stream mile downstream of the discharge point. Anyone who submits a comment or contested case hearing request before the end of the public comment period is also added to the mailing list for that permit action.

APPLICANT'S RESPONSE 9:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was additionally published in the *Herald Banner-Greenville, Hunt County, Texas* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 9 The additional newspaper notice in January was run after I notified the city/engineer that the first newspaper used for the notice was in a paper no one subscribes to. Farmerville Times and Herald Banner have always been the papers for public notices for Josephine. There are 5 property owners below that have in property that backs up to the Creek and they did not receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

6-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the book at City Hall in December.

2-12-2024-DBI Report excerpt -

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise during the month of February and is open for public comment.

This is all Stacie Bockemehl received. No letter was attached. It's no wonder people did not respond.

Senate Bill 709 (84th Legislative Session, 2015) amended the Texas Water Code by adding new Section 5.5553, which requires the Texas Commission on Environmental Quality (TCEQ) to provide written notice to you at least thirty (30) days prior to the TCEQ's issuance of draft permits for applications that are located in your district.

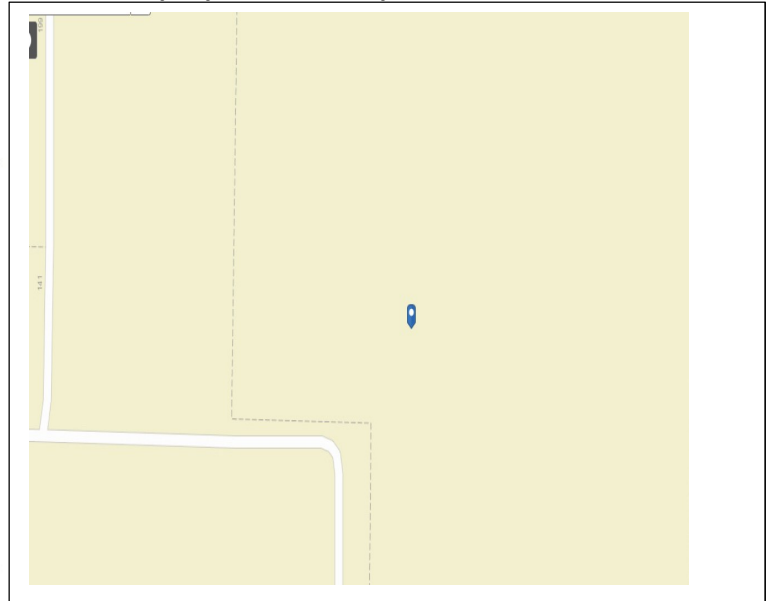
City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the TCEQ for proposed Texas Pollutant Discharge Elimination System No. WQ0010887003 (EPA I.D. No. TX0144517) to authorize the discharge of treated wastewater at a volume not to exceed a daily average flow of 750,000 gallons per day. The domestic wastewater treatment facility will be located at 601 East Caddo Street, in Collin County, Texas 75189. The discharge route will be from the plant site to an unnamed tributary, thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment No. 0507 of the Sabine River Basin. TCEQ received this application on May 1, 2023. The permit application will be available for viewing and copying at Josephine City Hall, 201 South Main Street, Josephine, Texas prior to the date this notice is published in the newspaper. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For the exact location, refer to the application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-96.298888,33.066111&level=18>

TCEQ is preparing the initial draft permit. At the time the draft permit is issued, the applicant will be required to publish notice in a newspaper of general circulation, and the TCEQ will provide a copy of the notice of draft permit to persons who have requested to be on a mailing list.

Questions regarding this application may be directed to Mr. Firoj Vahora by calling 512-239-4540.

Issuance Date: June 14, 2023



The 6/14/2023 entry on <https://www14.tceq.texas.gov/epic/eCID/> shows "Letter", but this was NOT a letter in my opinion. Very cryptic. Stacie did not know what it meant until I contacted her.

PUBLIC COMMENT 10:

James M. Ridgway commented that the permit application was improperly filled out.

EXECUTIVE DIRECTOR'S RESPONSE 10:

TCEQ performed an administrative review of the application, upon receipt, to ensure that all required information was provided therein. TCEQ determined that the application was administratively complete on June 6, 2023. The review included TCEQ staff reviewing all administrative information provided in the application.

TCEQ also performed a technical review of the application to ensure that the applicant adequately addressed all required technical issues to show that wastewater from the facility would be treated to required standards and to establish effluent limits that will ensure protection of the receiving water bodies and their existing uses. TCEQ reviewed the proposed discharge route, the designated uses and dissolved oxygen criteria of the receiving water bodies, antidegradation analysis of the discharges, and identification of any endangered species that may be present in the receiving water bodies. Based on the review and analysis, TCEQ established effluent limits and conditions designed to maintain the receiving water body's designated uses and protect human health and aquatic life.

APPLICANT'S RESPONSE 10:

The City acknowledges the submission of an administratively and technically complete application as determined by TCEQ and acknowledged by the ED's response above.

AFFECTED PERSON RESPONSE 10 –See response 9 above – Eight (8) Landowner's were left off the application. In addition there are many other items identified in Response to Executive Director's Response to hearing Requests, Item 3 above.

PUBLIC COMMENT 11:

A. Barochiere, Frank Barochiere, Jo Collin, Aaron Hensley, and H.L. expressed general opposition to the draft permit.

EXECUTIVE DIRECTOR'S RESPONSE 11:

The ED acknowledges these comments.

APPLICANT'S RESPONSE 11:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 11 – I acknowledge this comment and ED's response.

PUBLIC COMMENT 12:

A. Barochiere and Frank Barochiere expressed concerns about the impacts of development surrounding the proposed WWTF. ▲

EXECUTIVE DIRECTOR'S RESPONSE 12:

The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ does not have jurisdiction to consider the possibilities of how future development surrounding the WWTF will impact area residence as a part of the wastewater permitting process.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 12:

The City is experiencing rapid growth thereby requiring wastewater treatment facility improvements/upgrades in order to remain compliant with the requirements of TCEQ. The proposed wastewater treatment facility will serve the referenced development in the area.

AFFECTED PERSON RESPONSE 12 – I acknowledge the ED response.

PUBLIC COMMENT 13:

James M. Ridgway and Jane E. Ridgway expressed concern that discharged effluent would negatively impact wildlife.

EXECUTIVE DIRECTOR'S RESPONSE 13:

30 TAC § 307.6(b)(4) requires water in the state to be maintained to preclude adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. While the TSWQS and the IPs do not specifically designate criteria for the protection of livestock, terrestrial wildlife, or domestic animals, the criteria designated for the protection of human health and aquatic life should preclude adverse impacts to livestock, terrestrial wildlife, and domestic animals.

The Executive Director has determined that the draft permit would be protective of the environment, including aquatic and terrestrial wildlife. Potential water quality issues that could negatively affect wildlife – excessive salinity, high nitrogen content, bacterial contamination, depressed dissolved oxygen, and heavy growths of blue-green algae – are not expected in the receiving waters provided the Applicant complies with proposed permit.

APPLICANT'S RESPONSE 13:

The City intends to comply with the proposed permit in order to prevent the discharge effluent that would have adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals.

AFFECTED PERSON RESPONSE 13 -The city has not engaged in funding for PFAS and emerging contaminants, though PFAS has been brought up at council meetings. Because the city buys water from NTMWD it is seen at NTMWD problem, not Josephine. However, as the fastest growing city in North Texas, or so it is advertised, additional in writing protection on a TCEQ form would be welcomed. An effort to apply for funding at TWDB could help. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov <https://www.twdb.texas.gov/financial/programs/ec/index.asp>

- Funding for PFAS <https://www.tceq.texas.gov/assistance/resources/the-advocate-1/funding-available-for-pfas-and-emerging-contaminants>
- Eco-environment The wooded Brushy Creek area behind my backyard neighbor houses hawks, birds, egrets, fowl, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's. Though chemicals treating sewer are not supposed to be harmful to fish, fowl, animals, an increase in the amount of flow may negate that thought.

Wildlife - Wastewater will affect wildlife, TCEQ says that that water in the state is to be safe for humans, therefore it is safe for wildlife. However, it has been determined that water has PFAS. Nearly all municipal wastewater treatment plants have measurable levels of PFAS in their discharge. The vast majority of that PFAS comes from upstream sources — such as industries, household products, and human waste — and flows through the facilities.

Reference Public Comment 5 – City Wastewater Master Plans says an ADDITIONAL .75 MGD plant.

PUBLIC COMMENT 14:

Pamela Sardo commented that the NORI and the NAPD should not have been published in the *Collin County Commercial Record* because the subscription fee is too high.

EXECUTIVE DIRECTOR'S RESPONSE 14:

Under 30 TAC §§ 39.405(f)(1) and 39.418(b)(1), the NORI must be published in the newspaper of largest circulation in the county in which the proposed WWTF is located, or, if the facility is located in a municipality, then the applicant may publish the NORI in any newspaper of general circulation. Under 30 TAC § 39.419(b), the NAPD must be published at least once in the same newspaper as the NORI.

Here, the NORI and NAPD were both published in the *Collin County Commercial Record*, but the NAPD was also published in the *Harald Banner-Collin County* and in *The Farmersville Times/C&S Media-Collin County*.

APPLICANT'S RESPONSE 14:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was also published in the *Herald Banner-Greenville, Hunt County TX* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 14 – The city only published in the local papers after I notified them several people did get notified that live close to me. They told Dr. Sardo that the Collin County Commercial Register was used because they use it for bidding. Using Collin Co. Commercial Record shows it was not transparent to Citizens, because it is for commercial. It was not transparent. The first notification to City Council about the Permit was on DBI Report for 1-6-2024, even though it had been applied for in May.

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
972-834-8686
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087

To: All interested persons on the attached mailing list

RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024
City of Josephine (Applicant)
Responses to Executive Director of the TCEQ, Public Interest Counsel of TCEQ and Applicant

In preparation for the hearing on the above mentioned permit application, I am sending my responses to comply with rules set forth in TCEQ letter dated Sept 4, 2024 setting the docket number. The commission rules entitle all recipients of time hearing requests/requests for reconsideration to file a formal written response to Applicant, the Executive Director and the Public Interest Counsel of the TCEQ by or on September 30, 2024. I am responding to correspondence from the Executive Director's Office and the Office of Public Interest Counsel which were both to me on Sept 16, 2024. I had to go online to obtain the filing from the City of Josephine in order to respond.

There are responses to each of the 3 parties in the document following this letter.

Thank you in advance for your consideration.

Best Regards,

Jane Ridgway

MAILING LIST
City of Josephine
TCEQ Docket No./TCEQ Expediente N.º 2024-1228-MWD;
TPDES Permit No./TPDES Permiso N.º WQ0010887003

FOR THE APPLICANT/PARA EL
SOLICITANTE

Lisa Palomba, City Administrator
City of Josephine
P.O. Box 99
Josephine, Texas 75164

Eddy Daniel, P.E.
City Engineer, Dunaway, LLC
P.O. Box 606
Farmerville, Texas 75442

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

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

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

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

FOR PUBLIC INTEREST COUNSEL/PARA
ABOGADOS DE INTERÉS PÚBLICO
via electronic mail/vía correo electrónico:

Garrett T. Arthur, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711

FOR ALTERNATIVE DISPUTE
RESOLUTION/PARA LA RESOLUCIÓN
ALTERNATIVA DE DISPUTAS
via electronic mail/vía correo electrónico:

Kyle Lucas
Texas Commission on Environmental
Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, Texas 78711

FOR THE CHIEF CLERK/PARA EL
SECRETARIO OFICIAL
via eFilings:

Docket Clerk
Texas Commission on Environmental
Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711
<https://www.tceq.texas.gov/goto/efilings>

REQUESTER(S)/INTERESTED PERSON(S)/
SOLICITANTE(S)/ PERSONA(S)
INTERESADA(S)
See attached list/Ver lista adjunta.

REQUESTER(S)/ SOLICITANTE(S)

Christensen, Kevin
201 Monarch Ln
Josephine Tx 75173-7152

Ridgway, James M
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, James M
5754 FM 6
Josephine Tx 75189-4000

Ridgway, Jane E
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, Jane E
5754 FM 6
Josephine Tx 75189-4000

BAROCHIERE , A
300 PATINA ST
JOSEPHINE TX 75189-6020

BAROCHIERE , FRANK
300 PATINA ST
JOSEPHINE TX 75189-6020

BOCKEMEHL , MRS STACIE
PO BOX 233
CADDO MILLS TX 75135-0233

CHRISTENSEN , KEVIN
201 MONARCH LN
JOSEPHINE TX 75173-7152

COLLIN , JO
300 CHUCK WAGON DR
JOSEPHINE TX 75189-5442

DUPUIS , JACOB
DUNAWAY
118 MCKINNEY ST
FARMERSVILLE TX 75442-2214

FLORES , SARAH
303 WAGON WHEEL DR
JOSEPHINE TX 75189-5385

HENSLEY , AARON
513 PLUM DR
JOSEPHINE TX 75173-8536

KEARNEY , MS PATRICIA JAN
PO BOX 193
JOSEPHINE TX 75164-0193

L , H
308 CHUCK WAGON DR
JOSEPHINE TX 75189-5442

NEWTON , BARBARA
PO BOX 415
JOSEPHINE TX 75164-0415

RIDGWAY , JANE E
PO BOX 127
CADDO MILLS TX 75135-0127

RIDGWAY , JANE E
5754 FM 6
JOSEPHINE TX 75189-4000

RIDGWAY , JAMES M
PO BOX 127
CADDO MILLS TX 75135-0127

RIDGWAY , JAMES M
5754 FM 6
JOSEPHINE TX 75189-4000

SARDO , DR. PAMELA
2006 HARVEST LN
JOSEPHINE TX 75173-7075

VILLEGAS , SHANNON
106 MILTON ST
JOSEPHINE TX 75173-8528

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087
RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024

**CONTINUED REQUEST FOR A CONTESTED CASE HEARING ON
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
TPDES PERMIT NUMBER WQ0010887003**

Name of Person Contesting: Jane Ridgway
Mailing Address: P O Box 127, Caddo Mills, TX 75135-0127
Daytime Phone: 972-834-8686
Fax Number: None
My Physical Property Location
and Homestead 5754 FM 6, Josephine, TX 75189 - Hunt County
Email: jridgway1971@gmail.com (no "e" in ridgway)
Applicant: City of Josephine - TPDES PERMIT NUMBER WQ0010887003

Response to Executive Director's Response to Hearing Requests (with OPIC Comments)

VII. ANALYSIS OF THE HEARING REQUESTS

A. WHETHER THE REQUEST COMPLIED WITH 30 TAC §§ 55.201(c) AND (d).

1. Jane Ridgway filed four timely, written Requests that provided the requisite contact information, raised issues that form the basis of her Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Ms. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Ms. Ridgway believes she will be affected by the application in a way not common to the public. Ms. Ridgway's Requests stated that she lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Ms. Ridgway's property is 0.36 miles away from the proposed facility. Ms. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, flooding and erosion, air quality, and economic impacts.

The ED recommends finding that the Requests of Ms. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges my compliance to the TAC. Thank you.

2. James Ridgway filed two timely, written Requests that provided the requisite contact information, raised issues that form the basis of his Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Mr. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Mr. Ridgway believes he will be affected by the application in a way not common to the general public. Mr. Ridgway's Requests stated that he lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Mr. Ridgway's property is 0.36 miles away from the proposed facility. Mr. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, and flooding.

The ED recommends finding that the Requests of Mr. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledged his compliance to the TAC.

B. WHETHER REQUESTOR IS AN AFFECTED PERSON UNDER 30 TAC § 55.203.

1. Jane Ridgway filed four Requests that effectively identified personal, justiciable interests affected by the application. Ms. Ridgway's Requests stated that she was close to the proposed facility and that she is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Ms. Ridgway's property is situated 0.36 miles away from the proposed facility. Ms. Ridgway's proximity to the proposed facility, in conjunction with the issues Ms. Ridgway raised, lead the ED to determine that Ms. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Ms. Ridgway is an affected person under 30 TAC § 55.203 and grant her hearing request.

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges I am an affected person and granting the hearing request. Thank you.

2. James Ridgway filed two Requests that effectively identified personal, justiciable interests affected by the application. Mr. Ridgway's Requests stated that he was close to the proposed facility and that he is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Mr. Ridgway's property is situated 0.36 miles away from the proposed facility. Mr. Ridgway's proximity to the proposed facility, in conjunction with the issues Mr. Ridgway raised, lead the ED to determine that Mr. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Mr. Ridgway is an affected person under 30 TC § 55.203 and grant his hearing request.

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledges he is an affected person and for granting the hearing request.

VIII. ISSUES RAISED IN THE HEARING REQUEST:

1. **Whether the draft permit adequately prevents nuisance odors as required by 30 TAC § 309.13(e).**

(RTC Response No. 7) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit does not control nuisance odors in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 1. Nuisance Odors - Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

Jane Ridgway Response - I appreciate the possible referral from the ED on nuisance odor issue, and OPIC positive response. Before February 2024, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter dated February 1 to Lisa Polomba, City Administrator about odor mitigation and installing odor control equipment. I thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM on most days we still get odor at our home. Either mitigation has not been done, or the units are not working. The permit includes information from Evoqua, but their information alludes to pipeline distribution of wastewater. "A liquid phase dosing program can be used to prevent odorous compounds from forming in wastewater. Chemicals, such as Bioxide® Solution are added directly into the wastewater stream along the wastewater pipeline. This plant will dump into a manmade ditch.

2. **Whether the draft permit is adequately protective of aquatic and terrestrial wildlife.**

(RTC Response No. 13) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit is not protective of aquatic and terrestrial wildlife in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 3. Wildlife - As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

Jane Ridgway Response- Thank you. I appreciate the possible referral from the ED on this issue, and also the OPIC for finding the issue relevant. The Natural wooded creek area behind the Bowman home (my backyard neighbor) has hawks, birds, egrets, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's while 20 swamp rabbits come out at Bowman's. I do have my rabbit and egret photos. These critters come to my property except the beaver.

TCEQ states that that water in the state is to be safe for humans; therefore it is safe for wildlife. However, it has been determined that wastewater has PFAS. It has been found PFAS is harmful wildlife.

<https://news.mongabay.com/2023/09/pfas-forever-chemicals-harming-wildlife-the-world-over-study/>. NTMWD supplies water to Josephine which contains PFAS. City Staff think PFAS mitigation is NTMWD issue. NTMWD is addressing PFAS incoming water, but Josephine should help with wastewater. If not addressed at wastewater level, PFAS will continue to be distributed to ditch/creeks/Lake Tawakoni until However, as the fastest growing city in North Texas, additional PFAS treatment for wastewater to humans at Lake Tawakoni, and to protect aquatic and terrestrial wildlife both in writing and action seems prudent. Perhaps EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS include PFAS monitoring under *Other Requirements which I cannot find.

The City could apply for funding at TWDB if my research is good. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov

3. Whether the application was correctly determined to be administratively and technically complete.

(RTC Response No. 10) This issue involves a disputed question of mixed fact and law. If it can be shown that the application information, on which the draft permit is based, was not complete, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 4. Application Accuracy - Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

Jane Ridgway Response- I wish to thank the ED for the referral and also the OPIC. As the definition of not complete is which can also mean "incomplete" means something is not complete or finished, and may be lacking a necessary part, element, or step. Possibly inaccurate. Another review of the application and our findings is below. We would like to know if these were rectified.

TCEQ Core Data Form Section II

Customer Information Item 9. Federal Tax ID is missing. Cities need one to pay employees.

Domestic Technical Worksheet TCEQ-10054

Section 2 – B. and C. Not answered. "No" should have been checked.

Section 4 – B Flow characteristics

If a stream, manmade channel or ditch was checked above provide the following. For existing discharges, check one of the following that best characterizes the area upstream of the discharge. For new discharges, characterize the area *downstream* of the discharge. (Check one) .

There were no boxes checked in the section "Check the method used to characterize the area upstream (or downstream) for new dischargers. Please note that in Section 4, Description of Immediate Receiving Waters, A. Receiving water type, the last box "Manmade channel or ditches" was check marked. This is the first time I realized the Unnamed Tributary was in fact a manmade channel or ditch.

Section 4 – C-Downstream Perennial confluences.

List the names of all perennial streams the join the receiving water within 3 miles downstream of the discharge point. This was answered "none". I checked map at <https://en-us.topographic-map.com/map-sdhms8/Josephine/?center=33.06373%2C-96.29229&zoom=16&overlay=0> . Since my house is .36 miles, it looks like the unnamed tributary and Brushy Creek should be listed. If so, then the answer to Item D would be incorrect.

Section 4 – E. Normal dry weather characteristics. “No Flows” was entered, but could be incorrect. There is water in the creek behind the Bockemehl in summer. It does not dry up. Maybe the person who filled out the application did not go completely downstream. The stream does curve and get very deep at points. It gets deeper and wide and does rush the land.

Section 5 . General Characteristics of the Waterbody Obstructions – Item C. Water body aesthetics. As a person who sees this very frequently, the answer should be Natural Area: Trees and/or native vegetation: some development evident (from fields, pastures, dwellings) water clarity discolored. (page 32 of 80)

Application for a Domestic Wastewater Permit Administrative Report 1.0

Section 10- TPDES Discharge Information (Instructions Page 31) Item A – no boxes checked. Item B -No boxes checked.

Texas Commission on Environmental Quality Supplemental Permit information (SPIF) page 19 of 24

Item Provide description of effluent discharge route. - I believe this should state From a manmade ditch called unnamed tributary , thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment 0507 of the Sabine River Basin. Unnamed tributaries appear to be recreational in Texas, which defines as a little creek, or seep, or spring, or bog, or wetland without a name begins its life as surface water when it emerges from the ground. If this is true, the Josephine wastewater is and would continue to be dumping into what is surfaced groundwater and that might not be good.

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Section 4. Unbuilt Phases – Neither box was checked.

Section 5. Closure Plans

Have any treatment units been taken out of service permanently or will units be taken out of service in the next 5 years. **Neither YES or NO was checked.** With this section not being checked, and with the Wastewater Master Plan stating the Wastewater Plant 3 is **additional the answer is open to interpretation**. It is open ended and information available to public online conflicts with the Justification of permit description, next item.

Domestic Technical Report 1.1 Page 21 of 80

Section 1 Justification for Permit –

- A. Justification of permit need – Provide a detailed discussion of the need for any phase(s) not currently permitted. Failure to provide sufficient justification may result in the Executive Director recommending denial of the proposed phases(s) or permit.

This proposed treatment plant will serve a housing development. The developer is proposing a final build out of 4,000 to 6,000 single family housing. The City of Josephine will own and operate this plant (WWPT #3)The city currently has a lagoon treatment plant (WWTP#1 WQ0010887001, permitted flows 070 MGD),which will eventually be decommissioned, and those influent flows sent to this proposed treatment plant.

This is either wrong, or city was/is not being transparent about the lagoon going away. Per City’s Comprehensive Plan, 961 homes are anticipated spread among many developers. I do not see 4,000 – 6,000 houses in one housing development, except for DR Horton who is funding an addition to City of Josephine Wastewater #2 in the Magnolia Subdivision. The addition to City of Josephine Wastewater #2 was supposed to serve Riverfield which is 4,000 to 6,000 homes in back of Bowman and Ridgway and Bockelmehl properties. I can however get 5,249 houses in other Josephine sub-divisions (961) plus Horton’s Wildflower (3061). I don’t think the lagoon will be decommissioned, given the evidence in Wastewater Master Plan and this application gaps.

Section 5 Facility Site – A. Is facility above the 100 year floodplain was checked yes, so no method of protection was listed. This does not correlate with the Permit Backup for Hearing on page 34, Other Requirements Item 4. states “The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.”

Public Involvement Plan Form Page 1 of 4 - misrepresented

The last box “Public Involvement Plan not applicable to this application” was checked. But, the city and engineer know the fact that the growth in the area served is 4 times as many residents in the last 5 years, citizens should have been apprised of the expansion. Two people did ask for a public meeting and if all landowners had been notified, there would have been more I’m sure. The plant is in far east Collin County, but the **applicant left out the part that the plant is in the heart of the city and the original town**. With a public hearing, there would have been understanding that citizens would be incurring more bond debt.

4. Whether adjacent and downstream landowners received proper notice pursuant to TCEQ's rules.

(RTC Response No. 9) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly notify adjacent and downstream landowners in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response- Thank you to the ED and OPIC for acknowledging this point. There are **5** property owners below that have in property that backs up to a creek that runs to Brushy Creek and **they did not** receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit that is on display at Josephine City Hall. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

These citizens are within .36 miles and would be affected parties.

6-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the permit book at City Hall in late December.

First mention of the permit at council was in a DBI/Dunaway report in February 2024 even though the permit was made in May

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise

2023. **2-12-2024-DBI Report excerpt -** during the month of February and is open for public comment.

5. Whether Applicant properly published notice in accordance with 30 TAC Chapter 39.

(RTC Response Nos. 9 and 14) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly publish notice in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response - I appreciate that the ED acknowledges this point, as well as OPIC. The initial notice was published in The Collin County Commercial Record Dec. 5 2023, which per their website is "Collin County's newspaper for **current court and commercial information.**" It costs \$200 a year. Few if any citizens in Josephine subscribe to it. Dr. Sardo was told the Collin county Commercial Register was used because the city uses it for bidding. The Collin County Commercial Register is not transparent for Josephine citizens. After my notification to the city it ran again. I spoke with Eddy Daniel (one of the Josephine Engineers) after seeing the permit by accident in City Hall on Dec. 23, 2023. After the call with Eddy and my speaking at January City Council about the application and some of my concerns, the notice was run on January 18 in Farmerville Times and Greenville Herald Banner since the wastewater runs into Hunt County. I could not find the Greenville Herald Banner posting on the Texas Public Notices Website. [https://www.texaspublicnotices.com/\(S\(ay0fq1pl5hj4bxsorbgxb0pn\)\)/Search.aspx](https://www.texaspublicnotices.com/(S(ay0fq1pl5hj4bxsorbgxb0pn))/Search.aspx)

VIEW	Farmersville, The Farmersville Times Thursday, January 18, 2024
APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010887003 , to authorize the discharge of t ... click 'view' to open the full text.	
VIEW	McKinney, Collin County Commercial Record Tuesday, December 05, 2023
Texas Commission on Environmental Quality NOTICE OF APPLICATION AND PRELIMINARY DECISION FOR TPDES PERMIT FOR MUNICIPAL WASTEWATER NEW PERMIT NO. WQ001087003 APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environ ... click 'view' to open the full text.	

6. Whether the draft permit properly considered possible increases in instances of flooding and erosion.

(RTC Response No. 5) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response - Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- My response it that flooding issues must be relevant to the Wastewater Plant as TCEQ includes flood mitigation in the permit. On page 34 in the Backup Filed for the ED's Consideration of Hearing Requests, Other Requirements Item 4. states "The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood."

The RTC Response No 5 was: The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters.

I contend TCEQ does have jurisdiction to address flooding in the permit. If the City is going to protect the plant, deflected water during flooding, it would stand to reason deflected water(or pumped water) can enhance flooding for the citizens downstream. There has been and is continuing development behind the sewer plant location. There is a disconnect between the permit backup for the hearing and the Domestic Technical Report 1.1 Section 5 Facility Instructions.

In the current Wastewater Master Plan on page 15, engineer creating the document treats the NEW SBR plant on Caddo St. as an expansion/additional. This means more than 750,000 a day will go in the creek. I cannot locate any application item in the permit that indicates what type of protection the wastewater treatment facility has.

If this statement is important enough to be in the permit, and a flood study has not been completed since 2009 and the land to the North of the sewer plant is being developed, it could become very important to the sewer plant.

Thank you for your consideration.

7. Whether the draft permit is protective of air quality.

(RTC Response No. 6) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response -Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- After reviewing the application/TCEQ Permitting forms that were on display at City Hall, I find no line item for air quality, only mention of nuisance odors. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits, as it continues to come up in many permitting processes. Thank you.

8. Whether the draft permit properly considered potential economic impacts.

(No RTC Response) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

Jane Ridgway Response- After reviewing I find no line item for economic impact on TCEQ Permitting forms that were on display at City Hall. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits. Thank you.

Jane Ridgway - Office of Public Interest Counsel – Sept 26, 2024 Response.

Jane Ridgway Response – I concur with the OPIC on item 1-4. Item 6 – I will acknowledge and accept reluctantly.

With OPIC Item 5 my response is the same as noted on to the ED on item 6. Thank you very much for considering our concerns.

Section III.B

Section III Analysis of Hearing Request B. The affected requestors raised the following disputed issues:

1. Whether the draft permit is adequately protective against nuisance odors.
2. Whether there was adequate notice of the application and draft permit.
3. Whether the draft permit is adequately protective of wildlife.
4. Whether the application was accurately completed

1.Nuisance Odors

Affected requestors raised concerns about the proposed facility's emission of nuisance odors. TCEQ regulates nuisance conditions under 30 TAC § 309.13(e) which requires applicants to implement a nuisance odor abatement plan. Further, permits issued by TCEQ do 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.

Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

2. Notice

A requestor raised concerns about notice. Her concerns focused on whether all required, nearby landowners were properly notified. Chapter 39 contains requirements relating to notice publication, alternative language publication, mailing of notice, and posting of the application in a public place within the county. **The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.**

3. Wildlife

Requestors raised concerns about adverse effects to water quality and the consequential impacts on wildlife. The Commission is responsible for the protection of water quality under Texas Water Code (TWC) Chapter 26 and 30 TAC Chapters 307 and 309. The Texas Surface Water Quality Standards (Standards) in Chapter 307 require that the proposed permit "maintain the quality of water in the state consistent with public health and enjoyment, propagation and protection of terrestrial and aquatic life, operation of existing industries, and ... economic development of the state...." 30 TAC § 307.1. According to § 307.6(b)(4) of the Standards, "Water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, or domestic animals, **resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three.**" Additionally, "[s]urface waters must not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life." 30 TAC § 307.4(d).

As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

4. Application Accuracy

TCEQ rules require that if an applicant becomes aware that it failed to submit relevant facts or submitted incorrect information in a permit application, the applicant is required to promptly submit such facts and information. 30 TAC § 305.125(19). Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

5. Flooding

TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider flooding when making a decision on issuance of this permit. Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

6. Air Pollution

Requestors raised concerns regarding the proposed facility's emission of air pollutants. TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider air quality when making a decision on issuance of this TPDES permit, unless there is an associated water quality concern. Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

V. CONCLUSION

Having found that Jane E. Ridgway and James M. Ridgway qualify as affected persons in this matter, OPIC respectfully recommends the Commission grant their hearing requests and refer Issues No. 1-4 specified in Section III.B for a contested case hearing at SOAH with a maximum duration of 180 days. OPIC further recommends the Commission deny all pending requests for reconsideration

Jane Ridgway - Response to City of Josephine Comments 9-26-2024

PUBLIC COMMENT 1:

Aaron Hensley commented that the proposed development will be inclusive of certain people and will use municipal resources.

EXECUTIVE DIRECTOR'S RESPONSE 1:

The ED acknowledges this comment.

APPLICANT'S RESPONSE 1:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 1- I don't know how to comment on this issue, I accept ED's response.

PUBLIC COMMENT 2:

James M. Ridgway, Jane E. Ridgway, and Kevin Christensen requested a contested case hearing on this application.

EXECUTIVE DIRECTOR'S RESPONSE 2:

The ED acknowledges the hearing requests.

To request a contested case hearing, the parties must follow the hearing request procedures found in 30 TAC Chapter 55. 30 TAC § 55.201(a) requires that a hearing request is filed no later than thirty days after the Office of the Chief Clerk mails the ED's Response to Comment. A hearing requestor must meet the affected person requirements found in 30 TAC § 55.203. The hearing request itself must meet the requirements found in section 55.201(c) and (d). All timely filed hearing requests will be processed in accordance with section 55.209. Unless the case is directly referred to the State Office of Administrative Hearings under section 55.210, the Commission will consider the hearing requests and determine whether to grant or deny them in accordance with section 55.211.

APPLICANT'S RESPONSE 2:

The City acknowledges this hearing request and ED's response

AFFECTED PERSON RESPONSE 2- I acknowledge the hearing request and ED response.

PUBLIC COMMENT 3:

A. Barochiere, Frank Barochiere, Jo Collin, and L.H. expressed concern that the proposed housing development will create nuisance noise.

EXECUTIVE DIRECTOR'S RESPONSE 3:

The TCEQ's jurisdiction over the permitting process is established by the Texas Legislature and is limited to issues set forth in statutes. While 30 TAC Chapter 309, specifically Subchapter B, contains some nuisance considerations, the TCEQ does not have jurisdiction to consider noise from a wastewater treatment facility, nor from any related development, when determining whether to approve or deny a permit application. However, the draft permit does not limit the ability of individual landowners 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.

APPLICANT'S RESPONSE 3:

The City's proposed wastewater treatment facility will have components installed to minimize noise from pumps and blowers associated with the typical of operations of a wastewater plant.

AFFECTED PERSON RESPONSE 3— I cannot find any place in the application that has components to minimize noise from pumps and blowers.

PUBLIC COMMENT 4:

Barbara Newton and Shannon Villegas requested a public meeting for this application.

EXECUTIVE DIRECTOR'S RESPONSE 4:

Under 30 TAC § 55.154, TCEQ must hold a public meeting when a member of the legislature, representing the general area in which the activity is proposed, requests that a public meeting be held or when the Executive Director determines that there is a substantial or significant degree of public interest in an application. Here, there was no request for a public meeting from a member of the legislature. Additionally, the Executive Director determined that two public meeting requests did not constitute substantial or significant public interest in this application. Therefore, a public meeting was not held.

APPLICANT'S RESPONSE 4:

The City acknowledges this public meeting request and ED's response.

AFFECTED PERSON RESPONSE 4—My belief is people who were interested did not know how to request the meeting properly. The TCEQ letters are daunting. The first newspaper notification was in a newspaper no one took. After I notified the city they reprinted in two papers. Unfortunately the town relies mostly on social media. If citizens B. Newton and S. Villegas would have been granted a hearing, more citizens would have shown up. Nothing is very transparent with permits.

PUBLIC COMMENT 5:

Stacie Bockemuhl, Kevin Christensen, Patricia Jan Keamey, Barbara Newton, and Jane E. Ridgway expressed concerns that discharge from the WWTF and runoff from the accompanying development will increase the likelihood of flooding events.

EXECUTIVE DIRECTOR'S RESPONSE 5:

The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters. The proposed permit includes effluent limits and other requirements that the WWTF must meet even during rainfall events and periods of flooding.

According to the application, the proposed site for the WWTF is located above the 100-year flood plain. For additional protection, the draft permit includes Other Requirement No. 5, which requires the City of Josephine to

AFFECTED PERSON RESPONSE 5— It is noticeable that the City did not respond to the Executive Director on this point. The City has flooded on Caddo Street many times which is next to the current city sewage lagoon which feeds into the “unnamed tributary/ditch” and then to the creek when run-off from storms occurs. Perhaps it is time that the TCEQ's rules committee identifies a need for a rule change, drafts a proposed rule, and presents it to the Commission for approval. I would maintain the city may not be protecting against flood hazard as stated in my initial response. There is no current Flood Mitigation Plan to my knowledge. Last one was approved in 2022, but hopefully will be updated with the influx of residents.

- **The current Wastewater Master Plan page 15 treats the NEW SBR plant on Caddo St. as expansion and add.** This means more than 750,000 a day will go in the creek.

6.4 Lagoon Wastewater Treatment Plant

The City of Josephine currently owns and operates a lagoon wastewater treatment plant. The treatment train includes an aeration oxidation ditch and two mixed lagoons. The current permit allows for a daily average flow of 0.07 MGD. The WWTP is located in the northeast area of the city and existing flows from the west region of the city are lifted to the lagoon wastewater treatment plant.

A project to expand the current wastewater treatment plant and add an additional 0.75 MGD treatment capacity is currently under design by DBI. DBI is also pursuing a new wastewater permit with the TCEQ. This master plan report assumes the 0.75 MGD addition will be incorporated onsite.

6.5 SBR Wastewater Treatment Plant

The Josephine Municipal Utility District (MUD) constructed the Sequencing Batch Reactor (SBR) treatment plant for the Magnolia Phase 1 – 10 subdivision. The City of Josephine owns and operates the WWTP. The plant is currently permitted to treat a daily average flow of 0.5 MGD with a final phased expansion to 1.5 MGD. The WWTP currently includes one treatment train and in general includes the following treatment units: headworks with fine screens, influent lift station, sequencing batch reactor basins, post-flow equalization basin, and aerobic digester basin, filtration, and UV disinfection.

• **Kimley»Horn**

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PUBLIC COMMENT 6:

Stacie Bockemuhl, Jo Collin, James M. Ridgway, and Jane E. Ridgway expressed concerns about the proposed WWTF causing air pollution.

EXECUTIVE DIRECTOR'S RESPONSE 6:

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 that rule. The Applicant indicated in its application that the proposed facility would be an activated sludge process plant using sequencing batch reactors, which does not make a significant contribution of air contaminants to the atmosphere pursuant to the Texas Health and Safety Code §§ 382.057 and 382.05196. The WWTF is therefore permitted by rule with respect to air emissions.

APPLICANT'S RESPONSE 6:

The proposed wastewater treatment facility will be an activated sludge process plant with sequencing batch reactors, as mentioned by the executive director's response. The facility will also have odor control units installed at lift stations to minimize potential odors.

AFFECTED PERSON RESPONSE 6—Before February, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter about odor mitigation and we thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM usually we still get some odor at our home. Either it has not been done, or the units are not working.

PUBLIC COMMENT 7:

Kevin Christensen, Patricia Jan Kearney, Jane E. Ridgway, and James M. Ridgway expressed concerns that the proposed facility will create nuisance odors.

EXECUTIVE DIRECTOR'S RESPONSE 7:

30 TAC § 309.13(e) requires domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor. According to the application, the applicant intends to locate treatment units at least 150 feet from the nearest property line. This requirement is also incorporated into the proposed permit. Additionally, foul odors may exist when effluent contains an insufficient amount of dissolved oxygen. The draft permit restricts the amount of oxygen demanding constituents to simultaneously reduce the odors in discharged effluent and prevent degradation of receiving waters.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 7:

Buffer zone requirements for the proposed wastewater facilities will be met. Also, as stated in Applicant's Response 6, odor control units will be installed at the on-site lift stations to help minimize potential odors.

- **AFFECTED PERSON RESPONSE 7** –150 ft from a property line just doesn't make sense to people who smell odors that travel. I live more than 150 feet from the Sewer Property line. As stated in Comment 6 between 7 PM & 10 PM usually we still get some odor at our home, either from WWTP#2 or could be WWTP#1. I lean towards WWTP#2. Either units have not been installed, or the units are not working.

PUBLIC COMMENT 8:

Kevin Christensen asked for the WWTF to be moved to a different location.

EXECUTIVE DIRECTOR'S RESPONSE 8:

The ED acknowledges the opposition to the proposed location of the WWTF. Texas Water Code § 26.027, authorizes the TCEQ to issue permits for discharges into water in the state. The ED evaluates applications for wastewater treatment plants based on the information provided in the application. The ED can recommend issuance or denial of an application based on whether the application complies with the Texas Water Code and TCEQ regulations. The Applicant is the entity that proposes the location of the facility, point of discharge, and the discharge route rather than the ED. The ED's review evaluates the impact of the discharge on the receiving waters; however, the TCEQ's permitting authority does not include the ability to mandate a different location for the facility if the location in the application complies with 30 TAC Chapter 309, Subchapter B (Location Standards), specifically 30 TAC § 309.13 pertaining to "Unsuitable Site Characteristics" for a treatment facility. Instead, the ED may only evaluate a proposed location for a wastewater treatment facility according to the Location Standards in the TCEQ regulations and the effect of the treated wastewater on the uses of the receiving stream starting at the point of discharge.

APPLICANT'S RESPONSE 8:

The proposed wastewater treatment facility is proposed to be constructed on an existing wastewater treatment site with an operating wastewater treatment currently owned and operated by the City. The City's existing northern sewer collection system flows to the site. Relocation of the plant would be cost prohibitive for the City to acquire additional land and relocate the existing sewer collection system.

- **AFFECTED PERSON RESPONSE 8** –It would be costly to the city and since they have spent money allocated bond money for sewer on other projects. There is not more land in the city vicinity since developers have purchased it all. It does not seem feasible.

PUBLIC COMMENT 9:

Stacie Bockemehl and Jane E. Ridgway were concerned that nearby landowners were not properly notified.

EXECUTIVE DIRECTOR'S RESPONSE 9:

There are two public notices regarding this permit action, the Notice of Receipt of Application and Intent to Obtain a Wastewater Permit (NORI), and the Notice of Application and Preliminary Decision (NAPD). The TCEQ's notice rules require applicants to provide public notices for wastewater permits by publishing the NORI in a "newspaper of largest circulation in the county in which the facility is located or proposed to be located. If the facility is located or proposed to be located in a municipality, the applicant [must] publish notice in any newspaper of general circulation in the municipality."¹⁴ After the Office of the Chief Clerk has mailed the preliminary decision and the NAPD to the applicant, they are required to publish the NAPD "at least once in a newspaper regularly published or circulated within each county where the proposed facility or discharge is located and in each county affected by the discharge."¹⁵

For a history of the published notices regarding this application, please see the first paragraph of section C, Procedural History.

Additionally, the TCEQ's notice rules for a new permit or major amendment require mailed notice of the NORI and NAPD to landowners named on the application map and persons on the mailing list maintained by the Office of the Chief Clerk.¹⁶ The applicant is required to submit a landowner map as part of the application materials. The landowner map must include the property boundaries of landowners surrounding the applicant's property and the property boundaries of all landowners surrounding the discharge point and on both sides of the discharge route for one full stream mile downstream of the discharge point. Anyone who submits a comment or contested case hearing request before the end of the public comment period is also added to the mailing list for that permit action.

APPLICANT'S RESPONSE 9:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was additionally published in the *Herald Banner-Greenville, Hunt County, Texas* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 9 The additional newspaper notice in January was run after I notified the city/engineer that the first newspaper used for the notice was in a paper no one subscribes to. Farmerville Times and Herald Banner have always been the papers for public notices for Josephine. There are 5 property owners below that have in property that backs up to the Creek and they did not receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

6-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the book at City Hall in December.

2-12-2024-DBI Report excerpt -

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise during the month of February and is open for public comment.

This is all Stacie Bockemehl received. No letter was attached. It's no wonder people did not respond.

Senate Bill 709 (84th Legislative Session, 2015) amended the Texas Water Code by adding new Section 5.5553, which requires the Texas Commission on Environmental Quality (TCEQ) to provide written notice to you at least thirty (30) days prior to the TCEQ's issuance of draft permits for applications that are located in your district.

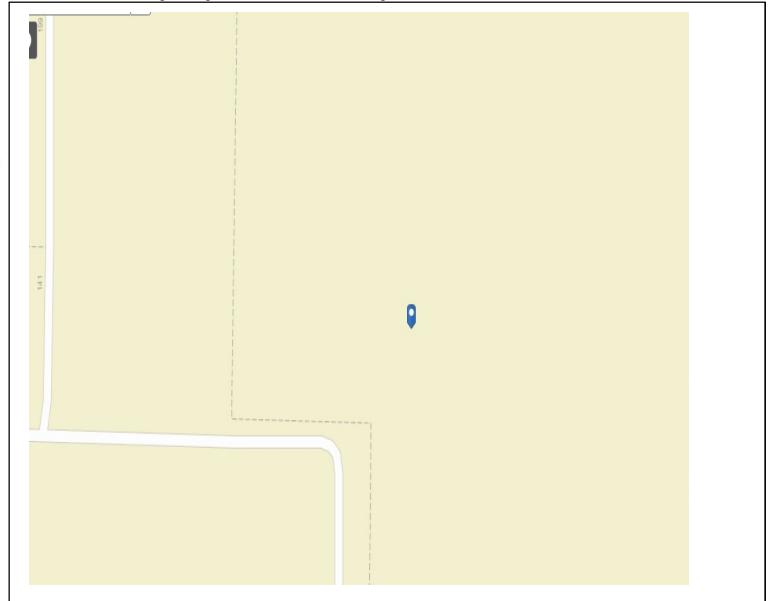
City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the TCEQ for proposed Texas Pollutant Discharge Elimination System No. WQ0010887003 (EPA I.D. No. TX0144517) to authorize the discharge of treated wastewater at a volume not to exceed a daily average flow of 750,000 gallons per day. The domestic wastewater treatment facility will be located at 601 East Caddo Street, in Collin County, Texas 75189. The discharge route will be from the plant site to an unnamed tributary, thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment No. 0507 of the Sabine River Basin. TCEQ received this application on May 1, 2023. The permit application will be available for viewing and copying at Josephine City Hall, 201 South Main Street, Josephine, Texas prior to the date this notice is published in the newspaper. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For the exact location, refer to the application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-96.298888,33.066111&level=18>

TCEQ is preparing the initial draft permit. At the time the draft permit is issued, the applicant will be required to publish notice in a newspaper of general circulation, and the TCEQ will provide a copy of the notice of draft permit to persons who have requested to be on a mailing list.

Questions regarding this application may be directed to Mr. Firoj Vahora by calling 512-239-4540.

Issuance Date: June 14, 2023



The 6/14/2023 entry on <https://www14.tceq.texas.gov/epic/eCID/> shows "Letter", but this was NOT a letter in my opinion. Very cryptic. Stacie did not know what it meant until I contacted her.

PUBLIC COMMENT 10:

James M. Ridgway commented that the permit application was improperly filled out.

EXECUTIVE DIRECTOR'S RESPONSE 10:

TCEQ performed an administrative review of the application, upon receipt, to ensure that all required information was provided therein. TCEQ determined that the application was administratively complete on June 6, 2023. The review included TCEQ staff reviewing all administrative information provided in the application.

TCEQ also performed a technical review of the application to ensure that the applicant adequately addressed all required technical issues to show that wastewater from the facility would be treated to required standards and to establish effluent limits that will ensure protection of the receiving water bodies and their existing uses. TCEQ reviewed the proposed discharge route, the designated uses and dissolved oxygen criteria of the receiving water bodies, antidegradation analysis of the discharges, and identification of any endangered species that may be present in the receiving water bodies. Based on the review and analysis, TCEQ established effluent limits and conditions designed to maintain the receiving water body's designated uses and protect human health and aquatic life.

APPLICANT'S RESPONSE 10:

The City acknowledges the submission of an administratively and technically complete application as determined by TCEQ and acknowledged by the ED's response above.

AFFECTED PERSON RESPONSE 10 –See response 9 above – Eight (8) Landowner's were left off the application. In addition there are many other items identified in Response to Executive Director's Response to hearing Requests, Item 3 above.

PUBLIC COMMENT 11:

A. Barochiere, Frank Barochiere, Jo Collin, Aaron Hensley, and H.L. expressed general opposition to the draft permit.

EXECUTIVE DIRECTOR'S RESPONSE 11:

The ED acknowledges these comments.

APPLICANT'S RESPONSE 11:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 11 – I acknowledge this comment and ED's response.

PUBLIC COMMENT 12:

A. Barochiere and Frank Barochiere expressed concerns about the impacts of development surrounding the proposed WWTF.



EXECUTIVE DIRECTOR'S RESPONSE 12:

The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ does not have jurisdiction to consider the possibilities of how future development surrounding the WWTF will impact area residence as a part of the wastewater permitting process.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 12:

The City is experiencing rapid growth thereby requiring wastewater treatment facility improvements/upgrades in order to remain compliant with the requirements of TCEQ. The proposed wastewater treatment facility will serve the referenced development in the area.

AFFECTED PERSON RESPONSE 12 – I acknowledge the ED response.

PUBLIC COMMENT 13:

James M. Ridgway and Jane E. Ridgway expressed concern that discharged effluent would negatively impact wildlife.

EXECUTIVE DIRECTOR'S RESPONSE 13:

30 TAC § 307.6(b)(4) requires water in the state to be maintained to preclude adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. While the TSWQS and the IPs do not specifically designate criteria for the protection of livestock, terrestrial wildlife, or domestic animals, the criteria designated for the protection of human health and aquatic life should preclude adverse impacts to livestock, terrestrial wildlife, and domestic animals.

The Executive Director has determined that the draft permit would be protective of the environment, including aquatic and terrestrial wildlife. Potential water quality issues that could negatively affect wildlife – excessive salinity, high nitrogen content, bacterial contamination, depressed dissolved oxygen, and heavy growths of blue-green algae – are not expected in the receiving waters provided the Applicant complies with proposed permit.

APPLICANT'S RESPONSE 13:

The City intends to comply with the proposed permit in order to prevent the discharge effluent that would have adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals.

AFFECTED PERSON RESPONSE 13 -The city has not engaged in funding for PFAS and emerging contaminants, though PFAS has been brought up at council meetings. Because the city buys water from NTMWD it is seen at NTMWD problem, not Josephine. However, as the fastest growing city in North Texas, or so it is advertised, additional in writing protection on a TCEQ form would be welcomed. An effort to apply for funding at TWDB could help. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov <https://www.twdb.texas.gov/financial/programs/ec/index.asp>

- Funding for PFAS <https://www.tceq.texas.gov/assistance/resources/the-advocate-1/funding-available-for-pfas-and-emerging-contaminants>
- Eco-environment The wooded Brushy Creek area behind my backyard neighbor houses hawks, birds, egrets, fowl, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's. Though chemicals treating sewer are not supposed to be harmful to fish, fowl, animals, an increase in the amount of flow may negate that thought.

Wildlife - Wastewater will affect wildlife, TCEQ says that that water in the state is to be safe for humans, therefore it is safe for wildlife. However, it has been determined that water has PFAS. Nearly all municipal wastewater treatment plants have measurable levels of PFAS in their discharge. The vast majority of that PFAS comes from upstream sources — such as industries, household products, and human waste — and flows through the facilities.

Reference Public Comment 5 – City Wastewater Master Plans says an ADDITIONAL .75 MGD plant.

PUBLIC COMMENT 14:

Pamela Sardo commented that the NORI and the NAPD should not have been published in the *Collin County Commercial Record* because the subscription fee is too high.

EXECUTIVE DIRECTOR'S RESPONSE 14:

Under 30 TAC §§ 39.405(f)(1) and 39.418(b)(1), the NORI must be published in the newspaper of largest circulation in the county in which the proposed WWTF is located, or, if the facility is located in a municipality, then the applicant may publish the NORI in any newspaper of general circulation. Under 30 TAC § 39.419(b), the NAPD must be published at least once in the same newspaper as the NORI.

Here, the NORI and NAPD were both published in the *Collin County Commercial Record*, but the NAPD was also published in the *Harald Banner-Collin County* and in *The Farmersville Times/C&S Media-Collin County*.

APPLICANT'S RESPONSE 14:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was also published in the *Herald Banner-Greenville, Hunt County TX* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 14 – The city only published in the local papers after I notified them several people did get notified that live close to me. They told Dr. Sardo that the Collin County Commercial Register was used because they use it for bidding. Using Collin Co. Commercial Record shows it was not transparent to Citizens, because it is for commercial. It was not transparent. The first notification to City Council about the Permit was on DBI Report for 1-6-2024, even though it had been applied for in May.

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
972-834-8686
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087

To: All interested persons on the attached mailing list

RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024
City of Josephine (Applicant)
Responses to Executive Director of the TCEQ, Public Interest Counsel of TCEQ and Applicant

In preparation for the hearing on the above mentioned permit application, I am sending my responses to comply with rules set forth in TCEQ letter dated Sept 4, 2024 setting the docket number. The commission rules entitle all recipients of time hearing requests/requests for reconsideration to file a formal written response to Applicant, the Executive Director and the Public Interest Counsel of the TCEQ by or on September 30, 2024. I am responding to correspondence from the Executive Director's Office and the Office of Public Interest Counsel which were both to me on Sept 16, 2024. I had to go online to obtain the filing from the City of Josephine in order to respond.

There are responses to each of the 3 parties in the document following this letter.

Thank you in advance for your consideration.

Best Regards,

Jane Ridgway

MAILING LIST
City of Josephine
TCEQ Docket No./TCEQ Expediente N.º 2024-1228-MWD;
TPDES Permit No./TPDES Permiso N.º WQ0010887003

FOR THE APPLICANT/PARA EL
SOLICITANTE

Lisa Palomba, City Administrator
City of Josephine
P.O. Box 99
Josephine, Texas 75164

Eddy Daniel, P.E.
City Engineer, Dunaway, LLC
P.O. Box 606
Farmerville, Texas 75442

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

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

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

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

FOR PUBLIC INTEREST COUNSEL/PARA
ABOGADOS DE INTERÉS PÚBLICO
via electronic mail/vía correo electrónico:

Garrett T. Arthur, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711

FOR ALTERNATIVE DISPUTE
RESOLUTION/PARA LA RESOLUCIÓN
ALTERNATIVA DE DISPUTAS
via electronic mail/vía correo electrónico:

Kyle Lucas
Texas Commission on Environmental
Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, Texas 78711

FOR THE CHIEF CLERK/PARA EL
SECRETARIO OFICIAL
via eFilings:

Docket Clerk
Texas Commission on Environmental
Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711
<https://www.tceq.texas.gov/goto/efilings>

REQUESTER(S)/INTERESTED PERSON(S)/
SOLICITANTE(S)/ PERSONA(S)
INTERESADA(S)
See attached list/Ver lista adjunta.

REQUESTER(S)/ SOLICITANTE(S)

Christensen, Kevin
201 Monarch Ln
Josephine Tx 75173-7152

Ridgway, James M
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, James M
5754 FM 6
Josephine Tx 75189-4000

Ridgway, Jane E
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, Jane E
5754 FM 6
Josephine Tx 75189-4000

BAROCHIERE , A
300 PATINA ST
JOSEPHINE TX 75189-6020

BAROCHIERE , FRANK
300 PATINA ST
JOSEPHINE TX 75189-6020

BOCKEMEHL , MRS STACIE
PO BOX 233
CADDO MILLS TX 75135-0233

CHRISTENSEN , KEVIN
201 MONARCH LN
JOSEPHINE TX 75173-7152

COLLIN , JO
300 CHUCK WAGON DR
JOSEPHINE TX 75189-5442

DUPUIS , JACOB
DUNAWAY
118 MCKINNEY ST
FARMERSVILLE TX 75442-2214

FLORES , SARAH
303 WAGON WHEEL DR
JOSEPHINE TX 75189-5385

HENSLEY , AARON
513 PLUM DR
JOSEPHINE TX 75173-8536

KEARNEY , MS PATRICIA JAN
PO BOX 193
JOSEPHINE TX 75164-0193

L , H
308 CHUCK WAGON DR
JOSEPHINE TX 75189-5442

NEWTON , BARBARA
PO BOX 415
JOSEPHINE TX 75164-0415

RIDGWAY , JANE E
PO BOX 127
CADDO MILLS TX 75135-0127

RIDGWAY , JANE E
5754 FM 6
JOSEPHINE TX 75189-4000

RIDGWAY , JAMES M
PO BOX 127
CADDO MILLS TX 75135-0127

RIDGWAY , JAMES M
5754 FM 6
JOSEPHINE TX 75189-4000

SARDO , DR. PAMELA
2006 HARVEST LN
JOSEPHINE TX 75173-7075

VILLEGAS , SHANNON
106 MILTON ST
JOSEPHINE TX 75173-8528

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087
RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024

**CONTINUED REQUEST FOR A CONTESTED CASE HEARING ON
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
TPDES PERMIT NUMBER WQ0010887003**

Name of Person Contesting: Jane Ridgway
Mailing Address: P O Box 127, Caddo Mills, TX 75135-0127
Daytime Phone: 972-834-8686
Fax Number: None
My Physical Property Location
and Homestead 5754 FM 6, Josephine, TX 75189 - Hunt County
Email: jridgway1971@gmail.com (no "e" in ridgway)
Applicant: City of Josephine - TPDES PERMIT NUMBER WQ0010887003

Response to Executive Director's Response to Hearing Requests (with OPIC Comments)

VII. ANALYSIS OF THE HEARING REQUESTS

A. WHETHER THE REQUEST COMPLIED WITH 30 TAC §§ 55.201(c) AND (d).

1. Jane Ridgway filed four timely, written Requests that provided the requisite contact information, raised issues that form the basis of her Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Ms. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Ms. Ridgway believes she will be affected by the application in a way not common to the public. Ms. Ridgway's Requests stated that she lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Ms. Ridgway's property is 0.36 miles away from the proposed facility. Ms. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, flooding and erosion, air quality, and economic impacts.

The ED recommends finding that the Requests of Ms. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges my compliance to the TAC. Thank you.

2. James Ridgway filed two timely, written Requests that provided the requisite contact information, raised issues that form the basis of his Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Mr. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Mr. Ridgway believes he will be affected by the application in a way not common to the general public. Mr. Ridgway's Requests stated that he lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Mr. Ridgway's property is 0.36 miles away from the proposed facility. Mr. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, and flooding.

The ED recommends finding that the Requests of Mr. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledged his compliance to the TAC.

B. WHETHER REQUESTOR IS AN AFFECTED PERSON UNDER 30 TAC § 55.203.

1. Jane Ridgway filed four Requests that effectively identified personal, justiciable interests affected by the application. Ms. Ridgway's Requests stated that she was close to the proposed facility and that she is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Ms. Ridgway's property is situated 0.36 miles away from the proposed facility. Ms. Ridgway's proximity to the proposed facility, in conjunction with the issues Ms. Ridgway raised, lead the ED to determine that Ms. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Ms. Ridgway is an affected person under 30 TAC § 55.203 and grant her hearing request.

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges I am an affected person and granting the hearing request. Thank you.

2. James Ridgway filed two Requests that effectively identified personal, justiciable interests affected by the application. Mr. Ridgway's Requests stated that he was close to the proposed facility and that he is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Mr. Ridgway's property is situated 0.36 miles away from the proposed facility. Mr. Ridgway's proximity to the proposed facility, in conjunction with the issues Mr. Ridgway raised, lead the ED to determine that Mr. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Mr. Ridgway is an affected person under 30 TC § 55.203 and grant his hearing request.

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledges he is an affected person and for granting the hearing request.

VIII. ISSUES RAISED IN THE HEARING REQUEST:

1. **Whether the draft permit adequately prevents nuisance odors as required by 30 TAC § 309.13(e).**

(RTC Response No. 7) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit does not control nuisance odors in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 1. Nuisance Odors - Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

Jane Ridgway Response - I appreciate the possible referral from the ED on nuisance odor issue, and OPIC positive response. Before February 2024, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter dated February 1 to Lisa Polomba, City Administrator about odor mitigation and installing odor control equipment. I thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM on most days we still get odor at our home. Either mitigation has not been done, or the units are not working. The permit includes information from Evoqua, but their information alludes to pipeline distribution of wastewater. "A liquid phase dosing program can be used to prevent odorous compounds from forming in wastewater. Chemicals, such as Bioxide® Solution are added directly into the wastewater stream along the wastewater pipeline. This plant will dump into a manmade ditch.

2. **Whether the draft permit is adequately protective of aquatic and terrestrial wildlife.**

(RTC Response No. 13) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit is not protective of aquatic and terrestrial wildlife in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 3. Wildlife - As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

Jane Ridgway Response- Thank you. I appreciate the possible referral from the ED on this issue, and also the OPIC for finding the issue relevant. The Natural wooded creek area behind the Bowman home (my backyard neighbor) has hawks, birds, egrets, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's while 20 swamp rabbits come out at Bowman's. I do have my rabbit and egret photos. These critters come to my property except the beaver.

TCEQ states that that water in the state is to be safe for humans; therefore it is safe for wildlife. However, it has been determined that wastewater has PFAS. It has been found PFAS is harmful wildlife.

<https://news.mongabay.com/2023/09/pfas-forever-chemicals-harming-wildlife-the-world-over-study/>. NTMWD supplies water to Josephine which contains PFAS. City Staff think PFAS mitigation is NTMWD issue. NTMWD is addressing PFAS incoming water, but Josephine should help with wastewater. If not addressed at wastewater level, PFAS will continue to be distributed to ditch/creeks/Lake Tawakoni until However, as the fastest growing city in North Texas, additional PFAS treatment for wastewater to humans at Lake Tawakoni, and to protect aquatic and terrestrial wildlife both in writing and action seems prudent. Perhaps EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS include PFAS monitoring under *Other Requirements which I cannot find.

The City could apply for funding at TWDB if my research is good. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov

3. Whether the application was correctly determined to be administratively and technically complete.

(RTC Response No. 10) This issue involves a disputed question of mixed fact and law. If it can be shown that the application information, on which the draft permit is based, was not complete, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 4. Application Accuracy - Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

Jane Ridgway Response- I wish to thank the ED for the referral and also the OPIC. As the definition of not complete is which can also mean "incomplete" means something is not complete or finished, and may be lacking a necessary part, element, or step. Possibly inaccurate. Another review of the application and our findings is below. We would like to know if these were rectified.

TCEQ Core Data Form Section II

Customer Information Item 9. Federal Tax ID is missing. Cities need one to pay employees.

Domestic Technical Worksheet TCEQ-10054

Section 2 – B. and C. Not answered. "No" should have been checked.

Section 4 – B Flow characteristics

If a stream, manmade channel or ditch was checked above provide the following. For existing discharges, check one of the following that best characterizes the area upstream of the discharge. For new discharges, characterize the area *downstream* of the discharge. (Check one) .

There were no boxes checked in the section "Check the method used to characterize the area upstream (or downstream) for new dischargers. Please note that in Section 4, Description of Immediate Receiving Waters, A. Receiving water type, the last box "Manmade channel or ditches" was check marked. This is the first time I realized the Unnamed Tributary was in fact a manmade channel or ditch.

Section 4 – C-Downstream Perennial confluences.

List the names of all perennial streams the join the receiving water within 3 miles downstream of the discharge point. This was answered "none". I checked map at <https://en-us.topographic-map.com/map-sdhms8/Josephine/?center=33.06373%2C-96.29229&zoom=16&overlay=0> . Since my house is .36 miles, it looks like the unnamed tributary and Brushy Creek should be listed. If so, then the answer to Item D would be incorrect.

Section 4 – E. Normal dry weather characteristics. “No Flows” was entered, but could be incorrect. There is water in the creek behind the Bockemehl in summer. It does not dry up. Maybe the person who filled out the application did not go completely downstream. The stream does curve and get very deep at points. It gets deeper and wide and does rush the land.

Section 5 . General Characteristics of the Waterbody Obstructions – Item C. Water body aesthetics. As a person who sees this very frequently, the answer should be Natural Area: Trees and/or native vegetation: some development evident (from fields, pastures, dwellings) water clarity discolored. (page 32 of 80)

Application for a Domestic Wastewater Permit Administrative Report 1.0

Section 10- TPDES Discharge Information (Instructions Page 31) Item A – no boxes checked. Item B -No boxes checked.

Texas Commission on Environmental Quality Supplemental Permit information (SPIF) page 19 of 24

Item Provide description of effluent discharge route. - I believe this should state From a manmade ditch called unnamed tributary , thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment 0507 of the Sabine River Basin. Unnamed tributaries appear to be recreational in Texas, which defines as a little creek, or seep, or spring, or bog, or wetland without a name begins its life as surface water when it emerges from the ground. If this is true, the Josephine wastewater is and would continue to be dumping into what is surfaced groundwater and that might not be good.

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Section 4. Unbuilt Phases – Neither box was checked.

Section 5. Closure Plans

Have any treatment units been taken out of service permanently or will units be taken out of service in the next 5 years. **Neither YES or NO was checked.** With this section not being checked, and with the Wastewater Master Plan stating the Wastewater Plant 3 is additional the answer is open to interpretation. It is open ended and information available to public online conflicts with the Justification of permit description, next item.

Domestic Technical Report 1.1 Page 21 of 80

Section 1 Justification for Permit –

- A. Justification of permit need – Provide a detailed discussion of the need for any phase(s) not currently permitted. Failure to provide sufficient justification may result in the Executive Director recommending denial of the proposed phases(s) or permit.

This proposed treatment plant will serve a housing development. The developer is proposing a final build out of 4,000 to 6,000 single family housing. The City of Josephine will own and operate this plant (WWPT #3)The city currently has a lagoon treatment plant (WWTP#1 WQ0010887001, permitted flows 070 MGD),which will eventually be decommissioned, and those influent flows sent to this proposed treatment plant.

This is either wrong, or city was/is not being transparent about the lagoon going away. Per City’s Comprehensive Plan, 961 homes are anticipated spread among many developers. I do not see 4,000 – 6,000 houses in one housing development, except for DR Horton who is funding an addition to City of Josephine Wastewater #2 in the Magnolia Subdivision. The addition to City of Josephine Wastewater #2 was supposed to serve Riverfield which is 4,000 to 6,000 homes in back of Bowman and Ridgway and Bockelmehl properties. I can however get 5,249 houses in other Josephine sub-divisions (961) plus Horton’s Wildflower (3061). I don’t think the lagoon will be decommissioned, given the evidence in Wastewater Master Plan and this application gaps.

Section 5 Facility Site – A. Is facility above the 100 year floodplain was checked yes, so no method of protection was listed. This does not correlate with the Permit Backup for Hearing on page 34, Other Requirements Item 4. states “The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.”

Public Involvement Plan Form Page 1 of 4 - misrepresented

The last box “Public Involvement Plan not applicable to this application” was checked. But, the city and engineer know the fact that the growth in the area served is 4 times as many residents in the last 5 years, citizens should have been apprised of the expansion. Two people did ask for a public meeting and if all landowners had been notified, there would have been more I’m sure. The plant is in far east Collin County, but the **applicant left out the part that the plant is in the heart of the city and the original town.** With a public hearing, there would have been understanding that citizens would be incurring more bond debt.

4. Whether adjacent and downstream landowners received proper notice pursuant to TCEQ's rules.

(RTC Response No. 9) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly notify adjacent and downstream landowners in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response- Thank you to the ED and OPIC for acknowledging this point. There are **5** property owners below that have in property that backs up to a creek that runs to Brushy Creek and **they did not** receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit that is on display at Josephine City Hall. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

These citizens are within .36 miles and would be affected parties.

6-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the permit book at City Hall in late December.

First mention of the permit at council was in a DBI/Dunaway report in February 2024 even though the permit was made in May

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise

2023. **2-12-2024-DBI Report excerpt** - during the month of February and is open for public comment.

5. Whether Applicant properly published notice in accordance with 30 TAC Chapter 39.

(RTC Response Nos. 9 and 14) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly publish notice in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response - I appreciate that the ED acknowledges this point, as well as OPIC. The initial notice was published in The Collin County Commercial Record Dec. 5 2023, which per their website is "Collin County's newspaper for **current court and commercial information.**" It costs \$200 a year. Few if any citizens in Josephine subscribe to it. Dr. Sardo was told the Collin county Commercial Register was used because the city uses it for bidding. The Collin County Commercial Register is not transparent for Josephine citizens. After my notification to the city it ran again. I spoke with Eddy Daniel (one of the Josephine Engineers) after seeing the permit by accident in City Hall on Dec. 23, 2023. After the call with Eddy and my speaking at January City Council about the application and some of my concerns, the notice was run on January 18 in Farmerville Times and Greenville Herald Banner since the wastewater runs into Hunt County. I could not find the Greenville Herald Banner posting on the Texas Public Notices Website. [https://www.texaspublicnotices.com/\(S\(ay0fq1pl5hj4bxsorbgxb0pn\)\)/Search.aspx](https://www.texaspublicnotices.com/(S(ay0fq1pl5hj4bxsorbgxb0pn))/Search.aspx)

VIEW	Farmersville, The Farmersville Times Thursday, January 18, 2024
APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010887003 , to authorize the discharge of t ... click 'view' to open the full text.	
VIEW	McKinney, Collin County Commercial Record Tuesday, December 05, 2023
Texas Commission on Environmental Quality NOTICE OF APPLICATION AND PRELIMINARY DECISION FOR TPDES PERMIT FOR MUNICIPAL WASTEWATER NEW PERMIT NO. WQ001087003 APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environ ... click 'view' to open the full text.	

6. Whether the draft permit properly considered possible increases in instances of flooding and erosion.

(RTC Response No. 5) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response - Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- My response it that flooding issues must be relevant to the Wastewater Plant as TCEQ includes flood mitigation in the permit. On page 34 in the Backup Filed for the ED's Consideration of Hearing Requests, Other Requirements Item 4. states "The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood."

The RTC Response No 5 was: The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters.

I contend TCEQ does have jurisdiction to address flooding in the permit. If the City is going to protect the plant, deflected water during flooding, it would stand to reason deflected water(or pumped water) can enhance flooding for the citizens downstream. There has been and is continuing development behind the sewer plant location. There is a disconnect between the permit backup for the hearing and the Domestic Technical Report 1.1 Section 5 Facility Instructions.

In the current Wastewater Master Plan on page 15, engineer creating the document treats the NEW SBR plant on Caddo St. as an expansion/additional. This means more than 750,000 a day will go in the creek. I cannot locate any application item in the permit that indicates what type of protection the wastewater treatment facility has.

If this statement is important enough to be in the permit, and a flood study has not been completed since 2009 and the land to the North of the sewer plant is being developed, it could become very important to the sewer plant.

Thank you for your consideration.

7. Whether the draft permit is protective of air quality.

(RTC Response No. 6) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response -Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- After reviewing the application/TCEQ Permitting forms that were on display at City Hall, I find no line item for air quality, only mention of nuisance odors. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits, as it continues to come up in many permitting processes. Thank you.

8. Whether the draft permit properly considered potential economic impacts.

(No RTC Response) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

Jane Ridgway Response- After reviewing I find no line item for economic impact on TCEQ Permitting forms that were on display at City Hall. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits. Thank you.

Jane Ridgway - Office of Public Interest Counsel – Sept 26, 2024 Response.

Jane Ridgway Response – I concur with the OPIC on item 1-4. Item 6 – I will acknowledge and accept reluctantly.

With OPIC Item 5 my response is the same as noted on to the ED on item 6. Thank you very much for considering our concerns.

Section III.B

Section III Analysis of Hearing Request B. The affected requestors raised the following disputed issues:

1. Whether the draft permit is adequately protective against nuisance odors.
2. Whether there was adequate notice of the application and draft permit.
3. Whether the draft permit is adequately protective of wildlife.
4. Whether the application was accurately completed

1.Nuisance Odors

Affected requestors raised concerns about the proposed facility's emission of nuisance odors. TCEQ regulates nuisance conditions under 30 TAC § 309.13(e) which requires applicants to implement a nuisance odor abatement plan. Further, permits issued by TCEQ do 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.

Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

2. Notice

A requestor raised concerns about notice. Her concerns focused on whether all required, nearby landowners were properly notified. Chapter 39 contains requirements relating to notice publication, alternative language publication, mailing of notice, and posting of the application in a public place within the county. **The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.**

3. Wildlife

Requestors raised concerns about adverse effects to water quality and the consequential impacts on wildlife. The Commission is responsible for the protection of water quality under Texas Water Code (TWC) Chapter 26 and 30 TAC Chapters 307 and 309. The Texas Surface Water Quality Standards (Standards) in Chapter 307 require that the proposed permit "maintain the quality of water in the state consistent with public health and enjoyment, propagation and protection of terrestrial and aquatic life, operation of existing industries, and ... economic development of the state...." 30 TAC § 307.1. According to § 307.6(b)(4) of the Standards, "Water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, or domestic animals, **resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three.**" Additionally, "[s]urface waters must not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life." 30 TAC § 307.4(d).

As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

4. Application Accuracy

TCEQ rules require that if an applicant becomes aware that it failed to submit relevant facts or submitted incorrect information in a permit application, the applicant is required to promptly submit such facts and information. 30 TAC § 305.125(19). Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

5. Flooding

TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider flooding when making a decision on issuance of this permit. Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

6. Air Pollution

Requestors raised concerns regarding the proposed facility's emission of air pollutants. TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider air quality when making a decision on issuance of this TPDES permit, unless there is an associated water quality concern. Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

V. CONCLUSION

Having found that Jane E. Ridgway and James M. Ridgway qualify as affected persons in this matter, OPIC respectfully recommends the Commission grant their hearing requests and refer Issues No. 1-4 specified in Section III.B for a contested case hearing at SOAH with a maximum duration of 180 days. OPIC further recommends the Commission deny all pending requests for reconsideration

Jane Ridgway - Response to City of Josephine Comments 9-26-2024

PUBLIC COMMENT 1:

Aaron Hensley commented that the proposed development will be inclusive of certain people and will use municipal resources.

EXECUTIVE DIRECTOR'S RESPONSE 1:

The ED acknowledges this comment.

APPLICANT'S RESPONSE 1:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 1- I don't know how to comment on this issue, I accept ED's response.

PUBLIC COMMENT 2:

James M. Ridgway, Jane E. Ridgway, and Kevin Christensen requested a contested case hearing on this application.

EXECUTIVE DIRECTOR'S RESPONSE 2:

The ED acknowledges the hearing requests.

To request a contested case hearing, the parties must follow the hearing request procedures found in 30 TAC Chapter 55. 30 TAC § 55.201(a) requires that a hearing request is filed no later than thirty days after the Office of the Chief Clerk mails the ED's Response to Comment. A hearing requestor must meet the affected person requirements found in 30 TAC § 55.203. The hearing request itself must meet the requirements found in section 55.201(c) and (d). All timely filed hearing requests will be processed in accordance with section 55.209. Unless the case is directly referred to the State Office of Administrative Hearings under section 55.210, the Commission will consider the hearing requests and determine whether to grant or deny them in accordance with section 55.211.

APPLICANT'S RESPONSE 2:

The City acknowledges this hearing request and ED's response

AFFECTED PERSON RESPONSE 2- I acknowledge the hearing request and ED response.

PUBLIC COMMENT 3:

A. Barochiere, Frank Barochiere, Jo Collin, and L.H. expressed concern that the proposed housing development will create nuisance noise.

EXECUTIVE DIRECTOR'S RESPONSE 3:

The TCEQ's jurisdiction over the permitting process is established by the Texas Legislature and is limited to issues set forth in statutes. While 30 TAC Chapter 309, specifically Subchapter B, contains some nuisance considerations, the TCEQ does not have jurisdiction to consider noise from a wastewater treatment facility, nor from any related development, when determining whether to approve or deny a permit application. However, the draft permit does not limit the ability of individual landowners 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.

APPLICANT'S RESPONSE 3:

The City's proposed wastewater treatment facility will have components installed to minimize noise from pumps and blowers associated with the typical of operations of a wastewater plant.

AFFECTED PERSON RESPONSE 3— I cannot find any place in the application that has components to minimize noise from pumps and blowers.

PUBLIC COMMENT 4:

Barbara Newton and Shannon Villegas requested a public meeting for this application.

EXECUTIVE DIRECTOR'S RESPONSE 4:

Under 30 TAC § 55.154, TCEQ must hold a public meeting when a member of the legislature, representing the general area in which the activity is proposed, requests that a public meeting be held or when the Executive Director determines that there is a substantial or significant degree of public interest in an application. Here, there was no request for a public meeting from a member of the legislature. Additionally, the Executive Director determined that two public meeting requests did not constitute substantial or significant public interest in this application. Therefore, a public meeting was not held.

APPLICANT'S RESPONSE 4:

The City acknowledges this public meeting request and ED's response.

AFFECTED PERSON RESPONSE 4—My belief is people who were interested did not know how to request the meeting properly. The TCEQ letters are daunting. The first newspaper notification was in a newspaper no one took. After I notified the city they reprinted in two papers. Unfortunately the town relies mostly on social media. If citizens B. Newton and S. Villegas would have been granted a hearing, more citizens would have shown up. Nothing is very transparent with permits.

PUBLIC COMMENT 5:

Stacie Bockemuhl, Kevin Christensen, Patricia Jan Keamey, Barbara Newton, and Jane E. Ridgway expressed concerns that discharge from the WWTF and runoff from the accompanying development will increase the likelihood of flooding events.

EXECUTIVE DIRECTOR'S RESPONSE 5:

The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters. The proposed permit includes effluent limits and other requirements that the WWTF must meet even during rainfall events and periods of flooding.

According to the application, the proposed site for the WWTF is located above the 100-year flood plain. For additional protection, the draft permit includes Other Requirement No. 5, which requires the City of Josephine to

AFFECTED PERSON RESPONSE 5— It is noticeable that the City did not respond to the Executive Director on this point. The City has flooded on Caddo Street many times which is next to the current city sewage lagoon which feeds into the “unnamed tributary/ditch” and then to the creek when run-off from storms occurs. Perhaps it is time that the TCEQ's rules committee identifies a need for a rule change, drafts a proposed rule, and presents it to the Commission for approval. I would maintain the city may not be protecting against flood hazard as stated in my initial response. There is no current Flood Mitigation Plan to my knowledge. Last one was approved in 2022, but hopefully will be updated with the influx of residents.

- **The current Wastewater Master Plan page 15 treats the NEW SBR plant on Caddo St. as expansion and add.** This means more than 750,000 a day will go in the creek.

6.4 Lagoon Wastewater Treatment Plant

The City of Josephine currently owns and operates a lagoon wastewater treatment plant. The treatment train includes an aeration oxidation ditch and two mixed lagoons. The current permit allows for a daily average flow of 0.07 MGD. The WWTP is located in the northeast area of the city and existing flows from the west region of the city are lifted to the lagoon wastewater treatment plant.

A project to expand the current wastewater treatment plant and add an additional 0.75 MGD treatment capacity is currently under design by DBI. DBI is also pursuing a new wastewater permit with the TCEQ. This master plan report assumes the 0.75 MGD addition will be incorporated onsite.

6.5 SBR Wastewater Treatment Plant

The Josephine Municipal Utility District (MUD) constructed the Sequencing Batch Reactor (SBR) treatment plant for the Magnolia Phase 1 – 10 subdivision. The City of Josephine owns and operates the WWTP. The plant is currently permitted to treat a daily average flow of 0.5 MGD with a final phased expansion to 1.5 MGD. The WWTP currently includes one treatment train and in general includes the following treatment units: headworks with fine screens, influent lift station, sequencing batch reactor basins, post-flow equalization basin, and aerobic digester basin, filtration, and UV disinfection.

• **Kimley»Horn**

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PUBLIC COMMENT 6:

Stacie Bockemuhl, Jo Collin, James M. Ridgway, and Jane E. Ridgway expressed concerns about the proposed WWTF causing air pollution.

EXECUTIVE DIRECTOR'S RESPONSE 6:

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 that rule. The Applicant indicated in its application that the proposed facility would be an activated sludge process plant using sequencing batch reactors, which does not make a significant contribution of air contaminants to the atmosphere pursuant to the Texas Health and Safety Code §§ 382.057 and 382.05196. The WWTF is therefore permitted by rule with respect to air emissions.

APPLICANT'S RESPONSE 6:

The proposed wastewater treatment facility will be an activated sludge process plant with sequencing batch reactors, as mentioned by the executive director's response. The facility will also have odor control units installed at lift stations to minimize potential odors.

AFFECTED PERSON RESPONSE 6—Before February, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter about odor mitigation and we thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM usually we still get some odor at our home. Either it has not been done, or the units are not working.

PUBLIC COMMENT 7:

Kevin Christensen, Patricia Jan Kearney, Jane E. Ridgway, and James M. Ridgway expressed concerns that the proposed facility will create nuisance odors.

EXECUTIVE DIRECTOR'S RESPONSE 7:

30 TAC § 309.13(e) requires domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor. According to the application, the applicant intends to locate treatment units at least 150 feet from the nearest property line. This requirement is also incorporated into the proposed permit. Additionally, foul odors may exist when effluent contains an insufficient amount of dissolved oxygen. The draft permit restricts the amount of oxygen demanding constituents to simultaneously reduce the odors in discharged effluent and prevent degradation of receiving waters.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 7:

Buffer zone requirements for the proposed wastewater facilities will be met. Also, as stated in Applicant's Response 6, odor control units will be installed at the on-site lift stations to help minimize potential odors.

- **AFFECTED PERSON RESPONSE 7** –150 ft from a property line just doesn't make sense to people who smell odors that travel. I live more than 150 feet from the Sewer Property line. As stated in Comment 6 between 7 PM & 10 PM usually we still get some odor at our home, either from WWTP#2 or could be WWTP#1. I lean towards WWTP#2. Either units have not been installed, or the units are not working.

PUBLIC COMMENT 8:

Kevin Christensen asked for the WWTF to be moved to a different location.

EXECUTIVE DIRECTOR'S RESPONSE 8:

The ED acknowledges the opposition to the proposed location of the WWTF. Texas Water Code § 26.027, authorizes the TCEQ to issue permits for discharges into water in the state. The ED evaluates applications for wastewater treatment plants based on the information provided in the application. The ED can recommend issuance or denial of an application based on whether the application complies with the Texas Water Code and TCEQ regulations. The Applicant is the entity that proposes the location of the facility, point of discharge, and the discharge route rather than the ED. The ED's review evaluates the impact of the discharge on the receiving waters; however, the TCEQ's permitting authority does not include the ability to mandate a different location for the facility if the location in the application complies with 30 TAC Chapter 309, Subchapter B (Location Standards), specifically 30 TAC § 309.13 pertaining to "Unsuitable Site Characteristics" for a treatment facility. Instead, the ED may only evaluate a proposed location for a wastewater treatment facility according to the Location Standards in the TCEQ regulations and the effect of the treated wastewater on the uses of the receiving stream starting at the point of discharge.

APPLICANT'S RESPONSE 8:

The proposed wastewater treatment facility is proposed to be constructed on an existing wastewater treatment site with an operating wastewater treatment currently owned and operated by the City. The City's existing northern sewer collection system flows to the site. Relocation of the plant would be cost prohibitive for the City to acquire additional land and relocate the existing sewer collection system.

- **AFFECTED PERSON RESPONSE 8** –It would be costly to the city and since they have spent money allocated bond money for sewer on other projects. There is not more land in the city vicinity since developers have purchased it all. It does not seem feasible.

PUBLIC COMMENT 9:

Stacie Bockemehl and Jane E. Ridgway were concerned that nearby landowners were not properly notified.

EXECUTIVE DIRECTOR'S RESPONSE 9:

There are two public notices regarding this permit action, the Notice of Receipt of Application and Intent to Obtain a Wastewater Permit (NORI), and the Notice of Application and Preliminary Decision (NAPD). The TCEQ's notice rules require applicants to provide public notices for wastewater permits by publishing the NORI in a "newspaper of largest circulation in the county in which the facility is located or proposed to be located. If the facility is located or proposed to be located in a municipality, the applicant [must] publish notice in any newspaper of general circulation in the municipality."¹ After the Office of the Chief Clerk has mailed the preliminary decision and the NAPD to the applicant, they are required to publish the NAPD "at least once in a newspaper regularly published or circulated within each county where the proposed facility or discharge is located and in each county affected by the discharge."²

For a history of the published notices regarding this application, please see the first paragraph of section C, Procedural History.

Additionally, the TCEQ's notice rules for a new permit or major amendment require mailed notice of the NORI and NAPD to landowners named on the application map and persons on the mailing list maintained by the Office of the Chief Clerk.³ The applicant is required to submit a landowner map as part of the application materials. The landowner map must include the property boundaries of landowners surrounding the applicant's property and the property boundaries of all landowners surrounding the discharge point and on both sides of the discharge route for one full stream mile downstream of the discharge point. Anyone who submits a comment or contested case hearing request before the end of the public comment period is also added to the mailing list for that permit action.

APPLICANT'S RESPONSE 9:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was additionally published in the *Herald Banner-Greenville, Hunt County, Texas* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 9 The additional newspaper notice in January was run after I notified the city/engineer that the first newspaper used for the notice was in a paper no one subscribes to. Farmerville Times and Herald Banner have always been the papers for public notices for Josephine. There are 5 property owners below that have in property that backs up to the Creek and they did not receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

6-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the book at City Hall in December.

2-12-2024-DBI Report excerpt -

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise during the month of February and is open for public comment.

This is all Stacie Bockemehl received. No letter was attached. It's no wonder people did not respond.

Senate Bill 709 (84th Legislative Session, 2015) amended the Texas Water Code by adding new Section 5.5553, which requires the Texas Commission on Environmental Quality (TCEQ) to provide written notice to you at least thirty (30) days prior to the TCEQ's issuance of draft permits for applications that are located in your district.

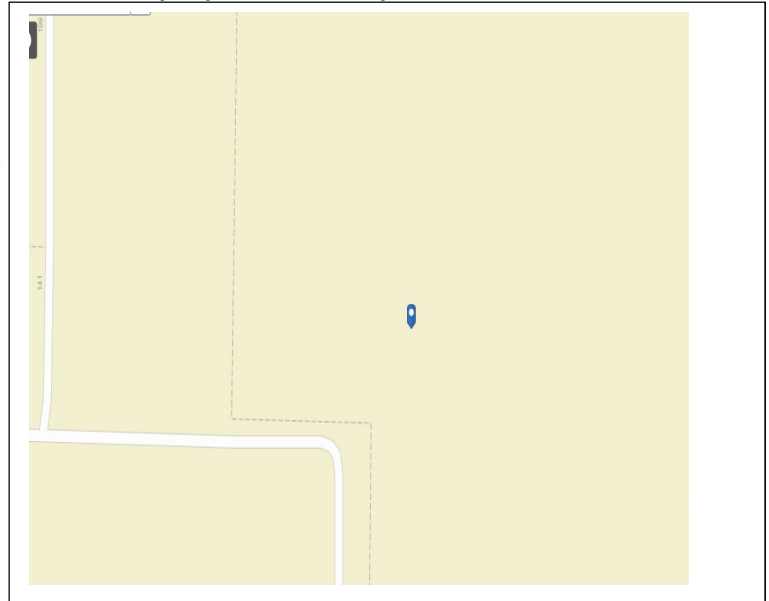
City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the TCEQ for proposed Texas Pollutant Discharge Elimination System No. WQ0010887003 (EPA I.D. No. TX0144517) to authorize the discharge of treated wastewater at a volume not to exceed a daily average flow of 750,000 gallons per day. The domestic wastewater treatment facility will be located at 601 East Caddo Street, in Collin County, Texas 75189. The discharge route will be from the plant site to an unnamed tributary, thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment No. 0507 of the Sabine River Basin. TCEQ received this application on May 1, 2023. The permit application will be available for viewing and copying at Josephine City Hall, 201 South Main Street, Josephine, Texas prior to the date this notice is published in the newspaper. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For the exact location, refer to the application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-96.298888,33.066111&level=18>

TCEQ is preparing the initial draft permit. At the time the draft permit is issued, the applicant will be required to publish notice in a newspaper of general circulation, and the TCEQ will provide a copy of the notice of draft permit to persons who have requested to be on a mailing list.

Questions regarding this application may be directed to Mr. Firoj Vahora by calling 512-239-4540.

Issuance Date: June 14, 2023



The 6/14/2023 entry on <https://www14.tceq.texas.gov/epic/eCID/> shows "Letter", but this was NOT a letter in my opinion. Very cryptic. Stacie did not know what it meant until I contacted her.

PUBLIC COMMENT 10:

James M. Ridgway commented that the permit application was improperly filled out.

EXECUTIVE DIRECTOR'S RESPONSE 10:

TCEQ performed an administrative review of the application, upon receipt, to ensure that all required information was provided therein. TCEQ determined that the application was administratively complete on June 6, 2023. The review included TCEQ staff reviewing all administrative information provided in the application.

TCEQ also performed a technical review of the application to ensure that the applicant adequately addressed all required technical issues to show that wastewater from the facility would be treated to required standards and to establish effluent limits that will ensure protection of the receiving water bodies and their existing uses. TCEQ reviewed the proposed discharge route, the designated uses and dissolved oxygen criteria of the receiving water bodies, antidegradation analysis of the discharges, and identification of any endangered species that may be present in the receiving water bodies. Based on the review and analysis, TCEQ established effluent limits and conditions designed to maintain the receiving water body's designated uses and protect human health and aquatic life.

APPLICANT'S RESPONSE 10:

The City acknowledges the submission of an administratively and technically complete application as determined by TCEQ and acknowledged by the ED's response above.

AFFECTED PERSON RESPONSE 10 –See response 9 above – Eight (8) Landowner's were left off the application. In addition there are many other items identified in Response to Executive Director's Response to hearing Requests, Item 3 above.

PUBLIC COMMENT 11:

A. Barochiere, Frank Barochiere, Jo Collin, Aaron Hensley, and H.L. expressed general opposition to the draft permit.

EXECUTIVE DIRECTOR'S RESPONSE 11:

The ED acknowledges these comments.

APPLICANT'S RESPONSE 11:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 11 – I acknowledge this comment and ED's response.

PUBLIC COMMENT 12:

A. Barochiere and Frank Barochiere expressed concerns about the impacts of development surrounding the proposed WWTF.



EXECUTIVE DIRECTOR'S RESPONSE 12:

The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ does not have jurisdiction to consider the possibilities of how future development surrounding the WWTF will impact area residence as a part of the wastewater permitting process.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 12:

The City is experiencing rapid growth thereby requiring wastewater treatment facility improvements/upgrades in order to remain compliant with the requirements of TCEQ. The proposed wastewater treatment facility will serve the referenced development in the area.

AFFECTED PERSON RESPONSE 12 – I acknowledge the ED response.

PUBLIC COMMENT 13:

James M. Ridgway and Jane E. Ridgway expressed concern that discharged effluent would negatively impact wildlife.

EXECUTIVE DIRECTOR'S RESPONSE 13:

30 TAC § 307.6(b)(4) requires water in the state to be maintained to preclude adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. While the TSWQS and the IPs do not specifically designate criteria for the protection of livestock, terrestrial wildlife, or domestic animals, the criteria designated for the protection of human health and aquatic life should preclude adverse impacts to livestock, terrestrial wildlife, and domestic animals.

The Executive Director has determined that the draft permit would be protective of the environment, including aquatic and terrestrial wildlife. Potential water quality issues that could negatively affect wildlife – excessive salinity, high nitrogen content, bacterial contamination, depressed dissolved oxygen, and heavy growths of blue-green algae – are not expected in the receiving waters provided the Applicant complies with proposed permit.

APPLICANT'S RESPONSE 13:

The City intends to comply with the proposed permit in order to prevent the discharge effluent that would have adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals.

AFFECTED PERSON RESPONSE 13 -The city has not engaged in funding for PFAS and emerging contaminants, though PFAS has been brought up at council meetings. Because the city buys water from NTMWD it is seen at NTMWD problem, not Josephine. However, as the fastest growing city in North Texas, or so it is advertised, additional in writing protection on a TCEQ form would be welcomed. An effort to apply for funding at TWDB could help. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov <https://www.twdb.texas.gov/financial/programs/ec/index.asp>

- Funding for PFAS <https://www.tceq.texas.gov/assistance/resources/the-advocate-1/funding-available-for-pfas-and-emerging-contaminants>
- Eco-environment The wooded Brushy Creek area behind my backyard neighbor houses hawks, birds, egrets, fowl, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's. Though chemicals treating sewer are not supposed to be harmful to fish, fowl, animals, an increase in the amount of flow may negate that thought.

Wildlife - Wastewater will affect wildlife, TCEQ says that that water in the state is to be safe for humans, therefore it is safe for wildlife. However, it has been determined that water has PFAS. Nearly all municipal wastewater treatment plants have measurable levels of PFAS in their discharge. The vast majority of that PFAS comes from upstream sources — such as industries, household products, and human waste — and flows through the facilities.

Reference Public Comment 5 – City Wastewater Master Plans says an ADDITIONAL .75 MGD plant.

PUBLIC COMMENT 14:

Pamela Sardo commented that the NORI and the NAPD should not have been published in the *Collin County Commercial Record* because the subscription fee is too high.

EXECUTIVE DIRECTOR'S RESPONSE 14:

Under 30 TAC §§ 39.405(f)(1) and 39.418(b)(1), the NORI must be published in the newspaper of largest circulation in the county in which the proposed WWTF is located, or, if the facility is located in a municipality, then the applicant may publish the NORI in any newspaper of general circulation. Under 30 TAC § 39.419(b), the NAPD must be published at least once in the same newspaper as the NORI.

Here, the NORI and NAPD were both published in the *Collin County Commercial Record*, but the NAPD was also published in the *Harald Banner-Collin County* and in *The Farmersville Times/C&S Media-Collin County*.

APPLICANT'S RESPONSE 14:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was also published in the *Herald Banner-Greenville, Hunt County TX* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 14 – The city only published in the local papers after I notified them several people did get notified that live close to me. They told Dr. Sardo that the Collin County Commercial Register was used because they use it for bidding. Using Collin Co. Commercial Record shows it was not transparent to Citizens, because it is for commercial. It was not transparent. The first notification to City Council about the Permit was on DBI Report for 1-6-2024, even though it had been applied for in May.

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
972-834-8686
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087

To: All interested persons on the attached mailing list

RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024
City of Josephine (Applicant)
Responses to Executive Director of the TCEQ, Public Interest Counsel of TCEQ and Applicant

In preparation for the hearing on the above mentioned permit application, I am sending my responses to comply with rules set forth in TCEQ letter dated Sept 4, 2024 setting the docket number. The commission rules entitle all recipients of time hearing requests/requests for reconsideration to file a formal written response to Applicant, the Executive Director and the Public Interest Counsel of the TCEQ by or on September 30, 2024. I am responding to correspondence from the Executive Director's Office and the Office of Public Interest Counsel which were both to me on Sept 16, 2024. I had to go online to obtain the filing from the City of Josephine in order to respond.

There are responses to each of the 3 parties in the document following this letter.

Thank you in advance for your consideration.

Best Regards,

Jane Ridgway

MAILING LIST
City of Josephine
TCEQ Docket No./TCEQ Expediente N.º 2024-1228-MWD;
TPDES Permit No./TPDES Permiso N.º WQ0010887003

FOR THE APPLICANT/PARA EL
SOLICITANTE

Lisa Palomba, City Administrator
City of Josephine
P.O. Box 99
Josephine, Texas 75164

Eddy Daniel, P.E.
City Engineer, Dunaway, LLC
P.O. Box 606
Farmerville, Texas 75442

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

Bradford Eckhart, Staff Attorney
Texas Commission on Environmental
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Environmental Law Division, MC-173
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Abdur Rahim, Technical Staff
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Water Quality Division, MC-148
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Austin, Texas 78711

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

FOR PUBLIC INTEREST COUNSEL/PARA
ABOGADOS DE INTERÉS PÚBLICO
via electronic mail/vía correo electrónico:

Garrett T. Arthur, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711

FOR ALTERNATIVE DISPUTE
RESOLUTION/PARA LA RESOLUCIÓN
ALTERNATIVA DE DISPUTAS
via electronic mail/vía correo electrónico:

Kyle Lucas
Texas Commission on Environmental
Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, Texas 78711

FOR THE CHIEF CLERK/PARA EL
SECRETARIO OFICIAL
via eFilings:

Docket Clerk
Texas Commission on Environmental
Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711
<https://www.tceq.texas.gov/goto/efilings>

REQUESTER(S)/INTERESTED PERSON(S)/
SOLICITANTE(S)/ PERSONA(S)
INTERESADA(S)
See attached list/Ver lista adjunta.

REQUESTER(S)/ SOLICITANTE(S)

Christensen, Kevin
201 Monarch Ln
Josephine Tx 75173-7152

Ridgway, James M
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, James M
5754 FM 6
Josephine Tx 75189-4000

Ridgway, Jane E
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, Jane E
5754 FM 6
Josephine Tx 75189-4000

BAROCHIERE , A
300 PATINA ST
JOSEPHINE TX 75189-6020

BAROCHIERE , FRANK
300 PATINA ST
JOSEPHINE TX 75189-6020

BOCKEMEHL , MRS STACIE
PO BOX 233
CADDO MILLS TX 75135-0233

CHRISTENSEN , KEVIN
201 MONARCH LN
JOSEPHINE TX 75173-7152

COLLIN , JO
300 CHUCK WAGON DR
JOSEPHINE TX 75189-5442

DUPUIS , JACOB
DUNAWAY
118 MCKINNEY ST
FARMERSVILLE TX 75442-2214

FLORES , SARAH
303 WAGON WHEEL DR
JOSEPHINE TX 75189-5385

HENSLEY , AARON
513 PLUM DR
JOSEPHINE TX 75173-8536

KEARNEY , MS PATRICIA JAN
PO BOX 193
JOSEPHINE TX 75164-0193

L , H
308 CHUCK WAGON DR
JOSEPHINE TX 75189-5442

NEWTON , BARBARA
PO BOX 415
JOSEPHINE TX 75164-0415

RIDGWAY , JANE E
PO BOX 127
CADDO MILLS TX 75135-0127

RIDGWAY , JANE E
5754 FM 6
JOSEPHINE TX 75189-4000

RIDGWAY , JAMES M
PO BOX 127
CADDO MILLS TX 75135-0127

RIDGWAY , JAMES M
5754 FM 6
JOSEPHINE TX 75189-4000

SARDO , DR. PAMELA
2006 HARVEST LN
JOSEPHINE TX 75173-7075

VILLEGAS , SHANNON
106 MILTON ST
JOSEPHINE TX 75173-8528

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087
RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024

**CONTINUED REQUEST FOR A CONTESTED CASE HEARING ON
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
TPDES PERMIT NUMBER WQ0010887003**

Name of Person Contesting: Jane Ridgway
Mailing Address: P O Box 127, Caddo Mills, TX 75135-0127
Daytime Phone: 972-834-8686
Fax Number: None
My Physical Property Location
and Homestead 5754 FM 6, Josephine, TX 75189 - Hunt County
Email: jridgway1971@gmail.com (no "e" in ridgway)
Applicant: City of Josephine - TPDES PERMIT NUMBER WQ0010887003

Response to Executive Director's Response to Hearing Requests (with OPIC Comments)

VII. ANALYSIS OF THE HEARING REQUESTS

A. WHETHER THE REQUEST COMPLIED WITH 30 TAC §§ 55.201(c) AND (d).

1. Jane Ridgway filed four timely, written Requests that provided the requisite contact information, raised issues that form the basis of her Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Ms. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Ms. Ridgway believes she will be affected by the application in a way not common to the public. Ms. Ridgway's Requests stated that she lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Ms. Ridgway's property is 0.36 miles away from the proposed facility. Ms. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, flooding and erosion, air quality, and economic impacts.

The ED recommends finding that the Requests of Ms. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges my compliance to the TAC. Thank you.

2. James Ridgway filed two timely, written Requests that provided the requisite contact information, raised issues that form the basis of his Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Mr. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Mr. Ridgway believes he will be affected by the application in a way not common to the general public. Mr. Ridgway's Requests stated that he lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Mr. Ridgway's property is 0.36 miles away from the proposed facility. Mr. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, and flooding.

The ED recommends finding that the Requests of Mr. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledged his compliance to the TAC.

B. WHETHER REQUESTOR IS AN AFFECTED PERSON UNDER 30 TAC § 55.203.

1. Jane Ridgway filed four Requests that effectively identified personal, justiciable interests affected by the application. Ms. Ridgway's Requests stated that she was close to the proposed facility and that she is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Ms. Ridgway's property is situated 0.36 miles away from the proposed facility. Ms. Ridgway's proximity to the proposed facility, in conjunction with the issues Ms. Ridgway raised, lead the ED to determine that Ms. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Ms. Ridgway is an affected person under 30 TAC § 55.203 and grant her hearing request.

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges I am an affected person and granting the hearing request. Thank you.

2. James Ridgway filed two Requests that effectively identified personal, justiciable interests affected by the application. Mr. Ridgway's Requests stated that he was close to the proposed facility and that he is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Mr. Ridgway's property is situated 0.36 miles away from the proposed facility. Mr. Ridgway's proximity to the proposed facility, in conjunction with the issues Mr. Ridgway raised, lead the ED to determine that Mr. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Mr. Ridgway is an affected person under 30 TC § 55.203 and grant his hearing request.

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledges he is an affected person and for granting the hearing request.

VIII. ISSUES RAISED IN THE HEARING REQUEST:

1. **Whether the draft permit adequately prevents nuisance odors as required by 30 TAC § 309.13(e).**

(RTC Response No. 7) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit does not control nuisance odors in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 1. Nuisance Odors - Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

Jane Ridgway Response - I appreciate the possible referral from the ED on nuisance odor issue, and OPIC positive response. Before February 2024, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter dated February 1 to Lisa Polomba, City Administrator about odor mitigation and installing odor control equipment. I thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM on most days we still get odor at our home. Either mitigation has not been done, or the units are not working. The permit includes information from Evoqua, but their information alludes to pipeline distribution of wastewater. "A liquid phase dosing program can be used to prevent odorous compounds from forming in wastewater. Chemicals, such as Bioxide® Solution are added directly into the wastewater stream along the wastewater pipeline. This plant will dump into a manmade ditch.

2. **Whether the draft permit is adequately protective of aquatic and terrestrial wildlife.**

(RTC Response No. 13) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit is not protective of aquatic and terrestrial wildlife in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 3. Wildlife - As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

Jane Ridgway Response- Thank you. I appreciate the possible referral from the ED on this issue, and also the OPIC for finding the issue relevant. The Natural wooded creek area behind the Bowman home (my backyard neighbor) has hawks, birds, egrets, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's while 20 swamp rabbits come out at Bowman's. I do have my rabbit and egret photos. These critters come to my property except the beaver.

TCEQ states that that water in the state is to be safe for humans; therefore it is safe for wildlife. However, it has been determined that wastewater has PFAS. It has been found PFAS is harmful wildlife.

<https://news.mongabay.com/2023/09/pfas-forever-chemicals-harming-wildlife-the-world-over-study/>. NTMWD supplies water to Josephine which contains PFAS. City Staff think PFAS mitigation is NTMWD issue. NTMWD is addressing PFAS incoming water, but Josephine should help with wastewater. If not addressed at wastewater level, PFAS will continue to be distributed to ditch/creeks/Lake Tawakoni until However, as the fastest growing city in North Texas, additional PFAS treatment for wastewater to humans at Lake Tawakoni, and to protect aquatic and terrestrial wildlife both in writing and action seems prudent. Perhaps EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS include PFAS monitoring under *Other Requirements which I cannot find.

The City could apply for funding at TWDB if my research is good. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov

3. Whether the application was correctly determined to be administratively and technically complete.

(RTC Response No. 10) This issue involves a disputed question of mixed fact and law. If it can be shown that the application information, on which the draft permit is based, was not complete, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 4. Application Accuracy - Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

Jane Ridgway Response- I wish to thank the ED for the referral and also the OPIC. As the definition of not complete is which can also mean "incomplete" means something is not complete or finished, and may be lacking a necessary part, element, or step. Possibly inaccurate. Another review of the application and our findings is below. We would like to know if these were rectified.

TCEQ Core Data Form Section II

Customer Information Item 9. Federal Tax ID is missing. Cities need one to pay employees.

Domestic Technical Worksheet TCEQ-10054

Section 2 – B. and C. Not answered. "No" should have been checked.

Section 4 – B Flow characteristics

If a stream, manmade channel or ditch was checked above provide the following. For existing discharges, check one of the following that best characterizes the area upstream of the discharge. For new discharges, characterize the area *downstream* of the discharge. (Check one) .

There were no boxes checked in the section "Check the method used to characterize the area upstream (or downstream) for new dischargers. Please note that in Section 4, Description of Immediate Receiving Waters, A. Receiving water type, the last box "Manmade channel or ditches" was check marked. This is the first time I realized the Unnamed Tributary was in fact a manmade channel or ditch.

Section 4 – C-Downstream Perennial confluences.

List the names of all perennial streams the join the receiving water within 3 miles downstream of the discharge point. This was answered "none". I checked map at <https://en-us.topographic-map.com/map-sdhms8/Josephine/?center=33.06373%2C-96.29229&zoom=16&overlay=0> . Since my house is .36 miles, it looks like the unnamed tributary and Brushy Creek should be listed. If so, then the answer to Item D would be incorrect.

Section 4 – E. Normal dry weather characteristics. “No Flows” was entered, but could be incorrect. There is water in the creek behind the Bockemehl in summer. It does not dry up. Maybe the person who filled out the application did not go completely downstream. The stream does curve and get very deep at points. It gets deeper and wide and does rush the land.

Section 5 . General Characteristics of the Waterbody Obstructions – Item C. Water body aesthetics. As a person who sees this very frequently, the answer should be Natural Area: Trees and/or native vegetation: some development evident (from fields, pastures, dwellings) water clarity discolored. (page 32 of 80)

Application for a Domestic Wastewater Permit Administrative Report 1.0

Section 10- TPDES Discharge Information (Instructions Page 31) Item A – no boxes checked. Item B -No boxes checked.

Texas Commission on Environmental Quality Supplemental Permit information (SPIF) page 19 of 24

Item Provide description of effluent discharge route. - I believe this should state From a manmade ditch called unnamed tributary , thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment 0507 of the Sabine River Basin. Unnamed tributaries appear to be recreational in Texas, which defines as a little creek, or seep, or spring, or bog, or wetland without a name begins its life as surface water when it emerges from the ground. If this is true, the Josephine wastewater is and would continue to be dumping into what is surfaced groundwater and that might not be good.

Domestic Technical Report 1.0 Page 3 of 80

Section 4. Unbuilt Phases – Neither box was checked.

Section 5. Closure Plans

Have any treatment units been taken out of service permanently or will units be taken out of service in the next 5 years. **Neither YES or NO was checked.** With this section not being checked, and with the Wastewater Master Plan stating the Wastewater Plant 3 is additional the answer is open to interpretation. It is open ended and information available to public online conflicts with the Justification of permit description, next item.

Domestic Technical Report 1.1 Page 21 of 80

Section 1 Justification for Permit –

- A. Justification of permit need – Provide a detailed discussion of the need for any phase(s) not currently permitted. Failure to provide sufficient justification may result in the Executive Director recommending denial of the proposed phases(s) or permit.

This proposed treatment plant will serve a housing development. The developer is proposing a final build out of 4,000 to 6,000 single family housing. The City of Josephine will own and operate this plant (WWPT #3)The city currently has a lagoon treatment plant (WWTP#1 WQ0010887001, permitted flows 070 MGD),which will eventually be decommissioned, and those influent flows sent to this proposed treatment plant.

This is either wrong, or city was/is not being transparent about the lagoon going away. Per City’s Comprehensive Plan, 961 homes are anticipated spread among many developers. I do not see 4,000 – 6,000 houses in one housing development, except for DR Horton who is funding an addition to City of Josephine Wastewater #2 in the Magnolia Subdivision. The addition to City of Josephine Wastewater #2 was supposed to serve Riverfield which is 4,000 to 6,000 homes in back of Bowman and Ridgway and Bockelmehl properties. I can however get 5,249 houses in other Josephine sub-divisions (961) plus Horton’s Wildflower (3061). I don’t think the lagoon will be decommissioned, given the evidence in Wastewater Master Plan and this application gaps.

Section 5 Facility Site – A. Is facility above the 100 year floodplain was checked yes, so no method of protection was listed. This does not correlate with the Permit Backup for Hearing on page 34, Other Requirements Item 4. states “The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.”

Public Involvement Plan Form Page 1 of 4 - misrepresented

The last box “Public Involvement Plan not applicable to this application” was checked. But, the city and engineer know the fact that the growth in the area served is 4 times as many residents in the last 5 years, citizens should have been apprised of the expansion. Two people did ask for a public meeting and if all landowners had been notified, there would have been more I’m sure. The plant is in far east Collin County, but the **applicant left out the part that the plant is in the heart of the city and the original town.** With a public hearing, there would have been understanding that citizens would be incurring more bond debt.

4. Whether adjacent and downstream landowners received proper notice pursuant to TCEQ's rules.

(RTC Response No. 9) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly notify adjacent and downstream landowners in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response- Thank you to the ED and OPIC for acknowledging this point. There are **5** property owners below that have in property that backs up to a creek that runs to Brushy Creek and **they did not** receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit that is on display at Josephine City Hall. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

These citizens are within .36 miles and would be affected parties.

6-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the permit book at City Hall in late December.

First mention of the permit at council was in a DBI/Dunaway report in February 2024 even though the permit was made in May

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise

2023. **2-12-2024-DBI Report excerpt** - during the month of February and is open for public comment.

5. Whether Applicant properly published notice in accordance with 30 TAC Chapter 39.

(RTC Response Nos. 9 and 14) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly publish notice in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response - I appreciate that the ED acknowledges this point, as well as OPIC. The initial notice was published in The Collin County Commercial Record Dec. 5 2023, which per their website is "Collin County's newspaper for **current court and commercial information.**" It costs \$200 a year. Few if any citizens in Josephine subscribe to it. Dr. Sardo was told the Collin county Commercial Register was used because the city uses it for bidding. The Collin County Commercial Register is not transparent for Josephine citizens. After my notification to the city it ran again. I spoke with Eddy Daniel (one of the Josephine Engineers) after seeing the permit by accident in City Hall on Dec. 23, 2023. After the call with Eddy and my speaking at January City Council about the application and some of my concerns, the notice was run on January 18 in Farmerville Times and Greenville Herald Banner since the wastewater runs into Hunt County. I could not find the Greenville Herald Banner posting on the Texas Public Notices Website. [https://www.texaspublicnotices.com/\(S\(ay0fq1pl5hj4bxsorbgxb0pn\)\)/Search.aspx](https://www.texaspublicnotices.com/(S(ay0fq1pl5hj4bxsorbgxb0pn))/Search.aspx)

VIEW	Farmersville, The Farmersville Times Thursday, January 18, 2024
APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010887003 , to authorize the discharge of t ... click 'view' to open the full text.	
VIEW	McKinney, Collin County Commercial Record Tuesday, December 05, 2023
Texas Commission on Environmental Quality NOTICE OF APPLICATION AND PRELIMINARY DECISION FOR TPDES PERMIT FOR MUNICIPAL WASTEWATER NEW PERMIT NO. WQ001087003 APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environ ... click 'view' to open the full text.	

6. Whether the draft permit properly considered possible increases in instances of flooding and erosion.

(RTC Response No. 5) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response - Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- My response it that flooding issues must be relevant to the Wastewater Plant as TCEQ includes flood mitigation in the permit. On page 34 in the Backup Filed for the ED's Consideration of Hearing Requests, Other Requirements Item 4. states "The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood."

The RTC Response No 5 was: The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters.

I contend TCEQ does have jurisdiction to address flooding in the permit. If the City is going to protect the plant, deflected water during flooding, it would stand to reason deflected water(or pumped water) can enhance flooding for the citizens downstream. There has been and is continuing development behind the sewer plant location. There is a disconnect between the permit backup for the hearing and the Domestic Technical Report 1.1 Section 5 Facility Instructions.

In the current Wastewater Master Plan on page 15, engineer creating the document treats the NEW SBR plant on Caddo St. as an expansion/additional. This means more than 750,000 a day will go in the creek. I cannot locate any application item in the permit that indicates what type of protection the wastewater treatment facility has.

If this statement is important enough to be in the permit, and a flood study has not been completed since 2009 and the land to the North of the sewer plant is being developed, it could become very important to the sewer plant.

Thank you for your consideration.

7. Whether the draft permit is protective of air quality.

(RTC Response No. 6) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response -Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- After reviewing the application/TCEQ Permitting forms that were on display at City Hall, I find no line item for air quality, only mention of nuisance odors. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits, as it continues to come up in many permitting processes. Thank you.

8. Whether the draft permit properly considered potential economic impacts.

(No RTC Response) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

Jane Ridgway Response- After reviewing I find no line item for economic impact on TCEQ Permitting forms that were on display at City Hall. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits. Thank you.

Jane Ridgway - Office of Public Interest Counsel – Sept 26, 2024 Response.

Jane Ridgway Response – I concur with the OPIC on item 1-4. Item 6 – I will acknowledge and accept reluctantly.

With OPIC Item 5 my response is the same as noted on to the ED on item 6. Thank you very much for considering our concerns.

Section III.B

Section III Analysis of Hearing Request B. The affected requestors raised the following disputed issues:

1. Whether the draft permit is adequately protective against nuisance odors.
2. Whether there was adequate notice of the application and draft permit.
3. Whether the draft permit is adequately protective of wildlife.
4. Whether the application was accurately completed

1.Nuisance Odors

Affected requestors raised concerns about the proposed facility's emission of nuisance odors. TCEQ regulates nuisance conditions under 30 TAC § 309.13(e) which requires applicants to implement a nuisance odor abatement plan. Further, permits issued by TCEQ do 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.

Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

2. Notice

A requestor raised concerns about notice. Her concerns focused on whether all required, nearby landowners were properly notified. Chapter 39 contains requirements relating to notice publication, alternative language publication, mailing of notice, and posting of the application in a public place within the county. **The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.**

3. Wildlife

Requestors raised concerns about adverse effects to water quality and the consequential impacts on wildlife. The Commission is responsible for the protection of water quality under Texas Water Code (TWC) Chapter 26 and 30 TAC Chapters 307 and 309. The Texas Surface Water Quality Standards (Standards) in Chapter 307 require that the proposed permit "maintain the quality of water in the state consistent with public health and enjoyment, propagation and protection of terrestrial and aquatic life, operation of existing industries, and ... economic development of the state...." 30 TAC § 307.1. According to § 307.6(b)(4) of the Standards, "Water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, or domestic animals, **resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three.**" Additionally, "[s]urface waters must not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life." 30 TAC § 307.4(d).

As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

4. Application Accuracy

TCEQ rules require that if an applicant becomes aware that it failed to submit relevant facts or submitted incorrect information in a permit application, the applicant is required to promptly submit such facts and information. 30 TAC § 305.125(19). Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

5. Flooding

TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider flooding when making a decision on issuance of this permit. Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

6. Air Pollution

Requestors raised concerns regarding the proposed facility's emission of air pollutants. TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider air quality when making a decision on issuance of this TPDES permit, unless there is an associated water quality concern. Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

V. CONCLUSION

Having found that Jane E. Ridgway and James M. Ridgway qualify as affected persons in this matter, OPIC respectfully recommends the Commission grant their hearing requests and refer Issues No. 1-4 specified in Section III.B for a contested case hearing at SOAH with a maximum duration of 180 days. OPIC further recommends the Commission deny all pending requests for reconsideration

Jane Ridgway - Response to City of Josephine Comments 9-26-2024

PUBLIC COMMENT 1:

Aaron Hensley commented that the proposed development will be inclusive of certain people and will use municipal resources.

EXECUTIVE DIRECTOR'S RESPONSE 1:

The ED acknowledges this comment.

APPLICANT'S RESPONSE 1:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 1- I don't know how to comment on this issue, I accept ED's response.

PUBLIC COMMENT 2:

James M. Ridgway, Jane E. Ridgway, and Kevin Christensen requested a contested case hearing on this application.

EXECUTIVE DIRECTOR'S RESPONSE 2:

The ED acknowledges the hearing requests.

To request a contested case hearing, the parties must follow the hearing request procedures found in 30 TAC Chapter 55. 30 TAC § 55.201(a) requires that a hearing request is filed no later than thirty days after the Office of the Chief Clerk mails the ED's Response to Comment. A hearing requestor must meet the affected person requirements found in 30 TAC § 55.203. The hearing request itself must meet the requirements found in section 55.201(c) and (d). All timely filed hearing requests will be processed in accordance with section 55.209. Unless the case is directly referred to the State Office of Administrative Hearings under section 55.210, the Commission will consider the hearing requests and determine whether to grant or deny them in accordance with section 55.211.

APPLICANT'S RESPONSE 2:

The City acknowledges this hearing request and ED's response

AFFECTED PERSON RESPONSE 2- I acknowledge the hearing request and ED response.

PUBLIC COMMENT 3:

A. Barochiere, Frank Barochiere, Jo Collin, and L.H. expressed concern that the proposed housing development will create nuisance noise.

EXECUTIVE DIRECTOR'S RESPONSE 3:

The TCEQ's jurisdiction over the permitting process is established by the Texas Legislature and is limited to issues set forth in statutes. While 30 TAC Chapter 309, specifically Subchapter B, contains some nuisance considerations, the TCEQ does not have jurisdiction to consider noise from a wastewater treatment facility, nor from any related development, when determining whether to approve or deny a permit application. However, the draft permit does not limit the ability of individual landowners 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.

APPLICANT'S RESPONSE 3:

The City's proposed wastewater treatment facility will have components installed to minimize noise from pumps and blowers associated with the typical of operations of a wastewater plant.

AFFECTED PERSON RESPONSE 3— I cannot find any place in the application that has components to minimize noise from pumps and blowers.

PUBLIC COMMENT 4:

Barbara Newton and Shannon Villegas requested a public meeting for this application.

EXECUTIVE DIRECTOR'S RESPONSE 4:

Under 30 TAC § 55.154, TCEQ must hold a public meeting when a member of the legislature, representing the general area in which the activity is proposed, requests that a public meeting be held or when the Executive Director determines that there is a substantial or significant degree of public interest in an application. Here, there was no request for a public meeting from a member of the legislature. Additionally, the Executive Director determined that two public meeting requests did not constitute substantial or significant public interest in this application. Therefore, a public meeting was not held.

APPLICANT'S RESPONSE 4:

The City acknowledges this public meeting request and ED's response.

AFFECTED PERSON RESPONSE 4—My belief is people who were interested did not know how to request the meeting properly. The TCEQ letters are daunting. The first newspaper notification was in a newspaper no one took. After I notified the city they reprinted in two papers. Unfortunately the town relies mostly on social media. If citizens B. Newton and S. Villegas would have been granted a hearing, more citizens would have shown up. Nothing is very transparent with permits.

PUBLIC COMMENT 5:

Stacie Bockemuhl, Kevin Christensen, Patricia Jan Keamey, Barbara Newton, and Jane E. Ridgway expressed concerns that discharge from the WWTF and runoff from the accompanying development will increase the likelihood of flooding events.

EXECUTIVE DIRECTOR'S RESPONSE 5:

The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters. The proposed permit includes effluent limits and other requirements that the WWTF must meet even during rainfall events and periods of flooding.

According to the application, the proposed site for the WWTF is located above the 100-year flood plain. For additional protection, the draft permit includes Other Requirement No. 5, which requires the City of Josephine to

AFFECTED PERSON RESPONSE 5— It is noticeable that the City did not respond to the Executive Director on this point. The City has flooded on Caddo Street many times which is next to the current city sewage lagoon which feeds into the “unnamed tributary/ditch” and then to the creek when run-off from storms occurs. Perhaps it is time that the TCEQ's rules committee identifies a need for a rule change, drafts a proposed rule, and presents it to the Commission for approval. I would maintain the city may not be protecting against flood hazard as stated in my initial response. There is no current Flood Mitigation Plan to my knowledge. Last one was approved in 2022, but hopefully will be updated with the influx of residents.

- **The current Wastewater Master Plan page 15 treats the NEW SBR plant on Caddo St. as expansion and add.** This means more than 750,000 a day will go in the creek.

6.4 Lagoon Wastewater Treatment Plant

The City of Josephine currently owns and operates a lagoon wastewater treatment plant. The treatment train includes an aeration oxidation ditch and two mixed lagoons. The current permit allows for a daily average flow of 0.07 MGD. The WWTP is located in the northeast area of the city and existing flows from the west region of the city are lifted to the lagoon wastewater treatment plant.

A project to expand the current wastewater treatment plant and add an additional 0.75 MGD treatment capacity is currently under design by DBI. DBI is also pursuing a new wastewater permit with the TCEQ. This master plan report assumes the 0.75 MGD addition will be incorporated onsite.

6.5 SBR Wastewater Treatment Plant

The Josephine Municipal Utility District (MUD) constructed the Sequencing Batch Reactor (SBR) treatment plant for the Magnolia Phase 1 – 10 subdivision. The City of Josephine owns and operates the WWTP. The plant is currently permitted to treat a daily average flow of 0.5 MGD with a final phased expansion to 1.5 MGD. The WWTP currently includes one treatment train and in general includes the following treatment units: headworks with fine screens, influent lift station, sequencing batch reactor basins, post-flow equalization basin, and aerobic digester basin, filtration, and UV disinfection.

• **Kimley»Horn**

Page 15

PUBLIC COMMENT 6:

Stacie Bockemuhl, Jo Collin, James M. Ridgway, and Jane E. Ridgway expressed concerns about the proposed WWTF causing air pollution.

EXECUTIVE DIRECTOR'S RESPONSE 6:

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 that rule. The Applicant indicated in its application that the proposed facility would be an activated sludge process plant using sequencing batch reactors, which does not make a significant contribution of air contaminants to the atmosphere pursuant to the Texas Health and Safety Code §§ 382.057 and 382.05196. The WWTF is therefore permitted by rule with respect to air emissions.

APPLICANT'S RESPONSE 6:

The proposed wastewater treatment facility will be an activated sludge process plant with sequencing batch reactors, as mentioned by the executive director's response. The facility will also have odor control units installed at lift stations to minimize potential odors.

AFFECTED PERSON RESPONSE 6—Before February, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter about odor mitigation and we thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM usually we still get some odor at our home. Either it has not been done, or the units are not working.

PUBLIC COMMENT 7:

Kevin Christensen, Patricia Jan Kearney, Jane E. Ridgway, and James M. Ridgway expressed concerns that the proposed facility will create nuisance odors.

EXECUTIVE DIRECTOR'S RESPONSE 7:

30 TAC § 309.13(e) requires domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor. According to the application, the applicant intends to locate treatment units at least 150 feet from the nearest property line. This requirement is also incorporated into the proposed permit. Additionally, foul odors may exist when effluent contains an insufficient amount of dissolved oxygen. The draft permit restricts the amount of oxygen demanding constituents to simultaneously reduce the odors in discharged effluent and prevent degradation of receiving waters.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 7:

Buffer zone requirements for the proposed wastewater facilities will be met. Also, as stated in Applicant's Response 6, odor control units will be installed at the on-site lift stations to help minimize potential odors.

- **AFFECTED PERSON RESPONSE 7** –150 ft from a property line just doesn't make sense to people who smell odors that travel. I live more than 150 feet from the Sewer Property line. As stated in Comment 6 between 7 PM & 10 PM usually we still get some odor at our home, either from WWTP#2 or could be WWTP#1. I lean towards WWTP#2. Either units have not been installed, or the units are not working.

PUBLIC COMMENT 8:

Kevin Christensen asked for the WWTF to be moved to a different location.

EXECUTIVE DIRECTOR'S RESPONSE 8:

The ED acknowledges the opposition to the proposed location of the WWTF. Texas Water Code § 26.027, authorizes the TCEQ to issue permits for discharges into water in the state. The ED evaluates applications for wastewater treatment plants based on the information provided in the application. The ED can recommend issuance or denial of an application based on whether the application complies with the Texas Water Code and TCEQ regulations. The Applicant is the entity that proposes the location of the facility, point of discharge, and the discharge route rather than the ED. The ED's review evaluates the impact of the discharge on the receiving waters; however, the TCEQ's permitting authority does not include the ability to mandate a different location for the facility if the location in the application complies with 30 TAC Chapter 309, Subchapter B (Location Standards), specifically 30 TAC § 309.13 pertaining to "Unsuitable Site Characteristics" for a treatment facility. Instead, the ED may only evaluate a proposed location for a wastewater treatment facility according to the Location Standards in the TCEQ regulations and the effect of the treated wastewater on the uses of the receiving stream starting at the point of discharge.

APPLICANT'S RESPONSE 8:

The proposed wastewater treatment facility is proposed to be constructed on an existing wastewater treatment site with an operating wastewater treatment currently owned and operated by the City. The City's existing northern sewer collection system flows to the site. Relocation of the plant would be cost prohibitive for the City to acquire additional land and relocate the existing sewer collection system.

- **AFFECTED PERSON RESPONSE 8** –It would be costly to the city and since they have spent money allocated bond money for sewer on other projects. There is not more land in the city vicinity since developers have purchased it all. It does not seem feasible.

PUBLIC COMMENT 9:

Stacie Bockemehl and Jane E. Ridgway were concerned that nearby landowners were not properly notified.

EXECUTIVE DIRECTOR'S RESPONSE 9:

There are two public notices regarding this permit action, the Notice of Receipt of Application and Intent to Obtain a Wastewater Permit (NORI), and the Notice of Application and Preliminary Decision (NAPD). The TCEQ's notice rules require applicants to provide public notices for wastewater permits by publishing the NORI in a "newspaper of largest circulation in the county in which the facility is located or proposed to be located. If the facility is located or proposed to be located in a municipality, the applicant [must] publish notice in any newspaper of general circulation in the municipality."¹⁴ After the Office of the Chief Clerk has mailed the preliminary decision and the NAPD to the applicant, they are required to publish the NAPD "at least once in a newspaper regularly published or circulated within each county where the proposed facility or discharge is located and in each county affected by the discharge."¹⁵

For a history of the published notices regarding this application, please see the first paragraph of section C, Procedural History.

Additionally, the TCEQ's notice rules for a new permit or major amendment require mailed notice of the NORI and NAPD to landowners named on the application map and persons on the mailing list maintained by the Office of the Chief Clerk.¹⁶ The applicant is required to submit a landowner map as part of the application materials. The landowner map must include the property boundaries of landowners surrounding the applicant's property and the property boundaries of all landowners surrounding the discharge point and on both sides of the discharge route for one full stream mile downstream of the discharge point. Anyone who submits a comment or contested case hearing request before the end of the public comment period is also added to the mailing list for that permit action.

APPLICANT'S RESPONSE 9:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was additionally published in the *Herald Banner-Greenville, Hunt County, Texas* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 9 The additional newspaper notice in January was run after I notified the city/engineer that the first newspaper used for the notice was in a paper no one subscribes to. Farmerville Times and Herald Banner have always been the papers for public notices for Josephine. There are 5 property owners below that have in property that backs up to the Creek and they did not receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

6-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the book at City Hall in December.

2-12-2024-DBI Report excerpt -

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise during the month of February and is open for public comment.

This is all Stacie Bockemehl received. No letter was attached. It's no wonder people did not respond.

Senate Bill 709 (84th Legislative Session, 2015) amended the Texas Water Code by adding new Section 5.5553, which requires the Texas Commission on Environmental Quality (TCEQ) to provide written notice to you at least thirty (30) days prior to the TCEQ's issuance of draft permits for applications that are located in your district.

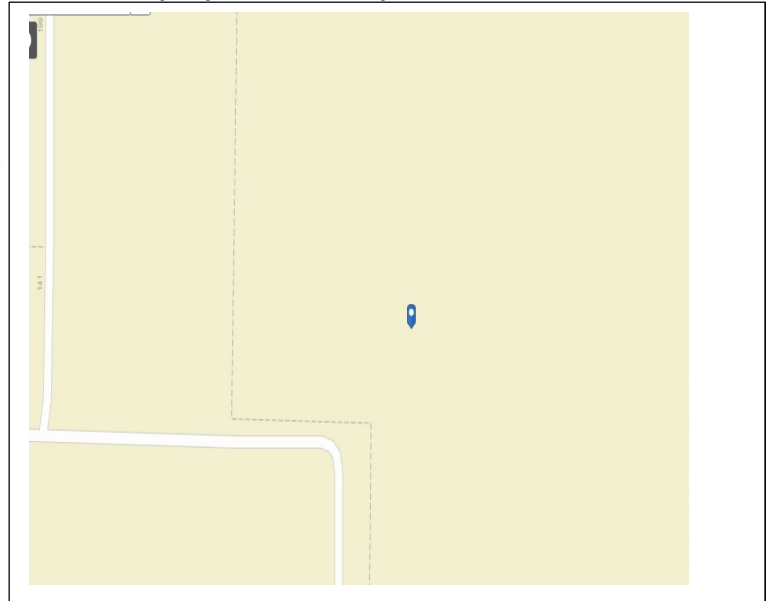
City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the TCEQ for proposed Texas Pollutant Discharge Elimination System No. WQ0010887003 (EPA I.D. No. TX0144517) to authorize the discharge of treated wastewater at a volume not to exceed a daily average flow of 750,000 gallons per day. The domestic wastewater treatment facility will be located at 601 East Caddo Street, in Collin County, Texas 75189. The discharge route will be from the plant site to an unnamed tributary, thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment No. 0507 of the Sabine River Basin. TCEQ received this application on May 1, 2023. The permit application will be available for viewing and copying at Josephine City Hall, 201 South Main Street, Josephine, Texas prior to the date this notice is published in the newspaper. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For the exact location, refer to the application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-96.298888,33.066111&level=18>

TCEQ is preparing the initial draft permit. At the time the draft permit is issued, the applicant will be required to publish notice in a newspaper of general circulation, and the TCEQ will provide a copy of the notice of draft permit to persons who have requested to be on a mailing list.

Questions regarding this application may be directed to Mr. Firoj Vahora by calling 512-239-4540.

Issuance Date: June 14, 2023



The 6/14/2023 entry on <https://www14.tceq.texas.gov/epic/eCID/> shows "Letter", but this was NOT a letter in my opinion. Very cryptic. Stacie did not know what it meant until I contacted her.

PUBLIC COMMENT 10:

James M. Ridgway commented that the permit application was improperly filled out.

EXECUTIVE DIRECTOR'S RESPONSE 10:

TCEQ performed an administrative review of the application, upon receipt, to ensure that all required information was provided therein. TCEQ determined that the application was administratively complete on June 6, 2023. The review included TCEQ staff reviewing all administrative information provided in the application.

TCEQ also performed a technical review of the application to ensure that the applicant adequately addressed all required technical issues to show that wastewater from the facility would be treated to required standards and to establish effluent limits that will ensure protection of the receiving water bodies and their existing uses. TCEQ reviewed the proposed discharge route, the designated uses and dissolved oxygen criteria of the receiving water bodies, antidegradation analysis of the discharges, and identification of any endangered species that may be present in the receiving water bodies. Based on the review and analysis, TCEQ established effluent limits and conditions designed to maintain the receiving water body's designated uses and protect human health and aquatic life.

APPLICANT'S RESPONSE 10:

The City acknowledges the submission of an administratively and technically complete application as determined by TCEQ and acknowledged by the ED's response above.

AFFECTED PERSON RESPONSE 10 –See response 9 above – Eight (8) Landowner's were left off the application. In addition there are many other items identified in Response to Executive Director's Response to hearing Requests, Item 3 above.

PUBLIC COMMENT 11:

A. Barochiere, Frank Barochiere, Jo Collin, Aaron Hensley, and H.L. expressed general opposition to the draft permit.

EXECUTIVE DIRECTOR'S RESPONSE 11:

The ED acknowledges these comments.

APPLICANT'S RESPONSE 11:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 11 – I acknowledge this comment and ED's response.

PUBLIC COMMENT 12:

A. Barochiere and Frank Barochiere expressed concerns about the impacts of development surrounding the proposed WWTF.



EXECUTIVE DIRECTOR'S RESPONSE 12:

The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ does not have jurisdiction to consider the possibilities of how future development surrounding the WWTF will impact area residence as a part of the wastewater permitting process.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 12:

The City is experiencing rapid growth thereby requiring wastewater treatment facility improvements/upgrades in order to remain compliant with the requirements of TCEQ. The proposed wastewater treatment facility will serve the referenced development in the area.

AFFECTED PERSON RESPONSE 12 – I acknowledge the ED response.

PUBLIC COMMENT 13:

James M. Ridgway and Jane E. Ridgway expressed concern that discharged effluent would negatively impact wildlife.

EXECUTIVE DIRECTOR'S RESPONSE 13:

30 TAC § 307.6(b)(4) requires water in the state to be maintained to preclude adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. While the TSWQS and the IPs do not specifically designate criteria for the protection of livestock, terrestrial wildlife, or domestic animals, the criteria designated for the protection of human health and aquatic life should preclude adverse impacts to livestock, terrestrial wildlife, and domestic animals.

The Executive Director has determined that the draft permit would be protective of the environment, including aquatic and terrestrial wildlife. Potential water quality issues that could negatively affect wildlife – excessive salinity, high nitrogen content, bacterial contamination, depressed dissolved oxygen, and heavy growths of blue-green algae – are not expected in the receiving waters provided the Applicant complies with proposed permit.

APPLICANT'S RESPONSE 13:

The City intends to comply with the proposed permit in order to prevent the discharge effluent that would have adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals.

AFFECTED PERSON RESPONSE 13 -The city has not engaged in funding for PFAS and emerging contaminants, though PFAS has been brought up at council meetings. Because the city buys water from NTMWD it is seen at NTMWD problem, not Josephine. However, as the fastest growing city in North Texas, or so it is advertised, additional in writing protection on a TCEQ form would be welcomed. An effort to apply for funding at TWDB could help. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov <https://www.twdb.texas.gov/financial/programs/ec/index.asp>

- Funding for PFAS <https://www.tceq.texas.gov/assistance/resources/the-advocate-1/funding-available-for-pfas-and-emerging-contaminants>
- Eco-environment The wooded Brushy Creek area behind my backyard neighbor houses hawks, birds, egrets, fowl, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's. Though chemicals treating sewer are not supposed to be harmful to fish, fowl, animals, an increase in the amount of flow may negate that thought.

Wildlife - Wastewater will affect wildlife, TCEQ says that that water in the state is to be safe for humans, therefore it is safe for wildlife. However, it has been determined that water has PFAS. Nearly all municipal wastewater treatment plants have measurable levels of PFAS in their discharge. The vast majority of that PFAS comes from upstream sources — such as industries, household products, and human waste — and flows through the facilities.

Reference Public Comment 5 – City Wastewater Master Plans says an ADDITIONAL .75 MGD plant.

PUBLIC COMMENT 14:

Pamela Sardo commented that the NORI and the NAPD should not have been published in the *Collin County Commercial Record* because the subscription fee is too high.

EXECUTIVE DIRECTOR'S RESPONSE 14:

Under 30 TAC §§ 39.405(f)(1) and 39.418(b)(1), the NORI must be published in the newspaper of largest circulation in the county in which the proposed WWTF is located, or, if the facility is located in a municipality, then the applicant may publish the NORI in any newspaper of general circulation. Under 30 TAC § 39.419(b), the NAPD must be published at least once in the same newspaper as the NORI.

Here, the NORI and NAPD were both published in the *Collin County Commercial Record*, but the NAPD was also published in the *Harald Banner-Collin County* and in *The Farmersville Times/C&S Media-Collin County*.

APPLICANT'S RESPONSE 14:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was also published in the *Herald Banner-Greenville, Hunt County TX* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 14 – The city only published in the local papers after I notified them several people did get notified that live close to me. They told Dr. Sardo that the Collin County Commercial Register was used because they use it for bidding. Using Collin Co. Commercial Record shows it was not transparent to Citizens, because it is for commercial. It was not transparent. The first notification to City Council about the Permit was on DBI Report for 1-6-2024, even though it had been applied for in May.

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
972-834-8686
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087

To: All interested persons on the attached mailing list

RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024
City of Josephine (Applicant)
Responses to Executive Director of the TCEQ, Public Interest Counsel of TCEQ and Applicant

In preparation for the hearing on the above mentioned permit application, I am sending my responses to comply with rules set forth in TCEQ letter dated Sept 4, 2024 setting the docket number. The commission rules entitle all recipients of time hearing requests/requests for reconsideration to file a formal written response to Applicant, the Executive Director and the Public Interest Counsel of the TCEQ by or on September 30, 2024. I am responding to correspondence from the Executive Director's Office and the Office of Public Interest Counsel which were both to me on Sept 16, 2024. I had to go online to obtain the filing from the City of Josephine in order to respond.

There are responses to each of the 3 parties in the document following this letter.

Thank you in advance for your consideration.

Best Regards,

Jane Ridgway

MAILING LIST
City of Josephine
TCEQ Docket No./TCEQ Expediente N.º 2024-1228-MWD;
TPDES Permit No./TPDES Permiso N.º WQ0010887003

FOR THE APPLICANT/PARA EL
SOLICITANTE

Lisa Palomba, City Administrator
City of Josephine
P.O. Box 99
Josephine, Texas 75164

Eddy Daniel, P.E.
City Engineer, Dunaway, LLC
P.O. Box 606
Farmerville, Texas 75442

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

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

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

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

FOR PUBLIC INTEREST COUNSEL/PARA
ABOGADOS DE INTERÉS PÚBLICO

via electronic mail/vía correo electrónico:

Garrett T. Arthur, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711

FOR ALTERNATIVE DISPUTE
RESOLUTION/PARA LA RESOLUCIÓN
ALTERNATIVA DE DISPUTAS

via electronic mail/vía correo electrónico:

Kyle Lucas
Texas Commission on Environmental
Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, Texas 78711

FOR THE CHIEF CLERK/PARA EL
SECRETARIO OFICIAL

via eFilings:

Docket Clerk
Texas Commission on Environmental
Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711
<https://www.tceq.texas.gov/goto/efilings>

REQUESTER(S)/INTERESTED PERSON(S)/
SOLICITANTE(S)/ PERSONA(S)
INTERESADA(S)

See attached list/Ver lista adjunta.

REQUESTER(S)/ SOLICITANTE(S)

Christensen, Kevin
201 Monarch Ln
Josephine Tx 75173-7152

Ridgway, James M
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, James M
5754 FM 6
Josephine Tx 75189-4000

Ridgway, Jane E
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, Jane E
5754 FM 6
Josephine Tx 75189-4000

BAROCHIERE , A
300 PATINA ST
JOSEPHINE TX 75189-6020

BAROCHIERE , FRANK
300 PATINA ST
JOSEPHINE TX 75189-6020

BOCKEMEHL , MRS STACIE
PO BOX 233
CADDO MILLS TX 75135-0233

CHRISTENSEN , KEVIN
201 MONARCH LN
JOSEPHINE TX 75173-7152

COLLIN , JO
300 CHUCK WAGON DR
JOSEPHINE TX 75189-5442

DUPUIS , JACOB
DUNAWAY
118 MCKINNEY ST
FARMERSVILLE TX 75442-2214

FLORES , SARAH
303 WAGON WHEEL DR
JOSEPHINE TX 75189-5385

HENSLEY , AARON
513 PLUM DR
JOSEPHINE TX 75173-8536

KEARNEY , MS PATRICIA JAN
PO BOX 193
JOSEPHINE TX 75164-0193

L , H
308 CHUCK WAGON DR
JOSEPHINE TX 75189-5442

NEWTON , BARBARA
PO BOX 415
JOSEPHINE TX 75164-0415

RIDGWAY , JANE E
PO BOX 127
CADDO MILLS TX 75135-0127

RIDGWAY , JANE E
5754 FM 6
JOSEPHINE TX 75189-4000

RIDGWAY , JAMES M
PO BOX 127
CADDO MILLS TX 75135-0127

RIDGWAY , JAMES M
5754 FM 6
JOSEPHINE TX 75189-4000

SARDO , DR. PAMELA
2006 HARVEST LN
JOSEPHINE TX 75173-7075

VILLEGAS , SHANNON
106 MILTON ST
JOSEPHINE TX 75173-8528

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087
RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024

**CONTINUED REQUEST FOR A CONTESTED CASE HEARING ON
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
TPDES PERMIT NUMBER WQ0010887003**

Name of Person Contesting: Jane Ridgway
Mailing Address: P O Box 127, Caddo Mills, TX 75135-0127
Daytime Phone: 972-834-8686
Fax Number: None
My Physical Property Location
and Homestead 5754 FM 6, Josephine, TX 75189 - Hunt County
Email: jridgway1971@gmail.com (no "e" in ridgway)
Applicant: City of Josephine - TPDES PERMIT NUMBER WQ0010887003

Response to Executive Director's Response to Hearing Requests (with OPIC Comments)

VII. ANALYSIS OF THE HEARING REQUESTS

A. WHETHER THE REQUEST COMPLIED WITH 30 TAC §§ 55.201(c) AND (d).

1. Jane Ridgway filed four timely, written Requests that provided the requisite contact information, raised issues that form the basis of her Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Ms. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Ms. Ridgway believes she will be affected by the application in a way not common to the public. Ms. Ridgway's Requests stated that she lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Ms. Ridgway's property is 0.36 miles away from the proposed facility. Ms. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, flooding and erosion, air quality, and economic impacts.

The ED recommends finding that the Requests of Ms. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges my compliance to the TAC. Thank you.

2. James Ridgway filed two timely, written Requests that provided the requisite contact information, raised issues that form the basis of his Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Mr. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Mr. Ridgway believes he will be affected by the application in a way not common to the general public. Mr. Ridgway's Requests stated that he lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Mr. Ridgway's property is 0.36 miles away from the proposed facility. Mr. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, and flooding.

The ED recommends finding that the Requests of Mr. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledged his compliance to the TAC.

B. WHETHER REQUESTOR IS AN AFFECTED PERSON UNDER 30 TAC § 55.203.

1. Jane Ridgway filed four Requests that effectively identified personal, justiciable interests affected by the application. Ms. Ridgway's Requests stated that she was close to the proposed facility and that she is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Ms. Ridgway's property is situated 0.36 miles away from the proposed facility. Ms. Ridgway's proximity to the proposed facility, in conjunction with the issues Ms. Ridgway raised, lead the ED to determine that Ms. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Ms. Ridgway is an affected person under 30 TAC § 55.203 and grant her hearing request.

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges I am an affected person and granting the hearing request. Thank you.

2. James Ridgway filed two Requests that effectively identified personal, justiciable interests affected by the application. Mr. Ridgway's Requests stated that he was close to the proposed facility and that he is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Mr. Ridgway's property is situated 0.36 miles away from the proposed facility. Mr. Ridgway's proximity to the proposed facility, in conjunction with the issues Mr. Ridgway raised, lead the ED to determine that Mr. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Mr. Ridgway is an affected person under 30 TC § 55.203 and grant his hearing request.

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledges he is an affected person and for granting the hearing request.

VIII. ISSUES RAISED IN THE HEARING REQUEST:

1. **Whether the draft permit adequately prevents nuisance odors as required by 30 TAC § 309.13(e).**

(RTC Response No. 7) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit does not control nuisance odors in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 1. Nuisance Odors - Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

Jane Ridgway Response - I appreciate the possible referral from the ED on nuisance odor issue, and OPIC positive response. Before February 2024, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter dated February 1 to Lisa Polomba, City Administrator about odor mitigation and installing odor control equipment. I thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM on most days we still get odor at our home. Either mitigation has not been done, or the units are not working. The permit includes information from Evoqua, but their information alludes to pipeline distribution of wastewater. "A liquid phase dosing program can be used to prevent odorous compounds from forming in wastewater. Chemicals, such as Bioxide® Solution are added directly into the wastewater stream along the wastewater pipeline. This plant will dump into a manmade ditch.

2. **Whether the draft permit is adequately protective of aquatic and terrestrial wildlife.**

(RTC Response No. 13) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit is not protective of aquatic and terrestrial wildlife in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 3. Wildlife - As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

Jane Ridgway Response- Thank you. I appreciate the possible referral from the ED on this issue, and also the OPIC for finding the issue relevant. The Natural wooded creek area behind the Bowman home (my backyard neighbor) has hawks, birds, egrets, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's while 20 swamp rabbits come out at Bowman's. I do have my rabbit and egret photos. These critters come to my property except the beaver.

TCEQ states that that water in the state is to be safe for humans; therefore it is safe for wildlife. However, it has been determined that wastewater has PFAS. It has been found PFAS is harmful wildlife.

<https://news.mongabay.com/2023/09/pfas-forever-chemicals-harming-wildlife-the-world-over-study/>. NTMWD supplies water to Josephine which contains PFAS. City Staff think PFAS mitigation is NTMWD issue. NTMWD is addressing PFAS incoming water, but Josephine should help with wastewater. If not addressed at wastewater level, PFAS will continue to be distributed to ditch/creeks/Lake Tawakoni until However, as the fastest growing city in North Texas, additional PFAS treatment for wastewater to humans at Lake Tawakoni, and to protect aquatic and terrestrial wildlife both in writing and action seems prudent. Perhaps EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS include PFAS monitoring under *Other Requirements which I cannot find.

The City could apply for funding at TWDB if my research is good. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov

3. Whether the application was correctly determined to be administratively and technically complete.

(RTC Response No. 10) This issue involves a disputed question of mixed fact and law. If it can be shown that the application information, on which the draft permit is based, was not complete, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 4. Application Accuracy - Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

Jane Ridgway Response- I wish to thank the ED for the referral and also the OPIC. As the definition of not complete is which can also mean "incomplete" means something is not complete or finished, and may be lacking a necessary part, element, or step. Possibly inaccurate. Another review of the application and our findings is below. We would like to know if these were rectified.

TCEQ Core Data Form Section II

Customer Information Item 9. Federal Tax ID is missing. Cities need one to pay employees.

Domestic Technical Worksheet TCEQ-10054

Section 2 – B. and C. Not answered. "No" should have been checked.

Section 4 – B Flow characteristics

If a stream, manmade channel or ditch was checked above provide the following. For existing discharges, check one of the following that best characterizes the area upstream of the discharge. For new discharges, characterize the area *downstream* of the discharge. (Check one).

There were no boxes checked in the section "Check the method used to characterize the area upstream (or downstream) for new dischargers. Please note that in Section 4, Description of Immediate Receiving Waters, A. Receiving water type, the last box "Manmade channel or ditches" was check marked. This is the first time I realized the Unnamed Tributary was in fact a manmade channel or ditch.

Section 4 – C-Downstream Perennial confluences.

List the names of all perennial streams the join the receiving water within 3 miles downstream of the discharge point. This was answered "none". I checked map at <https://en-us.topographic-map.com/map-sdhms8/Josephine/?center=33.06373%2C-96.29229&zoom=16&overlay=0>. Since my house is .36 miles, it looks like the unnamed tributary and Brushy Creek should be listed. If so, then the answer to Item D would be incorrect.

Section 4 – E. Normal dry weather characteristics. “No Flows” was entered, but could be incorrect. There is water in the creek behind the Bockemehl in summer. It does not dry up. Maybe the person who filled out the application did not go completely downstream. The stream does curve and get very deep at points. It gets deeper and wide and does rush the land.

Section 5 . General Characteristics of the Waterbody Obstructions – Item C. Water body aesthetics. As a person who sees this very frequently, the answer should be Natural Area: Trees and/or native vegetation: some development evident (from fields, pastures, dwellings) water clarity discolored. (page 32 of 80)

Application for a Domestic Wastewater Permit Administrative Report 1.0

Section 10- TPDES Discharge Information (Instructions Page 31) Item A – no boxes checked. Item B -No boxes checked.

Texas Commission on Environmental Quality Supplemental Permit information (SPIF) page 19 of 24

Item Provide description of effluent discharge route. - I believe this should state From a manmade ditch called unnamed tributary , thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment 0507 of the Sabine River Basin. Unnamed tributaries appear to be recreational in Texas, which defines as a little creek, or seep, or spring, or bog, or wetland without a name begins its life as surface water when it emerges from the ground. If this is true, the Josephine wastewater is and would continue to be dumping into what is surfaced groundwater and that might not be good.

Domestic Technical Report 1.0 Page 3 of 80

Section 4. Unbuilt Phases – Neither box was checked.

Section 5. Closure Plans

Have any treatment units been taken out of service permanently or will units be taken out of service in the next 5 years. **Neither YES or NO was checked.** With this section not being checked, and with the Wastewater Master Plan stating the Wastewater Plant 3 is **additional the answer is open to interpretation**. It is open ended and information available to public online conflicts with the Justification of permit description, next item.

Domestic Technical Report 1.1 Page 21 of 80

Section 1 Justification for Permit –

- A. Justification of permit need – Provide a detailed discussion of the need for any phase(s) not currently permitted. Failure to provide sufficient justification may result in the Executive Director recommending denial of the proposed phases(s) or permit.

This proposed treatment plant will serve a housing development. The developer is proposing a final build out of 4,000 to 6,000 single family housing. The City of Josephine will own and operate this plant (WWPT #3)The city currently has a lagoon treatment plant (WWTP#1 WQ0010887001, permitted flows 070 MGD),which will eventually be decommissioned, and those influent flows sent to this proposed treatment plant.

This is either wrong, or city was/is not being transparent about the lagoon going away. Per City’s Comprehensive Plan, 961 homes are anticipated spread among many developers. I do not see 4,000 – 6,000 houses in one housing development, except for DR Horton who is funding an addition to City of Josephine Wastewater #2 in the Magnolia Subdivision. The addition to City of Josephine Wastewater #2 was supposed to serve Riverfield which is 4,000 to 6,000 homes in back of Bowman and Ridgway and Bockelmehl properties. I can however get 5,249 houses in other Josephine sub-divisions (961) plus Horton’s Wildflower (3061). I don’t think the lagoon will be decommissioned, given the evidence in Wastewater Master Plan and this application gaps.

Section 5 Facility Site – A. Is facility above the 100 year floodplain was checked yes, so no method of protection was listed. This does not correlate with the Permit Backup for Hearing on page 34, Other Requirements Item 4. states “The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.”

Public Involvement Plan Form Page 1 of 4 - misrepresented

The last box “Public Involvement Plan not applicable to this application” was checked. But, the city and engineer know the fact that the growth in the area served is 4 times as many residents in the last 5 years, citizens should have been apprised of the expansion. Two people did ask for a public meeting and if all landowners had been notified, there would have been more I’m sure. The plant is in far east Collin County, but the **applicant left out the part that the plant is in the heart of the city and the original town**. With a public hearing, there would have been understanding that citizens would be incurring more bond debt.

4. Whether adjacent and downstream landowners received proper notice pursuant to TCEQ's rules.

(RTC Response No. 9) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly notify adjacent and downstream landowners in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response- Thank you to the ED and OPIC for acknowledging this point. There are **5** property owners below that have in property that backs up to a creek that runs to Brushy Creek and **they did not** receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit that is on display at Josephine City Hall. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

These citizens are within .36 miles and would be affected parties.

6-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the permit book at City Hall in late December.

First mention of the permit at council was in a DBI/Dunaway report in February 2024 even though the permit was made in May

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise

2023. **2-12-2024-DBI Report excerpt** - during the month of February and is open for public comment.

5. Whether Applicant properly published notice in accordance with 30 TAC Chapter 39.

(RTC Response Nos. 9 and 14) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly publish notice in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response - I appreciate that the ED acknowledges this point, as well as OPIC. The initial notice was published in The Collin County Commercial Record Dec. 5 2023, which per their website is "Collin County's newspaper for **current court and commercial information.**" It costs \$200 a year. Few if any citizens in Josephine subscribe to it. Dr. Sardo was told the Collin county Commercial Register was used because the city uses it for bidding. The Collin County Commercial Register is not transparent for Josephine citizens. After my notification to the city it ran again. I spoke with Eddy Daniel (one of the Josephine Engineers) after seeing the permit by accident in City Hall on Dec. 23, 2023. After the call with Eddy and my speaking at January City Council about the application and some of my concerns, the notice was run on January 18 in Farmerville Times and Greenville Herald Banner since the wastewater runs into Hunt County. I could not find the Greenville Herald Banner posting on the Texas Public Notices Website. [https://www.texaspublicnotices.com/\(S\(ay0fq1pl5hj4bxsorbgxb0pn\)\)/Search.aspx](https://www.texaspublicnotices.com/(S(ay0fq1pl5hj4bxsorbgxb0pn))/Search.aspx)

VIEW	Farmersville, The Farmersville Times Thursday, January 18, 2024
APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010887003 , to authorize the discharge of t ... click 'view' to open the full text.	
VIEW	McKinney, Collin County Commercial Record Tuesday, December 05, 2023
Texas Commission on Environmental Quality NOTICE OF APPLICATION AND PRELIMINARY DECISION FOR TPDES PERMIT FOR MUNICIPAL WASTEWATER NEW PERMIT NO. WQ001087003 APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environ ... click 'view' to open the full text.	

6. Whether the draft permit properly considered possible increases in instances of flooding and erosion.

(RTC Response No. 5) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response - Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- My response it that flooding issues must be relevant to the Wastewater Plant as TCEQ includes flood mitigation in the permit. On page 34 in the Backup Filed for the ED's Consideration of Hearing Requests, Other Requirements Item 4. states "The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood."

The RTC Response No 5 was: The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters.

I contend TCEQ does have jurisdiction to address flooding in the permit. If the City is going to protect the plant, deflected water during flooding, it would stand to reason deflected water(or pumped water) can enhance flooding for the citizens downstream. There has been and is continuing development behind the sewer plant location. There is a disconnect between the permit backup for the hearing and the Domestic Technical Report 1.1 Section 5 Facility Instructions.

In the current Wastewater Master Plan on page 15, engineer creating the document treats the NEW SBR plant on Caddo St. as an expansion/additional. This means more than 750,000 a day will go in the creek. I cannot locate any application item in the permit that indicates what type of protection the wastewater treatment facility has.

If this statement is important enough to be in the permit, and a flood study has not been completed since 2009 and the land to the North of the sewer plant is being developed, it could become very important to the sewer plant.

Thank you for your consideration.

7. Whether the draft permit is protective of air quality.

(RTC Response No. 6) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response -Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- After reviewing the application/TCEQ Permitting forms that were on display at City Hall, I find no line item for air quality, only mention of nuisance odors. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits, as it continues to come up in many permitting processes. Thank you.

8. Whether the draft permit properly considered potential economic impacts.

(No RTC Response) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

Jane Ridgway Response- After reviewing I find no line item for economic impact on TCEQ Permitting forms that were on display at City Hall. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits. Thank you.

Jane Ridgway - Office of Public Interest Counsel – Sept 26, 2024 Response.

Jane Ridgway Response – I concur with the OPIC on item 1-4. Item 6 – I will acknowledge and accept reluctantly.

With OPIC Item 5 my response is the same as noted on to the ED on item 6. Thank you very much for considering our concerns.

Section III.B

Section III Analysis of Hearing Request B. The affected requestors raised the following disputed issues:

1. Whether the draft permit is adequately protective against nuisance odors.
2. Whether there was adequate notice of the application and draft permit.
3. Whether the draft permit is adequately protective of wildlife.
4. Whether the application was accurately completed

1.Nuisance Odors

Affected requestors raised concerns about the proposed facility's emission of nuisance odors. TCEQ regulates nuisance conditions under 30 TAC § 309.13(e) which requires applicants to implement a nuisance odor abatement plan. Further, permits issued by TCEQ do 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.

Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

2. Notice

A requestor raised concerns about notice. Her concerns focused on whether all required, nearby landowners were properly notified. Chapter 39 contains requirements relating to notice publication, alternative language publication, mailing of notice, and posting of the application in a public place within the county. **The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.**

3. Wildlife

Requestors raised concerns about adverse effects to water quality and the consequential impacts on wildlife. The Commission is responsible for the protection of water quality under Texas Water Code (TWC) Chapter 26 and 30 TAC Chapters 307 and 309. The Texas Surface Water Quality Standards (Standards) in Chapter 307 require that the proposed permit "maintain the quality of water in the state consistent with public health and enjoyment, propagation and protection of terrestrial and aquatic life, operation of existing industries, and ... economic development of the state...." 30 TAC § 307.1. According to § 307.6(b)(4) of the Standards, "Water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, or domestic animals, **resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three.**" Additionally, "[s]urface waters must not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life." 30 TAC § 307.4(d).

As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

4. Application Accuracy

TCEQ rules require that if an applicant becomes aware that it failed to submit relevant facts or submitted incorrect information in a permit application, the applicant is required to promptly submit such facts and information. 30 TAC § 305.125(19). Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

5. Flooding

TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider flooding when making a decision on issuance of this permit. Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

6. Air Pollution

Requestors raised concerns regarding the proposed facility's emission of air pollutants. TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider air quality when making a decision on issuance of this TPDES permit, unless there is an associated water quality concern. Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

V. CONCLUSION

Having found that Jane E. Ridgway and James M. Ridgway qualify as affected persons in this matter, OPIC respectfully recommends the Commission grant their hearing requests and refer Issues No. 1-4 specified in Section III.B for a contested case hearing at SOAH with a maximum duration of 180 days. OPIC further recommends the Commission deny all pending requests for reconsideration

Jane Ridgway - Response to City of Josephine Comments 9-26-2024

PUBLIC COMMENT 1:

Aaron Hensley commented that the proposed development will be inclusive of certain people and will use municipal resources.

EXECUTIVE DIRECTOR'S RESPONSE 1:

The ED acknowledges this comment.

APPLICANT'S RESPONSE 1:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 1- I don't know how to comment on this issue, I accept ED's response.

PUBLIC COMMENT 2:

James M. Ridgway, Jane E. Ridgway, and Kevin Christensen requested a contested case hearing on this application.

EXECUTIVE DIRECTOR'S RESPONSE 2:

The ED acknowledges the hearing requests.

To request a contested case hearing, the parties must follow the hearing request procedures found in 30 TAC Chapter 55. 30 TAC § 55.201(a) requires that a hearing request is filed no later than thirty days after the Office of the Chief Clerk mails the ED's Response to Comment. A hearing requestor must meet the affected person requirements found in 30 TAC § 55.203. The hearing request itself must meet the requirements found in section 55.201(c) and (d). All timely filed hearing requests will be processed in accordance with section 55.209. Unless the case is directly referred to the State Office of Administrative Hearings under section 55.210, the Commission will consider the hearing requests and determine whether to grant or deny them in accordance with section 55.211.

APPLICANT'S RESPONSE 2:

The City acknowledges this hearing request and ED's response

AFFECTED PERSON RESPONSE 2- I acknowledge the hearing request and ED response.

PUBLIC COMMENT 3:

A. Barochiere, Frank Barochiere, Jo Collin, and L.H. expressed concern that the proposed housing development will create nuisance noise.

EXECUTIVE DIRECTOR'S RESPONSE 3:

The TCEQ's jurisdiction over the permitting process is established by the Texas Legislature and is limited to issues set forth in statutes. While 30 TAC Chapter 309, specifically Subchapter B, contains some nuisance considerations, the TCEQ does not have jurisdiction to consider noise from a wastewater treatment facility, nor from any related development, when determining whether to approve or deny a permit application. However, the draft permit does not limit the ability of individual landowners 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.

APPLICANT'S RESPONSE 3:

The City's proposed wastewater treatment facility will have components installed to minimize noise from pumps and blowers associated with the typical of operations of a wastewater plant.

AFFECTED PERSON RESPONSE 3— I cannot find any place in the application that has components to minimize noise from pumps and blowers.

PUBLIC COMMENT 4:

Barbara Newton and Shannon Villegas requested a public meeting for this application.

EXECUTIVE DIRECTOR'S RESPONSE 4:

Under 30 TAC § 55.154, TCEQ must hold a public meeting when a member of the legislature, representing the general area in which the activity is proposed, requests that a public meeting be held or when the Executive Director determines that there is a substantial or significant degree of public interest in an application. Here, there was no request for a public meeting from a member of the legislature. Additionally, the Executive Director determined that two public meeting requests did not constitute substantial or significant public interest in this application. Therefore, a public meeting was not held.

APPLICANT'S RESPONSE 4:

The City acknowledges this public meeting request and ED's response.

AFFECTED PERSON RESPONSE 4—My belief is people who were interested did not know how to request the meeting properly. The TCEQ letters are daunting. The first newspaper notification was in a newspaper no one took. After I notified the city they reprinted in two papers. Unfortunately the town relies mostly on social media. If citizens B. Newton and S. Villegas would have been granted a hearing, more citizens would have shown up. Nothing is very transparent with permits.

PUBLIC COMMENT 5:

Stacie Bockemuhl, Kevin Christensen, Patricia Jan Keamey, Barbara Newton, and Jane E. Ridgway expressed concerns that discharge from the WWTF and runoff from the accompanying development will increase the likelihood of flooding events.

EXECUTIVE DIRECTOR'S RESPONSE 5:

The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters. The proposed permit includes effluent limits and other requirements that the WWTF must meet even during rainfall events and periods of flooding.

According to the application, the proposed site for the WWTF is located above the 100-year flood plain. For additional protection, the draft permit includes Other Requirement No. 5, which requires the City of Josephine to

AFFECTED PERSON RESPONSE 5— It is noticeable that the City did not respond to the Executive Director on this point. The City has flooded on Caddo Street many times which is next to the current city sewage lagoon which feeds into the “unnamed tributary/ditch” and then to the creek when run-off from storms occurs. Perhaps it is time that the TCEQ's rules committee identifies a need for a rule change, drafts a proposed rule, and presents it to the Commission for approval. I would maintain the city may not be protecting against flood hazard as stated in my initial response. There is no current Flood Mitigation Plan to my knowledge. Last one was approved in 2022, but hopefully will be updated with the influx of residents.

- **The current Wastewater Master Plan page 15 treats the NEW SBR plant on Caddo St. as expansion and add.** This means more than 750,000 a day will go in the creek.

6.4 Lagoon Wastewater Treatment Plant

The City of Josephine currently owns and operates a lagoon wastewater treatment plant. The treatment train includes an aeration oxidation ditch and two mixed lagoons. The current permit allows for a daily average flow of 0.07 MGD. The WWTP is located in the northeast area of the city and existing flows from the west region of the city are lifted to the lagoon wastewater treatment plant.

A project to expand the current wastewater treatment plant and add an additional 0.75 MGD treatment capacity is currently under design by DBI. DBI is also pursuing a new wastewater permit with the TCEQ. This master plan report assumes the 0.75 MGD addition will be incorporated onsite.

6.5 SBR Wastewater Treatment Plant

The Josephine Municipal Utility District (MUD) constructed the Sequencing Batch Reactor (SBR) treatment plant for the Magnolia Phase 1 – 10 subdivision. The City of Josephine owns and operates the WWTP. The plant is currently permitted to treat a daily average flow of 0.5 MGD with a final phased expansion to 1.5 MGD. The WWTP currently includes one treatment train and in general includes the following treatment units: headworks with fine screens, influent lift station, sequencing batch reactor basins, post-flow equalization basin, and aerobic digester basin, filtration, and UV disinfection.

• **Kimley»Horn**

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PUBLIC COMMENT 6:

Stacie Bockemuhl, Jo Collin, James M. Ridgway, and Jane E. Ridgway expressed concerns about the proposed WWTF causing air pollution.

EXECUTIVE DIRECTOR'S RESPONSE 6:

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 that rule. The Applicant indicated in its application that the proposed facility would be an activated sludge process plant using sequencing batch reactors, which does not make a significant contribution of air contaminants to the atmosphere pursuant to the Texas Health and Safety Code §§ 382.057 and 382.05196. The WWTF is therefore permitted by rule with respect to air emissions.

APPLICANT'S RESPONSE 6:

The proposed wastewater treatment facility will be an activated sludge process plant with sequencing batch reactors, as mentioned by the executive director's response. The facility will also have odor control units installed at lift stations to minimize potential odors.

AFFECTED PERSON RESPONSE 6—Before February, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter about odor mitigation and we thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM usually we still get some odor at our home. Either it has not been done, or the units are not working.

PUBLIC COMMENT 7:

Kevin Christensen, Patricia Jan Kearney, Jane E. Ridgway, and James M. Ridgway expressed concerns that the proposed facility will create nuisance odors.

EXECUTIVE DIRECTOR'S RESPONSE 7:

30 TAC § 309.13(e) requires domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor. According to the application, the applicant intends to locate treatment units at least 150 feet from the nearest property line. This requirement is also incorporated into the proposed permit. Additionally, foul odors may exist when effluent contains an insufficient amount of dissolved oxygen. The draft permit restricts the amount of oxygen demanding constituents to simultaneously reduce the odors in discharged effluent and prevent degradation of receiving waters.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 7:

Buffer zone requirements for the proposed wastewater facilities will be met. Also, as stated in Applicant's Response 6, odor control units will be installed at the on-site lift stations to help minimize potential odors.

- **AFFECTED PERSON RESPONSE 7** –150 ft from a property line just doesn't make sense to people who smell odors that travel. I live more than 150 feet from the Sewer Property line. As stated in Comment 6 between 7 PM & 10 PM usually we still get some odor at our home, either from WWTP#2 or could be WWTP#1. I lean towards WWTP#2. Either units have not been installed, or the units are not working.

PUBLIC COMMENT 8:

Kevin Christensen asked for the WWTF to be moved to a different location.

EXECUTIVE DIRECTOR'S RESPONSE 8:

The ED acknowledges the opposition to the proposed location of the WWTF. Texas Water Code § 26.027, authorizes the TCEQ to issue permits for discharges into water in the state. The ED evaluates applications for wastewater treatment plants based on the information provided in the application. The ED can recommend issuance or denial of an application based on whether the application complies with the Texas Water Code and TCEQ regulations. The Applicant is the entity that proposes the location of the facility, point of discharge, and the discharge route rather than the ED. The ED's review evaluates the impact of the discharge on the receiving waters; however, the TCEQ's permitting authority does not include the ability to mandate a different location for the facility if the location in the application complies with 30 TAC Chapter 309, Subchapter B (Location Standards), specifically 30 TAC § 309.13 pertaining to "Unsuitable Site Characteristics" for a treatment facility. Instead, the ED may only evaluate a proposed location for a wastewater treatment facility according to the Location Standards in the TCEQ regulations and the effect of the treated wastewater on the uses of the receiving stream starting at the point of discharge.

APPLICANT'S RESPONSE 8:

The proposed wastewater treatment facility is proposed to be constructed on an existing wastewater treatment site with an operating wastewater treatment currently owned and operated by the City. The City's existing northern sewer collection system flows to the site. Relocation of the plant would be cost prohibitive for the City to acquire additional land and relocate the existing sewer collection system.

- **AFFECTED PERSON RESPONSE 8** –It would be costly to the city and since they have spent money allocated bond money for sewer on other projects. There is not more land in the city vicinity since developers have purchased it all. It does not seem feasible.

PUBLIC COMMENT 9:

Stacie Bockemehl and Jane E. Ridgway were concerned that nearby landowners were not properly notified.

EXECUTIVE DIRECTOR'S RESPONSE 9:

There are two public notices regarding this permit action, the Notice of Receipt of Application and Intent to Obtain a Wastewater Permit (NORI), and the Notice of Application and Preliminary Decision (NAPD). The TCEQ's notice rules require applicants to provide public notices for wastewater permits by publishing the NORI in a "newspaper of largest circulation in the county in which the facility is located or proposed to be located. If the facility is located or proposed to be located in a municipality, the applicant [must] publish notice in any newspaper of general circulation in the municipality."¹ After the Office of the Chief Clerk has mailed the preliminary decision and the NAPD to the applicant, they are required to publish the NAPD "at least once in a newspaper regularly published or circulated within each county where the proposed facility or discharge is located and in each county affected by the discharge."²

For a history of the published notices regarding this application, please see the first paragraph of section C, Procedural History.

Additionally, the TCEQ's notice rules for a new permit or major amendment require mailed notice of the NORI and NAPD to landowners named on the application map and persons on the mailing list maintained by the Office of the Chief Clerk.³ The applicant is required to submit a landowner map as part of the application materials. The landowner map must include the property boundaries of landowners surrounding the applicant's property and the property boundaries of all landowners surrounding the discharge point and on both sides of the discharge route for one full stream mile downstream of the discharge point. Anyone who submits a comment or contested case hearing request before the end of the public comment period is also added to the mailing list for that permit action.

APPLICANT'S RESPONSE 9:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was additionally published in the *Herald Banner-Greenville, Hunt County, Texas* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 9 The additional newspaper notice in January was run after I notified the city/engineer that the first newspaper used for the notice was in a paper no one subscribes to. Farmerville Times and Herald Banner have always been the papers for public notices for Josephine. There are 5 property owners below that have in property that backs up to the Creek and they did not receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

6-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the book at City Hall in December.

2-12-2024-DBI Report excerpt -

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise during the month of February and is open for public comment.

This is all Stacie Bockemehl received. No letter was attached. It's no wonder people did not respond.

Senate Bill 709 (84th Legislative Session, 2015) amended the Texas Water Code by adding new Section 5.5553, which requires the Texas Commission on Environmental Quality (TCEQ) to provide written notice to you at least thirty (30) days prior to the TCEQ's issuance of draft permits for applications that are located in your district.

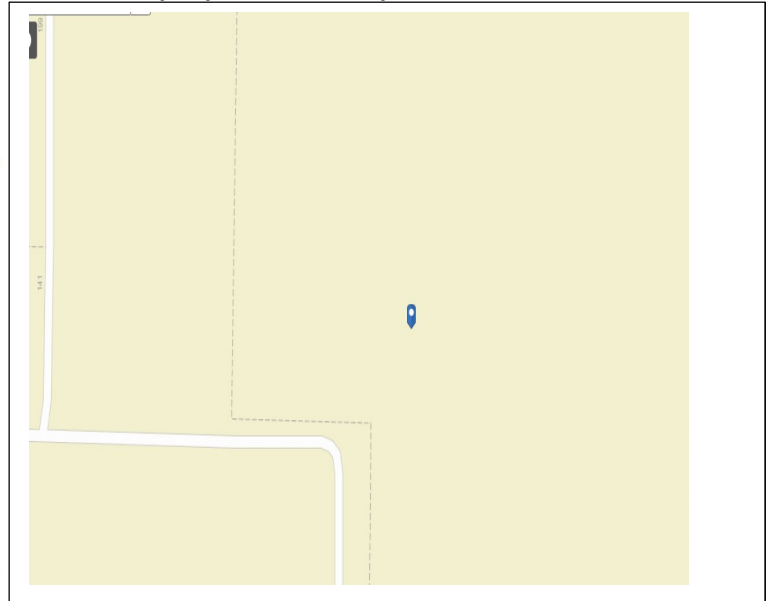
City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the TCEQ for proposed Texas Pollutant Discharge Elimination System No. WQ0010887003 (EPA I.D. No. TX0144517) to authorize the discharge of treated wastewater at a volume not to exceed a daily average flow of 750,000 gallons per day. The domestic wastewater treatment facility will be located at 601 East Caddo Street, in Collin County, Texas 75189. The discharge route will be from the plant site to an unnamed tributary, thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment No. 0507 of the Sabine River Basin. TCEQ received this application on May 1, 2023. The permit application will be available for viewing and copying at Josephine City Hall, 201 South Main Street, Josephine, Texas prior to the date this notice is published in the newspaper. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For the exact location, refer to the application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-96.298888,33.066111&level=18>

TCEQ is preparing the initial draft permit. At the time the draft permit is issued, the applicant will be required to publish notice in a newspaper of general circulation, and the TCEQ will provide a copy of the notice of draft permit to persons who have requested to be on a mailing list.

Questions regarding this application may be directed to Mr. Firoj Vahora by calling 512-239-4540.

Issuance Date: June 14, 2023



The 6/14/2023 entry on <https://www14.tceq.texas.gov/epic/eCID/> shows "Letter", but this was NOT a letter in my opinion. Very cryptic. Stacie did not know what it meant until I contacted her.

PUBLIC COMMENT 10:

James M. Ridgway commented that the permit application was improperly filled out.

EXECUTIVE DIRECTOR'S RESPONSE 10:

TCEQ performed an administrative review of the application, upon receipt, to ensure that all required information was provided therein. TCEQ determined that the application was administratively complete on June 6, 2023. The review included TCEQ staff reviewing all administrative information provided in the application.

TCEQ also performed a technical review of the application to ensure that the applicant adequately addressed all required technical issues to show that wastewater from the facility would be treated to required standards and to establish effluent limits that will ensure protection of the receiving water bodies and their existing uses. TCEQ reviewed the proposed discharge route, the designated uses and dissolved oxygen criteria of the receiving water bodies, antidegradation analysis of the discharges, and identification of any endangered species that may be present in the receiving water bodies. Based on the review and analysis, TCEQ established effluent limits and conditions designed to maintain the receiving water body's designated uses and protect human health and aquatic life.

APPLICANT'S RESPONSE 10:

The City acknowledges the submission of an administratively and technically complete application as determined by TCEQ and acknowledged by the ED's response above.

AFFECTED PERSON RESPONSE 10 –See response 9 above – Eight (8) Landowner's were left off the application. In addition there are many other items identified in Response to Executive Director's Response to hearing Requests, Item 3 above.

PUBLIC COMMENT 11:

A. Barochiere, Frank Barochiere, Jo Collin, Aaron Hensley, and H.L. expressed general opposition to the draft permit.

EXECUTIVE DIRECTOR'S RESPONSE 11:

The ED acknowledges these comments.

APPLICANT'S RESPONSE 11:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 11 – I acknowledge this comment and ED's response.

PUBLIC COMMENT 12:

A. Barochiere and Frank Barochiere expressed concerns about the impacts of development surrounding the proposed WWTF.



EXECUTIVE DIRECTOR'S RESPONSE 12:

The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ does not have jurisdiction to consider the possibilities of how future development surrounding the WWTF will impact area residence as a part of the wastewater permitting process.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 12:

The City is experiencing rapid growth thereby requiring wastewater treatment facility improvements/upgrades in order to remain compliant with the requirements of TCEQ. The proposed wastewater treatment facility will serve the referenced development in the area.

AFFECTED PERSON RESPONSE 12 – I acknowledge the ED response.

PUBLIC COMMENT 13:

James M. Ridgway and Jane E. Ridgway expressed concern that discharged effluent would negatively impact wildlife.

EXECUTIVE DIRECTOR'S RESPONSE 13:

30 TAC § 307.6(b)(4) requires water in the state to be maintained to preclude adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. While the TSWQS and the IPs do not specifically designate criteria for the protection of livestock, terrestrial wildlife, or domestic animals, the criteria designated for the protection of human health and aquatic life should preclude adverse impacts to livestock, terrestrial wildlife, and domestic animals.

The Executive Director has determined that the draft permit would be protective of the environment, including aquatic and terrestrial wildlife. Potential water quality issues that could negatively affect wildlife – excessive salinity, high nitrogen content, bacterial contamination, depressed dissolved oxygen, and heavy growths of blue-green algae – are not expected in the receiving waters provided the Applicant complies with proposed permit.

APPLICANT'S RESPONSE 13:

The City intends to comply with the proposed permit in order to prevent the discharge effluent that would have adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals.

AFFECTED PERSON RESPONSE 13 -The city has not engaged in funding for PFAS and emerging contaminants, though PFAS has been brought up at council meetings. Because the city buys water from NTMWD it is seen at NTMWD problem, not Josephine. However, as the fastest growing city in North Texas, or so it is advertised, additional in writing protection on a TCEQ form would be welcomed. An effort to apply for funding at TWDB could help. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov <https://www.twdb.texas.gov/financial/programs/ec/index.asp>

- Funding for PFAS <https://www.tceq.texas.gov/assistance/resources/the-advocate-1/funding-available-for-pfas-and-emerging-contaminants>
- Eco-environment The wooded Brushy Creek area behind my backyard neighbor houses hawks, birds, egrets, fowl, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's. Though chemicals treating sewer are not supposed to be harmful to fish, fowl, animals, an increase in the amount of flow may negate that thought.

Wildlife - Wastewater will affect wildlife, TCEQ says that that water in the state is to be safe for humans, therefore it is safe for wildlife. However, it has been determined that water has PFAS. Nearly all municipal wastewater treatment plants have measurable levels of PFAS in their discharge. The vast majority of that PFAS comes from upstream sources — such as industries, household products, and human waste — and flows through the facilities.

Reference Public Comment 5 – City Wastewater Master Plans says an ADDITIONAL .75 MGD plant.

PUBLIC COMMENT 14:

Pamela Sardo commented that the NORI and the NAPD should not have been published in the *Collin County Commercial Record* because the subscription fee is too high.

EXECUTIVE DIRECTOR'S RESPONSE 14:

Under 30 TAC §§ 39.405(f)(1) and 39.418(b)(1), the NORI must be published in the newspaper of largest circulation in the county in which the proposed WWTF is located, or, if the facility is located in a municipality, then the applicant may publish the NORI in any newspaper of general circulation. Under 30 TAC § 39.419(b), the NAPD must be published at least once in the same newspaper as the NORI.

Here, the NORI and NAPD were both published in the *Collin County Commercial Record*, but the NAPD was also published in the *Harald Banner-Collin County* and in *The Farmersville Times/C&S Media-Collin County*.

APPLICANT'S RESPONSE 14:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was also published in the *Herald Banner-Greenville, Hunt County TX* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 14 – The city only published in the local papers after I notified them several people did get notified that live close to me. They told Dr. Sardo that the Collin County Commercial Register was used because they use it for bidding. Using Collin Co. Commercial Record shows it was not transparent to Citizens, because it is for commercial. It was not transparent. The first notification to City Council about the Permit was on DBI Report for 1-6-2024, even though it had been applied for in May.

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
972-834-8686
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087

To: All interested persons on the attached mailing list

RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024
City of Josephine (Applicant)
Responses to Executive Director of the TCEQ, Public Interest Counsel of TCEQ and Applicant

In preparation for the hearing on the above mentioned permit application, I am sending my responses to comply with rules set forth in TCEQ letter dated Sept 4, 2024 setting the docket number. The commission rules entitle all recipients of time hearing requests/requests for reconsideration to file a formal written response to Applicant, the Executive Director and the Public Interest Counsel of the TCEQ by or on September 30, 2024. I am responding to correspondence from the Executive Director's Office and the Office of Public Interest Counsel which were both to me on Sept 16, 2024. I had to go online to obtain the filing from the City of Josephine in order to respond.

There are responses to each of the 3 parties in the document following this letter.

Thank you in advance for your consideration.

Best Regards,

Jane Ridgway

MAILING LIST
City of Josephine
TCEQ Docket No./TCEQ Expediente N.º 2024-1228-MWD;
TPDES Permit No./TPDES Permiso N.º WQ0010887003

FOR THE APPLICANT/PARA EL
SOLICITANTE

Lisa Palomba, City Administrator
City of Josephine
P.O. Box 99
Josephine, Texas 75164

Eddy Daniel, P.E.
City Engineer, Dunaway, LLC
P.O. Box 606
Farmerville, Texas 75442

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

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

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

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

FOR PUBLIC INTEREST COUNSEL/PARA
ABOGADOS DE INTERÉS PÚBLICO
via electronic mail/vía correo electrónico:

Garrett T. Arthur, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711

FOR ALTERNATIVE DISPUTE
RESOLUTION/PARA LA RESOLUCIÓN
ALTERNATIVA DE DISPUTAS
via electronic mail/vía correo electrónico:

Kyle Lucas
Texas Commission on Environmental
Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, Texas 78711

FOR THE CHIEF CLERK/PARA EL
SECRETARIO OFICIAL
via eFilings:

Docket Clerk
Texas Commission on Environmental
Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711
<https://www.tceq.texas.gov/goto/efilings>

REQUESTER(S)/INTERESTED PERSON(S)/
SOLICITANTE(S)/ PERSONA(S)
INTERESADA(S)
See attached list/Ver lista adjunta.

REQUESTER(S)/ SOLICITANTE(S)

Christensen, Kevin
201 Monarch Ln
Josephine Tx 75173-7152

Ridgway, James M
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, James M
5754 FM 6
Josephine Tx 75189-4000

Ridgway, Jane E
PO Box 127
Caddo Mills Tx 75135-0127

Ridgway, Jane E
5754 FM 6
Josephine Tx 75189-4000

BAROCHIERE , A
300 PATINA ST
JOSEPHINE TX 75189-6020

BAROCHIERE , FRANK
300 PATINA ST
JOSEPHINE TX 75189-6020

BOCKEMEHL , MRS STACIE
PO BOX 233
CADDO MILLS TX 75135-0233

CHRISTENSEN , KEVIN
201 MONARCH LN
JOSEPHINE TX 75173-7152

COLLIN , JO
300 CHUCK WAGON DR
JOSEPHINE TX 75189-5442

DUPUIS , JACOB
DUNAWAY
118 MCKINNEY ST
FARMERSVILLE TX 75442-2214

FLORES , SARAH
303 WAGON WHEEL DR
JOSEPHINE TX 75189-5385

HENSLEY , AARON
513 PLUM DR
JOSEPHINE TX 75173-8536

KEARNEY , MS PATRICIA JAN
PO BOX 193
JOSEPHINE TX 75164-0193

L , H
308 CHUCK WAGON DR
JOSEPHINE TX 75189-5442

NEWTON , BARBARA
PO BOX 415
JOSEPHINE TX 75164-0415

RIDGWAY , JANE E
PO BOX 127
CADDO MILLS TX 75135-0127

RIDGWAY , JANE E
5754 FM 6
JOSEPHINE TX 75189-4000

RIDGWAY , JAMES M
PO BOX 127
CADDO MILLS TX 75135-0127

RIDGWAY , JAMES M
5754 FM 6
JOSEPHINE TX 75189-4000

SARDO , DR. PAMELA
2006 HARVEST LN
JOSEPHINE TX 75173-7075

VILLEGAS , SHANNON
106 MILTON ST
JOSEPHINE TX 75173-8528

Jane Ridgway
5754 FM 6
Josephine, Tx 75189
Hunt County
September 27, 2024

Office of the Chief Clerk of the TCEQ
ATTN: Agenda Docket Clerk
Mail Code 105
TCEQ
P O BOX 13087
Austin, TX 78711-3087
RE: Docket No. 2024-1228-MWD - Meeting October 11, 2024

**CONTINUED REQUEST FOR A CONTESTED CASE HEARING ON
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
TPDES PERMIT NUMBER WQ0010887003**

Name of Person Contesting: Jane Ridgway
Mailing Address: P O Box 127, Caddo Mills, TX 75135-0127
Daytime Phone: 972-834-8686
Fax Number: None
My Physical Property Location
and Homestead 5754 FM 6, Josephine, TX 75189 - Hunt County
Email: jridgway1971@gmail.com (no "e" in ridgway)
Applicant: City of Josephine - TPDES PERMIT NUMBER WQ0010887003

Response to Executive Director's Response to Hearing Requests (with OPIC Comments)

VII. ANALYSIS OF THE HEARING REQUESTS

A. WHETHER THE REQUEST COMPLIED WITH 30 TAC §§ 55.201(c) AND (d).

1. Jane Ridgway filed four timely, written Requests that provided the requisite contact information, raised issues that form the basis of her Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Ms. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Ms. Ridgway believes she will be affected by the application in a way not common to the public. Ms. Ridgway's Requests stated that she lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Ms. Ridgway's property is 0.36 miles away from the proposed facility. Ms. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, flooding and erosion, air quality, and economic impacts.

The ED recommends finding that the Requests of Ms. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges my compliance to the TAC. Thank you.

2. James Ridgway filed two timely, written Requests that provided the requisite contact information, raised issues that form the basis of his Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing. Mr. Ridgway's Requests complied with 30 TAC §§ 55.201(c) and (d) because the Requests effectively identified personal justiciable interests in a written explanation plainly describing why Mr. Ridgway believes he will be affected by the application in a way not common to the general public. Mr. Ridgway's Requests stated that he lives close to the proposed facility, and the GIS Map prepared by the ED's staff shows that Mr. Ridgway's property is 0.36 miles away from the proposed facility. Mr. Ridgway raised issues related to nuisance odors, protection of aquatic and terrestrial wildlife, the administrative completeness of the application, proper notice, and flooding.

The ED recommends finding that the Requests of Mr. Ridgway substantially complied with 30 TAC §§ 55.201(c) and (d).

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledged his compliance to the TAC.

B. WHETHER REQUESTOR IS AN AFFECTED PERSON UNDER 30 TAC § 55.203.

1. Jane Ridgway filed four Requests that effectively identified personal, justiciable interests affected by the application. Ms. Ridgway's Requests stated that she was close to the proposed facility and that she is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Ms. Ridgway's property is situated 0.36 miles away from the proposed facility. Ms. Ridgway's proximity to the proposed facility, in conjunction with the issues Ms. Ridgway raised, lead the ED to determine that Ms. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Ms. Ridgway is an affected person under 30 TAC § 55.203 and grant her hearing request.

Jane Ridgway Response - As the requestor I appreciate that the ED acknowledges I am an affected person and granting the hearing request. Thank you.

2. James Ridgway filed two Requests that effectively identified personal, justiciable interests affected by the application. Mr. Ridgway's Requests stated that he was close to the proposed facility and that he is worried about the facility creating nuisance odors. Nuisance odors are regulated by the law under which TPDES permits are considered. Additionally, Mr. Ridgway's property is situated 0.36 miles away from the proposed facility. Mr. Ridgway's proximity to the proposed facility, in conjunction with the issues Mr. Ridgway raised, lead the ED to determine that Mr. Ridgway has a personal justiciable interest related to a legal right or duty affected by the application that is not common to the general public.

Therefore, the ED recommends the Commission find Mr. Ridgway is an affected person under 30 TC § 55.203 and grant his hearing request.

Jane Ridgway Response – Thank you. As the requestor's spouse I appreciate that the ED acknowledges he is an affected person and for granting the hearing request.

VIII. ISSUES RAISED IN THE HEARING REQUEST:

1. **Whether the draft permit adequately prevents nuisance odors as required by 30 TAC § 309.13(e).**

(RTC Response No. 7) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit does not control nuisance odors in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 1. Nuisance Odors - Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

Jane Ridgway Response - I appreciate the possible referral from the ED on nuisance odor issue, and OPIC positive response. Before February 2024, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter dated February 1 to Lisa Polomba, City Administrator about odor mitigation and installing odor control equipment. I thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM on most days we still get odor at our home. Either mitigation has not been done, or the units are not working. The permit includes information from Evoqua, but their information alludes to pipeline distribution of wastewater. "A liquid phase dosing program can be used to prevent odorous compounds from forming in wastewater. Chemicals, such as Bioxide® Solution are added directly into the wastewater stream along the wastewater pipeline. This plant will dump into a manmade ditch.

2. **Whether the draft permit is adequately protective of aquatic and terrestrial wildlife.**

(RTC Response No. 13) This issue involves a disputed question of mixed fact and law. If it can be shown that the draft permit is not protective of aquatic and terrestrial wildlife in accordance with applicable regulations, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 3. Wildlife - As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

Jane Ridgway Response- Thank you. I appreciate the possible referral from the ED on this issue, and also the OPIC for finding the issue relevant. The Natural wooded creek area behind the Bowman home (my backyard neighbor) has hawks, birds, egrets, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's while 20 swamp rabbits come out at Bowman's. I do have my rabbit and egret photos. These critters come to my property except the beaver.

TCEQ states that that water in the state is to be safe for humans; therefore it is safe for wildlife. However, it has been determined that wastewater has PFAS. It has been found PFAS is harmful wildlife.

<https://news.mongabay.com/2023/09/pfas-forever-chemicals-harming-wildlife-the-world-over-study/>. NTMWD supplies water to Josephine which contains PFAS. City Staff think PFAS mitigation is NTMWD issue. NTMWD is addressing PFAS incoming water, but Josephine should help with wastewater. If not addressed at wastewater level, PFAS will continue to be distributed to ditch/creeks/Lake Tawakoni until However, as the fastest growing city in North Texas, additional PFAS treatment for wastewater to humans at Lake Tawakoni, and to protect aquatic and terrestrial wildlife both in writing and action seems prudent. Perhaps EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS include PFAS monitoring under *Other Requirements which I cannot find.

The City could apply for funding at TWDB if my research is good. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov

3. Whether the application was correctly determined to be administratively and technically complete.

(RTC Response No. 10) This issue involves a disputed question of mixed fact and law. If it can be shown that the application information, on which the draft permit is based, was not complete, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 4. Application Accuracy - Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

Jane Ridgway Response- I wish to thank the ED for the referral and also the OPIC. As the definition of not complete is which can also mean "incomplete" means something is not complete or finished, and may be lacking a necessary part, element, or step. Possibly inaccurate. Another review of the application and our findings is below. We would like to know if these were rectified.

TCEQ Core Data Form Section II

Customer Information Item 9. Federal Tax ID is missing. Cities need one to pay employees.

Domestic Technical Worksheet TCEQ-10054

Section 2 – B. and C. Not answered. "No" should have been checked.

Section 4 – B Flow characteristics

If a stream, manmade channel or ditch was checked above provide the following. For existing discharges, check one of the following that best characterizes the area upstream of the discharge. For new discharges, characterize the area *downstream* of the discharge. (Check one) .

There were no boxes checked in the section "Check the method used to characterize the area upstream (or downstream) for new dischargers. Please note that in Section 4, Description of Immediate Receiving Waters, A. Receiving water type, the last box "Manmade channel or ditches" was check marked. This is the first time I realized the Unnamed Tributary was in fact a manmade channel or ditch.

Section 4 – C-Downstream Perennial confluences.

List the names of all perennial streams the join the receiving water within 3 miles downstream of the discharge point. This was answered "none". I checked map at <https://en-us.topographic-map.com/map-sdhms8/Josephine/?center=33.06373%2C-96.29229&zoom=16&overlay=0> . Since my house is .36 miles, it looks like the unnamed tributary and Brushy Creek should be listed. If so, then the answer to Item D would be incorrect.

Section 4 – E. Normal dry weather characteristics. “No Flows” was entered, but could be incorrect. There is water in the creek behind the Bockemehl in summer. It does not dry up. Maybe the person who filled out the application did not go completely downstream. The stream does curve and get very deep at points. It gets deeper and wide and does rush the land.

Section 5 . General Characteristics of the Waterbody Obstructions – Item C. Water body aesthetics. As a person who sees this very frequently, the answer should be Natural Area: Trees and/or native vegetation: some development evident (from fields, pastures, dwellings) water clarity discolored. (page 32 of 80)

Application for a Domestic Wastewater Permit Administrative Report 1.0

Section 10- TPDES Discharge Information (Instructions Page 31) Item A – no boxes checked. Item B -No boxes checked.

Texas Commission on Environmental Quality Supplemental Permit information (SPIF) page 19 of 24

Item Provide description of effluent discharge route. - I believe this should state From a manmade ditch called unnamed tributary , thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment 0507 of the Sabine River Basin. Unnamed tributaries appear to be recreational in Texas, which defines as a little creek, or seep, or spring, or bog, or wetland without a name begins its life as surface water when it emerges from the ground. If this is true, the Josephine wastewater is and would continue to be dumping into what is surfaced groundwater and that might not be good.

Domestic Technical Report 1.0 Page 3 of 80

Section 4. Unbuilt Phases – Neither box was checked.

Section 5. Closure Plans

Have any treatment units been taken out of service permanently or will units be taken out of service in the next 5 years. **Neither YES or NO was checked.** With this section not being checked, and with the Wastewater Master Plan stating the Wastewater Plant 3 is **additional the answer is open to interpretation.** It is open ended and information available to public online conflicts with the Justification of permit description, next item.

Domestic Technical Report 1.1 Page 21 of 80

Section 1 Justification for Permit –

- A. Justification of permit need – Provide a detailed discussion of the need for any phase(s) not currently permitted. Failure to provide sufficient justification may result in the Executive Director recommending denial of the proposed phases(s) or permit.

This proposed treatment plant will serve a housing development. The developer is proposing a final build out of 4,000 to 6,000 single family housing. The City of Josephine will own and operate this plant (WWPT #3)The city currently has a lagoon treatment plant (WWTP#1 WQ0010887001, permitted flows 070 MGD),which will eventually be decommissioned, and those influent flows sent to this proposed treatment plant.

This is either wrong, or city was/is not being transparent about the lagoon going away. Per City’s Comprehensive Plan, 961 homes are anticipated spread among many developers. I do not see 4,000 – 6,000 houses in one housing development, except for DR Horton who is funding an addition to City of Josephine Wastewater #2 in the Magnolia Subdivision. The addition to City of Josephine Wastewater #2 was supposed to serve Riverfield which is 4,000 to 6,000 homes in back of Bowman and Ridgway and Bockelmehl properties. I can however get 5,249 houses in other Josephine sub-divisions (961) plus Horton’s Wildflower (3061). I don’t think the lagoon will be decommissioned, given the evidence in Wastewater Master Plan and this application gaps.

Section 5 Facility Site – A. Is facility above the 100 year floodplain was checked yes, so no method of protection was listed. This does not correlate with the Permit Backup for Hearing on page 34, Other Requirements Item 4. states “The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.”

Public Involvement Plan Form Page 1 of 4 - misrepresented

The last box “Public Involvement Plan not applicable to this application” was checked. But, the city and engineer know the fact that the growth in the area served is 4 times as many residents in the last 5 years, citizens should have been apprised of the expansion. Two people did ask for a public meeting and if all landowners had been notified, there would have been more I’m sure. The plant is in far east Collin County, but the **applicant left out the part that the plant is in the heart of the city and the original town.** With a public hearing, there would have been understanding that citizens would be incurring more bond debt.

4. Whether adjacent and downstream landowners received proper notice pursuant to TCEQ's rules.

(RTC Response No. 9) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly notify adjacent and downstream landowners in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response- Thank you to the ED and OPIC for acknowledging this point. There are **5** property owners below that have in property that backs up to a creek that runs to Brushy Creek and **they did not** receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit that is on display at Josephine City Hall. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

These citizens are within .36 miles and would be affected parties.

6-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the permit book at City Hall in late December.

First mention of the permit at council was in a DBI/Dunaway report in February 2024 even though the permit was made in May

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise

2023. **2-12-2024-DBI Report excerpt** - during the month of February and is open for public comment.

5. Whether Applicant properly published notice in accordance with 30 TAC Chapter 39.

(RTC Response Nos. 9 and 14) This issue involves a disputed question of mixed fact and law. If it can be shown that Applicant did not properly publish notice in accordance with TCEQ's notice rules, then that information would be relevant and material to a decision on this application.

The ED concludes this issue is relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer this issue.

OPIC Response – 2. The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.

Jane Ridgway Response - I appreciate that the ED acknowledges this point, as well as OPIC. The initial notice was published in The Collin County Commercial Record Dec. 5 2023, which per their website is "Collin County's newspaper for **current court and commercial information.**" It costs \$200 a year. Few if any citizens in Josephine subscribe to it. Dr. Sardo was told the Collin county Commercial Register was used because the city uses it for bidding. The Collin County Commercial Register is not transparent for Josephine citizens. After my notification to the city it ran again. I spoke with Eddy Daniel (one of the Josephine Engineers) after seeing the permit by accident in City Hall on Dec. 23, 2023. After the call with Eddy and my speaking at January City Council about the application and some of my concerns, the notice was run on January 18 in Farmerville Times and Greenville Herald Banner since the wastewater runs into Hunt County. I could not find the Greenville Herald Banner posting on the Texas Public Notices Website. [https://www.texaspublicnotices.com/\(S\(ay0fq1pl5hj4bxsorbgxb0pn\)\)/Search.aspx](https://www.texaspublicnotices.com/(S(ay0fq1pl5hj4bxsorbgxb0pn))/Search.aspx)

VIEW	Farmersville, The Farmersville Times Thursday, January 18, 2024
APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010887003 , to authorize the discharge of t ... click 'view' to open the full text.	
VIEW	McKinney, Collin County Commercial Record Tuesday, December 05, 2023
Texas Commission on Environmental Quality NOTICE OF APPLICATION AND PRELIMINARY DECISION FOR TPDES PERMIT FOR MUNICIPAL WASTEWATER NEW PERMIT NO. WQ001087003 APPLICATION AND PRELIMINARY DECISION. City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the Texas Commission on Environ ... click 'view' to open the full text.	

6. Whether the draft permit properly considered possible increases in instances of flooding and erosion.

(RTC Response No. 5) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response - Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- My response it that flooding issues must be relevant to the Wastewater Plant as TCEQ includes flood mitigation in the permit. On page 34 in the Backup Filed for the ED's Consideration of Hearing Requests, Other Requirements Item 4. states "The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood."

The RTC Response No 5 was: The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters.

I contend TCEQ does have jurisdiction to address flooding in the permit. If the City is going to protect the plant, deflected water during flooding, it would stand to reason deflected water(or pumped water) can enhance flooding for the citizens downstream. There has been and is continuing development behind the sewer plant location. There is a disconnect between the permit backup for the hearing and the Domestic Technical Report 1.1 Section 5 Facility Instructions.

In the current Wastewater Master Plan on page 15, engineer creating the document treats the NEW SBR plant on Caddo St. as an expansion/additional. This means more than 750,000 a day will go in the creek. I cannot locate any application item in the permit that indicates what type of protection the wastewater treatment facility has.

If this statement is important enough to be in the permit, and a flood study has not been completed since 2009 and the land to the North of the sewer plant is being developed, it could become very important to the sewer plant.

Thank you for your consideration.

7. Whether the draft permit is protective of air quality.

(RTC Response No. 6) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

OPIC Response -Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

Jane Ridgway Response- After reviewing the application/TCEQ Permitting forms that were on display at City Hall, I find no line item for air quality, only mention of nuisance odors. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits, as it continues to come up in many permitting processes. Thank you.

8. Whether the draft permit properly considered potential economic impacts.

(No RTC Response) This issue involves a disputed question of fact that was raised during the comment period and was not withdrawn. However, it is not relevant and material to the issuance of the draft permit.

Therefore, the ED recommends the Commission does not refer this issue.

Jane Ridgway Response- After reviewing I find no line item for economic impact on TCEQ Permitting forms that were on display at City Hall. Reluctantly I accept the ED statement. Perhaps in time this could be defined in rule for all permits. Thank you.

Jane Ridgway - Office of Public Interest Counsel – Sept 26, 2024 Response.

Jane Ridgway Response – I concur with the OPIC on item 1-4. Item 6 – I will acknowledge and accept reluctantly.

With OPIC Item 5 my response is the same as noted on to the ED on item 6. Thank you very much for considering our concerns.

Section III.B

Section III Analysis of Hearing Request B. The affected requestors raised the following disputed issues:

1. Whether the draft permit is adequately protective against nuisance odors.
2. Whether there was adequate notice of the application and draft permit.
3. Whether the draft permit is adequately protective of wildlife.
4. Whether the application was accurately completed

1. Nuisance Odors

Affected requestors raised concerns about the proposed facility's emission of nuisance odors. TCEQ regulates nuisance conditions under 30 TAC § 309.13(e) which requires applicants to implement a nuisance odor abatement plan. Further, permits issued by TCEQ do 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.

Because 30 TAC § 309.13 addresses nuisance conditions as described by requestors, Issue No. 1 is relevant and material to the Commission's decision on this Application.

2. Notice

A requestor raised concerns about notice. Her concerns focused on whether all required, nearby landowners were properly notified. Chapter 39 contains requirements relating to notice publication, alternative language publication, mailing of notice, and posting of the application in a public place within the county. **The issue of whether the Applicant complied with all applicable notice requirements is relevant and material to the Commission's decision on this application. Therefore, Issue No. 2 is appropriate for referral to SOAH.**

3. Wildlife

Requestors raised concerns about adverse effects to water quality and the consequential impacts on wildlife. The Commission is responsible for the protection of water quality under Texas Water Code (TWC) Chapter 26 and 30 TAC Chapters 307 and 309. The Texas Surface Water Quality Standards (Standards) in Chapter 307 require that the proposed permit "maintain the quality of water in the state consistent with public health and enjoyment, propagation and protection of terrestrial and aquatic life, operation of existing industries, and ... economic development of the state...." 30 TAC § 307.1. According to § 307.6(b)(4) of the Standards, "Water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, or domestic animals, **resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three.**" Additionally, "[s]urface waters must not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life." 30 TAC § 307.4(d).

As Chapter 307 designates criteria for the regulation of water quality and the protection of animal life, Issue No. 3 is relevant and material to the Commission's decision regarding this application.

4. Application Accuracy

TCEQ rules require that if an applicant becomes aware that it failed to submit relevant facts or submitted incorrect information in a permit application, the applicant is required to promptly submit such facts and information. 30 TAC § 305.125(19). Therefore, Issue No. 4 is relevant and material to the Commission's decision regarding this application and is appropriate for referral to SOAH.

5. Flooding

TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider flooding when making a decision on issuance of this permit. Therefore, Issue No. 5 is not relevant and material to the Commission's decision on this application.

6. Air Pollution

Requestors raised concerns regarding the proposed facility's emission of air pollutants. TCEQ's jurisdiction is established by statute and does not include authority under the Texas Water Code or its regulations to address or consider air quality when making a decision on issuance of this TPDES permit, unless there is an associated water quality concern. Accordingly, Issue No. 6 is not relevant and material to the Commission's decision on this application.

V. CONCLUSION

Having found that Jane E. Ridgway and James M. Ridgway qualify as affected persons in this matter, OPIC respectfully recommends the Commission grant their hearing requests and refer Issues No. 1-4 specified in Section III.B for a contested case hearing at SOAH with a maximum duration of 180 days. OPIC further recommends the Commission deny all pending requests for reconsideration

Jane Ridgway - Response to City of Josephine Comments 9-26-2024

PUBLIC COMMENT 1:

Aaron Hensley commented that the proposed development will be inclusive of certain people and will use municipal resources.

EXECUTIVE DIRECTOR'S RESPONSE 1:

The ED acknowledges this comment.

APPLICANT'S RESPONSE 1:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 1- I don't know how to comment on this issue, I accept ED's response.

PUBLIC COMMENT 2:

James M. Ridgway, Jane E. Ridgway, and Kevin Christensen requested a contested case hearing on this application.

EXECUTIVE DIRECTOR'S RESPONSE 2:

The ED acknowledges the hearing requests.

To request a contested case hearing, the parties must follow the hearing request procedures found in 30 TAC Chapter 55. 30 TAC § 55.201(a) requires that a hearing request is filed no later than thirty days after the Office of the Chief Clerk mails the ED's Response to Comment. A hearing requestor must meet the affected person requirements found in 30 TAC § 55.203. The hearing request itself must meet the requirements found in section 55.201(c) and (d). All timely filed hearing requests will be processed in accordance with section 55.209. Unless the case is directly referred to the State Office of Administrative Hearings under section 55.210, the Commission will consider the hearing requests and determine whether to grant or deny them in accordance with section 55.211.

APPLICANT'S RESPONSE 2:

The City acknowledges this hearing request and ED's response

AFFECTED PERSON RESPONSE 2- I acknowledge the hearing request and ED response.

PUBLIC COMMENT 3:

A. Barochiere, Frank Barochiere, Jo Collin, and L.H. expressed concern that the proposed housing development will create nuisance noise.

EXECUTIVE DIRECTOR'S RESPONSE 3:

The TCEQ's jurisdiction over the permitting process is established by the Texas Legislature and is limited to issues set forth in statutes. While 30 TAC Chapter 309, specifically Subchapter B, contains some nuisance considerations, the TCEQ does not have jurisdiction to consider noise from a wastewater treatment facility, nor from any related development, when determining whether to approve or deny a permit application. However, the draft permit does not limit the ability of individual landowners 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.

APPLICANT'S RESPONSE 3:

The City's proposed wastewater treatment facility will have components installed to minimize noise from pumps and blowers associated with the typical of operations of a wastewater plant.

AFFECTED PERSON RESPONSE 3— I cannot find any place in the application that has components to minimize noise from pumps and blowers.

PUBLIC COMMENT 4:

Barbara Newton and Shannon Villegas requested a public meeting for this application.

EXECUTIVE DIRECTOR'S RESPONSE 4:

Under 30 TAC § 55.154, TCEQ must hold a public meeting when a member of the legislature, representing the general area in which the activity is proposed, requests that a public meeting be held or when the Executive Director determines that there is a substantial or significant degree of public interest in an application. Here, there was no request for a public meeting from a member of the legislature. Additionally, the Executive Director determined that two public meeting requests did not constitute substantial or significant public interest in this application. Therefore, a public meeting was not held.

APPLICANT'S RESPONSE 4:

The City acknowledges this public meeting request and ED's response.

AFFECTED PERSON RESPONSE 4—My belief is people who were interested did not know how to request the meeting properly. The TCEQ letters are daunting. The first newspaper notification was in a newspaper no one took. After I notified the city they reprinted in two papers. Unfortunately the town relies mostly on social media. If citizens B. Newton and S. Villegas would have been granted a hearing, more citizens would have shown up. Nothing is very transparent with permits.

PUBLIC COMMENT 5:

Stacie Bockemuhl, Kevin Christensen, Patricia Jan Keamey, Barbara Newton, and Jane E. Ridgway expressed concerns that discharge from the WWTF and runoff from the accompanying development will increase the likelihood of flooding events.

EXECUTIVE DIRECTOR'S RESPONSE 5:

The TCEQ does not have jurisdiction to address flooding issues 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 the water quality of the state's rivers, lakes, and coastal waters. The proposed permit includes effluent limits and other requirements that the WWTF must meet even during rainfall events and periods of flooding.

According to the application, the proposed site for the WWTF is located above the 100-year flood plain. For additional protection, the draft permit includes Other Requirement No. 5, which requires the City of Josephine to

AFFECTED PERSON RESPONSE 5— It is noticeable that the City did not respond to the Executive Director on this point. The City has flooded on Caddo Street many times which is next to the current city sewage lagoon which feeds into the “unnamed tributary/ditch” and then to the creek when run-off from storms occurs. Perhaps it is time that the TCEQ's rules committee identifies a need for a rule change, drafts a proposed rule, and presents it to the Commission for approval. I would maintain the city may not be protecting against flood hazard as stated in my initial response. There is no current Flood Mitigation Plan to my knowledge. Last one was approved in 2022, but hopefully will be updated with the influx of residents.

- **The current Wastewater Master Plan page 15 treats the NEW SBR plant on Caddo St. as expansion and add.** This means more than 750,000 a day will go in the creek.

6.4 Lagoon Wastewater Treatment Plant

The City of Josephine currently owns and operates a lagoon wastewater treatment plant. The treatment train includes an aeration oxidation ditch and two mixed lagoons. The current permit allows for a daily average flow of 0.07 MGD. The WWTP is located in the northeast area of the city and existing flows from the west region of the city are lifted to the lagoon wastewater treatment plant.

A project to expand the current wastewater treatment plant and add an additional 0.75 MGD treatment capacity is currently under design by DBI. DBI is also pursuing a new wastewater permit with the TCEQ. This master plan report assumes the 0.75 MGD addition will be incorporated onsite.

6.5 SBR Wastewater Treatment Plant

The Josephine Municipal Utility District (MUD) constructed the Sequencing Batch Reactor (SBR) treatment plant for the Magnolia Phase 1 – 10 subdivision. The City of Josephine owns and operates the WWTP. The plant is currently permitted to treat a daily average flow of 0.5 MGD with a final phased expansion to 1.5 MGD. The WWTP currently includes one treatment train and in general includes the following treatment units: headworks with fine screens, influent lift station, sequencing batch reactor basins, post-flow equalization basin, and aerobic digester basin, filtration, and UV disinfection.

• **Kimley»Horn**

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PUBLIC COMMENT 6:

Stacie Bockemuhl, Jo Collin, James M. Ridgway, and Jane E. Ridgway expressed concerns about the proposed WWTF causing air pollution.

EXECUTIVE DIRECTOR'S RESPONSE 6:

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 that rule. The Applicant indicated in its application that the proposed facility would be an activated sludge process plant using sequencing batch reactors, which does not make a significant contribution of air contaminants to the atmosphere pursuant to the Texas Health and Safety Code §§ 382.057 and 382.05196. The WWTF is therefore permitted by rule with respect to air emissions.

APPLICANT'S RESPONSE 6:

The proposed wastewater treatment facility will be an activated sludge process plant with sequencing batch reactors, as mentioned by the executive director's response. The facility will also have odor control units installed at lift stations to minimize potential odors.

AFFECTED PERSON RESPONSE 6—Before February, the city was informed by Magnolia subdivision citizens of odors at City of Josephine Wastewater 2, WQ0010887002. The city engineer wrote a letter about odor mitigation and we thought city was rectifying with odor control at the identified lift stations, however, between 7 PM & 10 PM usually we still get some odor at our home. Either it has not been done, or the units are not working.

PUBLIC COMMENT 7:

Kevin Christensen, Patricia Jan Kearney, Jane E. Ridgway, and James M. Ridgway expressed concerns that the proposed facility will create nuisance odors.

EXECUTIVE DIRECTOR'S RESPONSE 7:

30 TAC § 309.13(e) requires domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor. According to the application, the applicant intends to locate treatment units at least 150 feet from the nearest property line. This requirement is also incorporated into the proposed permit. Additionally, foul odors may exist when effluent contains an insufficient amount of dissolved oxygen. The draft permit restricts the amount of oxygen demanding constituents to simultaneously reduce the odors in discharged effluent and prevent degradation of receiving waters.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 7:

Buffer zone requirements for the proposed wastewater facilities will be met. Also, as stated in Applicant's Response 6, odor control units will be installed at the on-site lift stations to help minimize potential odors.

- **AFFECTED PERSON RESPONSE 7** –150 ft from a property line just doesn't make sense to people who smell odors that travel. I live more than 150 feet from the Sewer Property line. As stated in Comment 6 between 7 PM & 10 PM usually we still get some odor at our home, either from WWTP#2 or could be WWTP#1. I lean towards WWTP#2. Either units have not been installed, or the units are not working.

PUBLIC COMMENT 8:

Kevin Christensen asked for the WWTF to be moved to a different location.

EXECUTIVE DIRECTOR'S RESPONSE 8:

The ED acknowledges the opposition to the proposed location of the WWTF. Texas Water Code § 26.027, authorizes the TCEQ to issue permits for discharges into water in the state. The ED evaluates applications for wastewater treatment plants based on the information provided in the application. The ED can recommend issuance or denial of an application based on whether the application complies with the Texas Water Code and TCEQ regulations. The Applicant is the entity that proposes the location of the facility, point of discharge, and the discharge route rather than the ED. The ED's review evaluates the impact of the discharge on the receiving waters; however, the TCEQ's permitting authority does not include the ability to mandate a different location for the facility if the location in the application complies with 30 TAC Chapter 309, Subchapter B (Location Standards), specifically 30 TAC § 309.13 pertaining to "Unsuitable Site Characteristics" for a treatment facility. Instead, the ED may only evaluate a proposed location for a wastewater treatment facility according to the Location Standards in the TCEQ regulations and the effect of the treated wastewater on the uses of the receiving stream starting at the point of discharge.

APPLICANT'S RESPONSE 8:

The proposed wastewater treatment facility is proposed to be constructed on an existing wastewater treatment site with an operating wastewater treatment currently owned and operated by the City. The City's existing northern sewer collection system flows to the site. Relocation of the plant would be cost prohibitive for the City to acquire additional land and relocate the existing sewer collection system.

- **AFFECTED PERSON RESPONSE 8** –It would be costly to the city and since they have spent money allocated bond money for sewer on other projects. There is not more land in the city vicinity since developers have purchased it all. It does not seem feasible.

PUBLIC COMMENT 9:

Stacie Bockemehl and Jane E. Ridgway were concerned that nearby landowners were not properly notified.

EXECUTIVE DIRECTOR'S RESPONSE 9:

There are two public notices regarding this permit action, the Notice of Receipt of Application and Intent to Obtain a Wastewater Permit (NORI), and the Notice of Application and Preliminary Decision (NAPD). The TCEQ's notice rules require applicants to provide public notices for wastewater permits by publishing the NORI in a "newspaper of largest circulation in the county in which the facility is located or proposed to be located. If the facility is located or proposed to be located in a municipality, the applicant [must] publish notice in any newspaper of general circulation in the municipality."¹ After the Office of the Chief Clerk has mailed the preliminary decision and the NAPD to the applicant, they are required to publish the NAPD "at least once in a newspaper regularly published or circulated within each county where the proposed facility or discharge is located and in each county affected by the discharge."²

For a history of the published notices regarding this application, please see the first paragraph of section C, Procedural History.

Additionally, the TCEQ's notice rules for a new permit or major amendment require mailed notice of the NORI and NAPD to landowners named on the application map and persons on the mailing list maintained by the Office of the Chief Clerk.³ The applicant is required to submit a landowner map as part of the application materials. The landowner map must include the property boundaries of landowners surrounding the applicant's property and the property boundaries of all landowners surrounding the discharge point and on both sides of the discharge route for one full stream mile downstream of the discharge point. Anyone who submits a comment or contested case hearing request before the end of the public comment period is also added to the mailing list for that permit action.

APPLICANT'S RESPONSE 9:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was additionally published in the *Herald Banner-Greenville, Hunt County, Texas* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 9 The additional newspaper notice in January was run after I notified the city/engineer that the first newspaper used for the notice was in a paper no one subscribes to. Farmerville Times and Herald Banner have always been the papers for public notices for Josephine. There are 5 property owners below that have in property that backs up to the Creek and they did not receive the mailed notice at their home. They would be affected parties and would have responded. They were neither on the mailing list nor Landowner Cross Reference in the permit. The mailing was cryptic, not a letter.

1-DEBORAH MCCORKLE – 5521 FM 6 – Mailing address - 306 W BRIN, TERRELL, TX 75160

2-JAMES AKERS - 5509 FM 6, TX 75135 – Mailing address 5509 FM 6, CADDO MILLS, TX 75135

3-JAY AND ROCHELLE WILDFONG – 5497 FM 6, TX 75135 Mailing Address - 5497 FM 6, JOSEPHINE, TX 75135

4-COREY BARRON & SYDNEY STUBBS – 5475 FM 6, TX 75135 Mailing address - 5475 FM CADDO MILLS, TX 75135-6260

5-AB PETROLEUM INC., 507 E COOK ST JOSEPHINE, TX 75173

6-BOWMAN KEVIN C & BRITTANY D, 5784 FM 6 ROYSE CITY TX 75189

7-RECTOR MARVIN, 5792 FM 6 JOSEPHINE TX 75164 – Mailing Address PO BOX 461 – CADDO MILLS TX 75135

8-STEPHEN DEAN HOMES INC., PO BOX 941562 PLANO TX 75094

9-JAMES AND JANE RIDGWAY 5754 FM 6 Josephine, TX 75189 – We did not get a letter. I just happened to see the book at City Hall in December.

2-12-2024-DBI Report excerpt -

- The Discharge Permit for the North Wastewater Treatment Plant has restarted the advertisement process at the request of City staff. It will continue to advertise during the month of February and is open for public comment.

This is all Stacie Bockemehl received. No letter was attached. It's no wonder people did not respond.

Senate Bill 709 (84th Legislative Session, 2015) amended the Texas Water Code by adding new Section 5.5553, which requires the Texas Commission on Environmental Quality (TCEQ) to provide written notice to you at least thirty (30) days prior to the TCEQ's issuance of draft permits for applications that are located in your district.

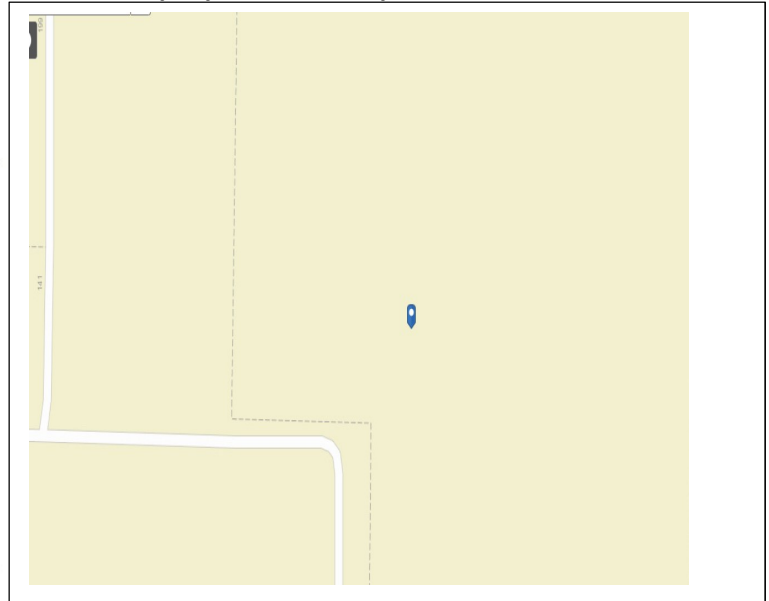
City of Josephine, P.O. Box 99, Josephine, Texas 75164, has applied to the TCEQ for proposed Texas Pollutant Discharge Elimination System No. WQ0010887003 (EPA I.D. No. TX0144517) to authorize the discharge of treated wastewater at a volume not to exceed a daily average flow of 750,000 gallons per day. The domestic wastewater treatment facility will be located at 601 East Caddo Street, in Collin County, Texas 75189. The discharge route will be from the plant site to an unnamed tributary, thence to Brushy Creek, thence to West Caddo Creek, thence to Lake Tawakoni in Segment No. 0507 of the Sabine River Basin. TCEQ received this application on May 1, 2023. The permit application will be available for viewing and copying at Josephine City Hall, 201 South Main Street, Josephine, Texas prior to the date this notice is published in the newspaper. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For the exact location, refer to the application.

<https://gisweb.tceq.texas.gov/LocationMapper/?marker=-96.298888,33.066111&level=18>

TCEQ is preparing the initial draft permit. At the time the draft permit is issued, the applicant will be required to publish notice in a newspaper of general circulation, and the TCEQ will provide a copy of the notice of draft permit to persons who have requested to be on a mailing list.

Questions regarding this application may be directed to Mr. Firoj Vahora by calling 512-239-4540.

Issuance Date: June 14, 2023



The 6/14/2023 entry on <https://www14.tceq.texas.gov/epic/eCID/> shows "Letter", but this was NOT a letter in my opinion. Very cryptic. Stacie did not know what it meant until I contacted her.

PUBLIC COMMENT 10:

James M. Ridgway commented that the permit application was improperly filled out.

EXECUTIVE DIRECTOR'S RESPONSE 10:

TCEQ performed an administrative review of the application, upon receipt, to ensure that all required information was provided therein. TCEQ determined that the application was administratively complete on June 6, 2023. The review included TCEQ staff reviewing all administrative information provided in the application.

TCEQ also performed a technical review of the application to ensure that the applicant adequately addressed all required technical issues to show that wastewater from the facility would be treated to required standards and to establish effluent limits that will ensure protection of the receiving water bodies and their existing uses. TCEQ reviewed the proposed discharge route, the designated uses and dissolved oxygen criteria of the receiving water bodies, antidegradation analysis of the discharges, and identification of any endangered species that may be present in the receiving water bodies. Based on the review and analysis, TCEQ established effluent limits and conditions designed to maintain the receiving water body's designated uses and protect human health and aquatic life.

APPLICANT'S RESPONSE 10:

The City acknowledges the submission of an administratively and technically complete application as determined by TCEQ and acknowledged by the ED's response above.

AFFECTED PERSON RESPONSE 10 –See response 9 above – Eight (8) Landowner's were left off the application. In addition there are many other items identified in Response to Executive Director's Response to hearing Requests, Item 3 above.

PUBLIC COMMENT 11:

A. Barochiere, Frank Barochiere, Jo Collin, Aaron Hensley, and H.L. expressed general opposition to the draft permit.

EXECUTIVE DIRECTOR'S RESPONSE 11:

The ED acknowledges these comments.

APPLICANT'S RESPONSE 11:

The City acknowledges this comment and ED's response.

AFFECTED PERSON RESPONSE 11 – I acknowledge this comment and ED's response.

PUBLIC COMMENT 12:

A. Barochiere and Frank Barochiere expressed concerns about the impacts of development surrounding the proposed WWTF. ▲

EXECUTIVE DIRECTOR'S RESPONSE 12:

The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ does not have jurisdiction to consider the possibilities of how future development surrounding the WWTF will impact area residence as a part of the wastewater permitting process.

However, the proposed permit does not limit a landowner's ability to seek private action against the Applicant. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report the incident to TCEQ by calling toll-free at 1-888-777-3186, or by calling the TCEQ Regional Office (Region 4) in Dallas, Texas at (817) 588-5800. Complaints may also be filed electronically by using the methods described in subsection C 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 WWTF is out of compliance with TCEQ rules, enforcement actions may arise.

APPLICANT'S RESPONSE 12:

The City is experiencing rapid growth thereby requiring wastewater treatment facility improvements/upgrades in order to remain compliant with the requirements of TCEQ. The proposed wastewater treatment facility will serve the referenced development in the area.

AFFECTED PERSON RESPONSE 12 – I acknowledge the ED response.

PUBLIC COMMENT 13:

James M. Ridgway and Jane E. Ridgway expressed concern that discharged effluent would negatively impact wildlife.

EXECUTIVE DIRECTOR'S RESPONSE 13:

30 TAC § 307.6(b)(4) requires water in the state to be maintained to preclude adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. While the TSWQS and the IPs do not specifically designate criteria for the protection of livestock, terrestrial wildlife, or domestic animals, the criteria designated for the protection of human health and aquatic life should preclude adverse impacts to livestock, terrestrial wildlife, and domestic animals.

The Executive Director has determined that the draft permit would be protective of the environment, including aquatic and terrestrial wildlife. Potential water quality issues that could negatively affect wildlife – excessive salinity, high nitrogen content, bacterial contamination, depressed dissolved oxygen, and heavy growths of blue-green algae – are not expected in the receiving waters provided the Applicant complies with proposed permit.

APPLICANT'S RESPONSE 13:

The City intends to comply with the proposed permit in order to prevent the discharge effluent that would have adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals.

AFFECTED PERSON RESPONSE 13 -The city has not engaged in funding for PFAS and emerging contaminants, though PFAS has been brought up at council meetings. Because the city buys water from NTMWD it is seen at NTMWD problem, not Josephine. However, as the fastest growing city in North Texas, or so it is advertised, additional in writing protection on a TCEQ form would be welcomed. An effort to apply for funding at TWDB could help. CWSRF Emerging Contaminants Project Information – email to CWSRF@twdb.texas.gov <https://www.twdb.texas.gov/financial/programs/ec/index.asp>

- Funding for PFAS <https://www.tceq.texas.gov/assistance/resources/the-advocate-1/funding-available-for-pfas-and-emerging-contaminants>
- Eco-environment The wooded Brushy Creek area behind my backyard neighbor houses hawks, birds, egrets, fowl, beaver, skunks, frogs, turtles. A swamp rabbit (endangered) comes to my property and Bockelmehl's. Though chemicals treating sewer are not supposed to be harmful to fish, fowl, animals, an increase in the amount of flow may negate that thought.

Wildlife - Wastewater will affect wildlife, TCEQ says that that water in the state is to be safe for humans, therefore it is safe for wildlife. However, it has been determined that water has PFAS. Nearly all municipal wastewater treatment plants have measurable levels of PFAS in their discharge. The vast majority of that PFAS comes from upstream sources — such as industries, household products, and human waste — and flows through the facilities.

Reference Public Comment 5 – City Wastewater Master Plans says an ADDITIONAL .75 MGD plant.

PUBLIC COMMENT 14:

Pamela Sardo commented that the NORI and the NAPD should not have been published in the *Collin County Commercial Record* because the subscription fee is too high.

EXECUTIVE DIRECTOR'S RESPONSE 14:

Under 30 TAC §§ 39.405(f)(1) and 39.418(b)(1), the NORI must be published in the newspaper of largest circulation in the county in which the proposed WWTF is located, or, if the facility is located in a municipality, then the applicant may publish the NORI in any newspaper of general circulation. Under 30 TAC § 39.419(b), the NAPD must be published at least once in the same newspaper as the NORI.

Here, the NORI and NAPD were both published in the *Collin County Commercial Record*, but the NAPD was also published in the *Harald Banner-Collin County* and in *The Farmersville Times/C&S Media-Collin County*.

APPLICANT'S RESPONSE 14:

The City has complied with 30 TAC §§ 39.405(f)(1) and 39.418(b)(1) requirements regarding publishing notices in newspapers of general circulation. As mentioned in the first paragraph of section C, Procedural Background, the City published two public notices regarding this permit application. Since the site's location is in the City of Josephine and within Collin County, the NORI and the NAPD were both published for notice in *Collin County Commercial Record*. The NAPD was also published in the *Herald Banner-Greenville, Hunt County TX* and *The Farmersville Times/C&S Media-Farmersville, Collin County, Texas*.

AFFECTED PERSON RESPONSE 14 – The city only published in the local papers after I notified them several people did get notified that live close to me. They told Dr. Sardo that the Collin County Commercial Register was used because they use it for bidding. Using Collin Co. Commercial Record shows it was not transparent to Citizens, because it is for commercial. It was not transparent. The first notification to City Council about the Permit was on DBI Report for 1-6-2024, even though it had been applied for in May.