

Jon Niermann, *Chairman*
Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 3, 2024

TO: All interested persons.

RE: Circle S Midlothian, LLC
TPDES Permit No. WQ0016243001

Decision of the Executive Director.

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter are instructions to view the Executive Director's Response to Public Comment (RTC) on the Internet. Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov. A complete copy of the RTC (including the mailing list), complete application, draft permit and related documents, including public comments, are available for review at the TCEQ Central Office. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at Nicholas P. Sims Library & Lyceum, 515 West Main Street, Waxahachie, Texas.

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

How to Request a Contested Case Hearing.

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

The request must include the following:

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

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

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

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

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

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

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

Deadline for Submitting Requests.

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

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

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

Processing of Requests.

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

How to Obtain Additional Information.

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

Sincerely,

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

Laurie Gharis
Chief Clerk

LG/cb

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
Circle S Midlothian, LLC
TPDES Permit No. WQ0016243001

The Executive Director has made the Response to Public Comment (RTC) for the application by Circle S Midlothian, LLC for TPDES Permit No.WQ0016243001 available for viewing on the Internet. You may view and print the document by visiting the TCEQ Commissioners' Integrated Database at the following link: <https://www.tceq.texas.gov/goto/cid>

In order to view the RTC at the link above, enter the TCEQ ID Number for this application (WQ0016243001) and click the "Search" button. The search results will display a link to the RTC.

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

Additional Information

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

A complete copy of the RTC (including the mailing list), the complete application, the draft permit, and related documents, including comments, are available for review at the TCEQ Central Office in Austin, Texas. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at Nicholas P. Sims Library & Lyceum, 515 West Main Street, Waxahachie, Texas.



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas reduciendo y previniendo la contaminación

3 de julio de 2024

TO: Todas las personas interesadas.

RE: Circle S Midlothian, LLC
TPDES Permiso No. WQ0016243001

Decisión del Director Ejecutivo.

El director ejecutivo ha tomado la decisión de que la solicitud de permiso mencionada anteriormente cumple con los requisitos de la ley aplicable. **Esta decisión no autoriza la construcción u operación de ninguna instalación propuesta.** Esta decisión será considerada por los comisionados en una reunión pública programada regularmente antes de que se tome cualquier medida sobre esta solicitud, a menos que todas las solicitudes de audiencia o reconsideración de casos impugnados hayan sido retiradas antes de esa reunión.

Se adjuntan a esta carta las instrucciones para ver en Internet la Respuesta del Director Ejecutivo al Comentario Público (RTC). Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a chiefclk@tceq.texas.gov. Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios públicos, están disponibles para su revisión en la Oficina Central de TCEQ. Además, una copia de la solicitud completa, el borrador del permiso y la decisión preliminar del director ejecutivo están disponibles para ver y copiar en Nicholas P. Sims Library y Lyceum; 515 Oeste de la calle principal; Waxahachie, Texas.

Si no está de acuerdo con la decisión del director ejecutivo y cree que es una "persona afectada" como se define a continuación, puede solicitar una audiencia de caso impugnado. Además, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Los procedimientos para la evaluación de la comisión de las solicitudes de audiencia/solicitudes de reconsideración se encuentran en 30 Código Administrativo de Texas, Capítulo 55, Subcapítulo F. A continuación, se presenta una breve descripción de los procedimientos para estas dos solicitudes.

Cómo solicitar una audiencia de caso impugnado.

Es importante que su solicitud incluya toda la información que respalde su derecho a una audiencia de caso impugnado. Su solicitud de audiencia debe demostrar que cumple con los requisitos legales aplicables para que se le conceda su solicitud de audiencia. La consideración de la comisión de su solicitud se basará en la información que usted proporcione.

La solicitud debe incluir lo siguiente:

- (1) Su nombre, dirección, número de teléfono durante el día y, si es posible, un número de fax.
- (2) El nombre del solicitante, el número de permiso y otros números enumerados anteriormente para que su solicitud pueda procesarse adecuadamente.
- (3) Una declaración que exprese claramente que está solicitando una audiencia de caso impugnado. Por ejemplo, la siguiente declaración sería suficiente: "Solicito una audiencia de caso impugnado".
- (4) Si la solicitud es realizada por un grupo o asociación, la solicitud debe identificar:
 - (A) una persona por nombre, dirección, número de teléfono durante el día y, si es posible, el número de fax, de la persona que será responsable de recibir todas las comunicaciones y documentos para el grupo.;
 - (B) los comentarios sobre la solicitud presentada por el grupo que constituyen la base de la solicitud de audiencia; y
 - (C) por nombre y dirección física, uno o más miembros del grupo que de otro modo tendrían derecho a solicitar una audiencia por derecho propio. Los intereses que el grupo busca proteger deben estar relacionados con el propósito de la organización. Ni la reclamación alegada ni la reparación solicitada deben requerir la participación de los miembros individuales en el caso.

Además, su solicitud debe demostrar que usted es una **"persona afectada"**. Una persona afectada es aquella que tiene un interés justiciable personal relacionado con un derecho, deber, privilegio, poder o interés económico legal afectado por la solicitud. Su solicitud debe describir cómo y por qué se vería afectado negativamente por la instalación o actividad propuesta de una manera que no sea común al público en general. Por ejemplo, en la medida en que su solicitud se base en estas preocupaciones, debe describir el impacto probable en su salud, seguridad o usos de su propiedad que puedan verse afectados negativamente por la instalación o las actividades propuestas. Para demostrar que tiene un interés personal justiciable, debe indicar, tan específicamente como pueda, su ubicación y la distancia entre su ubicación y la instalación o actividades propuestas.

Su solicitud debe plantear cuestiones de hecho controvertidas que sean relevantes y materiales para la decisión de la comisión sobre esta solicitud que fueron planteadas **por usted** durante el período de comentarios públicos. La solicitud no puede basarse únicamente en cuestiones planteadas en los comentarios que haya retirado.

Para facilitar la determinación por parte de la comisión del número y alcance de los asuntos que se remitirán a la audiencia, usted debe: 1) especificar cualquiera de las respuestas del director ejecutivo a **sus** comentarios que usted disputa; 2) la base fáctica de la disputa; y 3) enumerar cualquier cuestión de derecho en disputa.

Cómo solicitar la reconsideración de la decisión del Director Ejecutivo.

A diferencia de una solicitud de audiencia de caso impugnado, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Una solicitud de reconsideración debe contener su nombre, dirección, número de teléfono durante el día y, si

es posible, su número de fax. La solicitud debe indicar que está solicitando la reconsideración de la decisión del director ejecutivo, y debe explicar por qué cree que la decisión debe ser reconsiderada.

Fecha límite para la presentación de solicitudes.

La oficina del Secretario Oficial debe **recibir** una solicitud de audiencia de caso impugnado o reconsideración de la decisión del director ejecutivo a más tardar **30 días calendario** después de la fecha de esta carta. Puede enviar su solicitud electrónicamente a www.tceq.texas.gov/agency/decisions/cc/comments.html o por correo a la siguiente dirección:

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

Procesamiento de solicitudes.

Las solicitudes oportunas para una audiencia de caso impugnado o para la reconsideración de la decisión del director ejecutivo se remitirán al Programa de Resolución Alternativa de Disputas de TCEQ y se incluirán en la agenda de una de las reuniones programadas regularmente de la comisión. Las instrucciones adicionales que explican estos procedimientos se enviarán a la lista de correo adjunta cuando se haya programado esta reunión.

Cómo obtener información adicional.

Si tiene alguna pregunta o necesita información adicional sobre los procedimientos descritos en esta carta, llame al Programa de Educación Pública, al número gratuito, 1-800-687-4040.

Atentamente,



Laurie Gharis
Secretaria Oficial

LG/cb

Recinto

RESPUESTA DEL DIRECTOR EJECUTIVO AL COMENTARIO DEL PÚBLICO
para
Circle S Midlothian, LLC
TPDES Permiso No. WQ0016243001

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de TPDES del permiso de TCEQ No. WQ0016243001. Puede ver e imprimir el documento visitando la Base de Datos Integrada de los Comisionados de TCEQ en el siguiente enlace:

<https://www.tceq.texas.gov/goto/cid>

Para ver el RTC en el enlace anterior, ingrese el número de identificación TCEQ para esta solicitud (WQ0016243001) y haga clic en el botón "Buscar". Los resultados de la búsqueda mostrarán un enlace al RTC.

Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a chiefclk@tceq.texas.gov.

Información adicional

Para obtener más información sobre el proceso de participación pública, puede comunicarse con la Oficina del Asesor de Interés Público al (512) 239-6363 o llamar al Programa de Educación Pública, al número gratuito, (800) 687-4040.

Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios, están disponibles para su revisión en la Oficina Central de TCEQ en Austin, Texas. Además, una copia de la solicitud completa, el borrador del permiso y la decisión preliminar del director ejecutivo están disponibles para ver y copiar en Nicholas P. Sims Library y Lyceum; 515 Oeste de la calle principal; Waxahachie, Texas.

MAILING LIST / LISTA DE CORREO
for / para
Circle S Midlothian, LLC
TPDES Permit No. WQ0016243001 / TPDES Permiso No. WQ0016243001

FOR THE APPLICANT /
PARA EL SOLICITANTE:

Rick Miskimon, Managing Member
Circle S Midlothian, LLC
5940 South West McGee Road
Lane, Oklahoma 74555

Erin K. Banks, P.E.
WWD Engineering
9217 Highway 290 West, Suite 110
Austin, Texas 78736

INTERESTED PERSONS /
PERSONAS INTERESADAS:

See Attached List

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

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

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

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

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

Garrett T. Arthur, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK /
PARA EL SECRETARIO OFICIAL
via electronic mail
por correo electrónico:

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

ALBRIGHT , STEFANIE P
BICKERSTAFF HEATH DELGADO ACOSTA LLP
STE C400
1601 S MOPAC EXPY
AUSTIN TX 78746-7009

ALSTON , CAROL
CITIZENS AGAINST ELLIS COUNTY MUDS
600 TROJACEK RD
ENNIS TX 75119-1466

ALSTON , ROBERT
600 TROJACEK RD
ENNIS TX 75119-1466

ANDERSON , ANTHONY
5720 SAM CT
VENUS TX 76084-4654

ANDERSON , KAREN
466 BEE CREEK SCHOOL HOUSE RD
GRANDVIEW TX 76050-5110

BAKER , STEVE
PO BOX 173
MAYPEARL TX 76064-0173

BAKER , TAMMY
246 WATERSIDE DR
CORSICANA TX 75109-0833

BIRDWELL , THE HONORABLE BRIAN STATE
SENATOR
THE SENATE OF TEXAS DISTRICT 22
PO BOX 12068
AUSTIN TX 78711-2068

BLACKWELL , CLINT
4874 MURR RD
VENUS TX 76084-4710

BRISTOW , MELISSA
100 THAMES CIR
WAXAHACHIE TX 75165-4820

BURRISS , MARGARET
150 OAK HILL CT
WAXAHACHIE TX 75167-8057

BUTLER , KYLE COMMISSIONER PRECINCT 4
THE COUNTY OF ELLIS
1011 EASTGATE RD
MIDLOTHIAN TX 76065-6233

ESTES , CHAD
221 HIGHGATE DR
VENUS TX 76084-3858

FARRELL , KIMBERELY
1605 BEARPATH WAY
GUNTER TX 75058-4208

FARRELL , ROBYN
1308 OZRO RD
VENUS TX 76084-4870

FARRELL , HAYDEN
1605 BEARPATH WAY
GUNTER TX 75058-4208

FARRELL , MALIYA
1605 BEARPATH WAY
GUNTER TX 75058-4208

FARRELL SR , PHILLIP
1308 OZRO RD
VENUS TX 76084-4870

FARRELL JR , PHILLIP
1605 BEARPATH WAY
GUNTER TX 75058-4208

FRIEND , BRYAN
PO BOX 7
MAYPEARL TX 76064-0007

GAITHER , PHILLIP H
106 LOYCIE CIR
WAXAHACHIE TX 75165-4812

GRIFFIN , GABRIEL
1308 OZRO RD
VENUS TX 76084-4870

GRIFFIN , JACOB
1308 OZRO RD
VENUS TX 76084-4870

GRIFFIN , NICK
1308 OZRO RD
VENUS TX 76084-4870

GRIFFIN , RENE
1308 OZRO RD
VENUS TX 76084-4870

HEALY , LISA
421 MILLIGAN DR
MIDLOTHIAN TX 76065-2664

HEWITT , DANAE
3120 CLAIRE DR
MIDLOTHIAN TX 76065-2690

HEWITT , RANDY
3120 CLAIRE DR
MIDLOTHIAN TX 76065-2690

HINDMAN , SHERYL
110 BRIGMAN RD
MAYPEARL TX 76064-2510

HODGES , DAVID
854 EP DAWSON RD
MAYPEARL TX 76064-2508

HODGES , SHERRY
845 EP DAWSON RD
MAYPEARL TX 76064-2507

HULL , TRINITY BUCK
CITIZENS AGAINST BUTCHER ROAD MUD INC
118 CHAZLYNN CT
WAXAHACHIE TX 75165-4800

JACKSON , CHRISTINE
421 OZRO RD
VENUS TX 76084-4905

JACKSON , MICHAEL
421 OZRO RD
VENUS TX 76084-4905

JACKSON , MICHAEL MONROE
209 SMITH RD
MAYPEARL TX 76064-2008

JOHNSON , EDWIN
1017 SHADY RIVER CT N
BENBROOK TX 76126-2900

JOHNSON , MARTHA
1017 SHADY RIVER CT N
BENBROOK TX 76126-2900

JUSTICE JR , MR JIM WILLIAM
5808 EARLE ST
ARLINGTON TX 76016-1115

JUSTICE , KELLYE
238 KATY LAKE DR
WAXAHACHIE TX 75165-1615

KASOWSKI , RONALD
113 PARKER RIDGE RD
PALMER TX 75152-9729

KATZ , JOSHUA D
BICKERSTAFF HEATH DELGADO ACOSTA LLP
STE C400
1601 S MOPAC EXPY
AUSTIN TX 78746-7009

KELLEY , KIMBERLY G
BICKERSTAFF HEATH DELGADO ACOSTA LLP
STE C400
1601 S MOPAC EXPY
AUSTIN TX 78746-7009

LATHAM , CAROL
1320 TROPHY CT W
MIDLOTHIAN TX 76065-5968

LITTLE , TODD COUNTY JUDGE
THE COUNTY OF ELLIS
101 W MAIN ST
WAXAHACHIE TX 75165-0405

MARTIN , KRISTA MEDICI
200 W DENTON ST
PALMER TX 75152-9703

MARTINEK , EMERSYN D
R-CASTLE CONTRACTOR SERVICES LLC
2256 BELLS CHAPEL RD
WAXAHACHIE TX 75165-6756

MARTINEK , EMIL J
R-CASTLE CONTRACTOR SERVICES LLC
8046 FM 660
ENNIS TX 75119-0158

MARTINEK , ERNEST D
R-CASTLE CONTRACTOR SERVICES LLC
2256 BELLS CHAPEL RD
WAXAHACHIE TX 75165-6756

MARTINEK , EVAN
8820 AVIARY DR
MCKINNEY TX 75072-6726

MARTINEK , JENNIFER
ADDICTED TO ALL THINGS BEAUTIFUL LLC
2256 BELLS CHAPEL RD
WAXAHACHIE TX 75165-6756

MARTINEK , LEAH
L MARIE DESIGNS LLC
216 SILVER SPUR DR
WAXAHACHIE TX 75165-5355

MARTINEK , RAGEN
2256 BELLS CHAPEL RD
WAXAHACHIE TX 75165-6756

MARTINEK , AMBER
8820 AVIARY DR
MCKINNEY TX 75072-6726

MAYFIELD , STACY
320 LYNNIE PENNY LN
MIDLOTHIAN TX 76065-5173

NEW , JOHNNY
5711 SAM CT
VENUS TX 76084-4654

NOVY , DALE
1218 NOVY RD
ENNIS TX 75119-1418

NOVY , THERESA
1218 NOVY RD
ENNIS TX 75119-1418

OLIVER , MATHEW
8221 DREW DR
MIDLOTHIAN TX 76065-8904

PATTERSON , JANICE & STEPHEN R
3631 FM 85
ENNIS TX 75119-0510

PATTERSON , JANICE
3631 FM 85
ENNIS TX 75119-0510

PONDER , LOUIS
3480 MOUNT ZION RD
MIDLOTHIAN TX 76065-6361

POOLE , COURTNEY
150 OAK HILL CT
WAXAHACHIE TX 75167-8057

POOLE , PAM
150 OAK HILL CT
WAXAHACHIE TX 75167-8057

PREBLE , SHELLEY E
453 LILLY CT
MIDLOTHIAN TX 76065-1350

RISCHMANN , GINA
210 HIGHGATE DR
VENUS TX 76084-3850

RISCHMANN , JACOB
210 HIGHGATE DR
VENUS TX 76084-3850

RODGERS , MIKE
107 N 5TH ST
MIDLOTHIAN TX 76065-2915

RODGERS , EMILY W
BICKERSTAFF HEATH DELGADO ACOSTA LLP
STE C400
1601 S MOPAC EXPY
AUSTIN TX 78746-7009

ROSALES , ALICIA
1215 COUNTY ROAD 213
VENUS TX 76084-3878

SANDERS , CHANCE
210 TIGER RDG
VENUS TX 76084-3860

SANDERS , VICTORIA
210 TIGER RDG
VENUS TX 76084-3860

SCOTTON , ROBIN
221 OCELOT LN
VENUS TX 76084-3865

TAYLOR , CAROLYN
377 ELEVEN LEAGUE RD
ENNIS TX 75119-0298

THOMAS , LORETTA
PO BOX 128
MIDLOTHIAN TX 76065-0128

TIMMS , JANIS
141 OCELOT LN
VENUS TX 76084-3864

TIMMS , KELLEN
141 OCELOT LN
VENUS TX 76084-3864

TREVINO , EDGAR
1368 OZRO RD
VENUS TX 76084-4870

VANDERVEEN , KIM
414 PANTHER PEAK DR
MIDLOTHIAN TX 76065-6481

WEATHERLY , JOHN
1278 OZRO RD
VENUS TX 76084-4833

WEIDEMAN , CAROL & WILLIAM
243 BENT CREEK DR
WAXAHACHIE TX 75165-6353

WELKER , DEBRA
3370 SERENE DR
MIDLOTHIAN TX 76065-8916

WRIGHT , RANDALL
102 CHAZLYNN CT
WAXAHACHIE TX 75165-4800

ZINK , CHERYL L
7946 FM 879
PALMER TX 75152-9118

TCEQ PERMIT NO. WQ0016243001

**APPLICATION BY CIRCLE S
MIDLOTHIAN, LLC
FOR NEW TPDES PERMIT
NO. WQ0016243001**

**§
§
§
§**

**BEFORE THE
TEXAS COMMISSION
ON
ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (RTC) on the application by Circle S Midlothian, LLC (Applicant) for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016243001 and the ED's preliminary decision. As required by Title 30 Texas Administrative Code Section (§) 55.156, before a permit is issued, the ED prepares a response to all timely, relevant and material, or significant comments. State Senator Brian Birdwell requested a public meeting for this application. A public meeting was held on this application on March 4, 2024.

The Office of the Chief Clerk received timely comments from the individuals listed in Attachment A. This response addresses all timely public comments received, whether or not withdrawn.

This application was filed on or after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill (HB) 801, 76th Legislature (1999), and Senate Bill (SB) 709, 84th Legislature (2015), both implemented by the Commission in its rules in 30 Tex. Admin. Code Chapters 39, 50, and 55. The Texas Legislature enacted SB 709, effective September 1, 2015, amending the requirements for comments and contested case hearings. This application is subject to those changes in the law.

If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at: www.tceq.texas.gov.

I. BACKGROUND

A. Description of Facility

Circle S Midlothian, LLC (Applicant) submitted an application to TCEQ on October 26, 2022, for a new TPDES Permit No. WQ0016243001 to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.125 million gallons per day (MGD) in the Interim I phase, a daily average flow not to exceed 0.25 MGD in the Interim II phase, and a daily average flow not to exceed 0.95 MGD in the Final phase. The proposed wastewater treatment facility will serve the new Circle S Subdivision.

The Circle S Subdivision wastewater treatment plant (WWTP) will be an activated sludge process plant operated in the complete mix mode. Treatment units in the Interim I phase will include a bar screen, two aeration basins, one final clarifier, two sludge digesters, and a chlorine contact chamber. The Interim II phase will add an identical Interim I phase plant. The Final phase will add a circular plant partitioned into a large aeration chamber, two sludge digester chambers, and a chlorine contact chamber. Influent flow will enter a flow splitter before going to each plant. The facility has not been constructed.

The Draft Permit authorizes the disposal of sludge generated from the treatment facility to be disposed of at a TCEQ-permitted landfill or sludge disposal site (to be determined) in Tarrant County.

If this Draft Permit is issued, the plant site will be located approximately one-mile northeast of the intersection of Murr Road and Farm-to-Market Road 157, in Ellis County, Texas 76084.

Outfall Location

Outfall Number	Latitude	Longitude
001	32.389090 N	97.054690 W

The treated effluent will be discharged to Spring Branch, thence to Armstrong Creek, thence to Cottonwood Creek, thence to North Fork Chambers Creek, thence to Chambers Creek Above Richland-Chambers Reservoir in Segment No. 0814 of the Trinity River Basin. The unclassified receiving waters have limited aquatic life use for Spring Branch and Armstrong Creek. The designated uses for Segment No. 0814 are primary contact recreation, public water supply, and high aquatic life use. The effluent limitations

in the Draft Permit will maintain and protect the existing instream uses. In accordance with 30 Tex. Admin. Code § 307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

The effluent limitations in the Draft Permit, based on a 30-day average, are 10 milligrams per liter (mg/L) five-day carbonaceous biochemical oxygen demand (CBOD₅), 15 mg/L total suspended solids (TSS), 3 mg/L ammonia-nitrogen (NH₃-N), 0.5 mg/L total phosphorus (TP), 126 CFU or MPN of *E. coli* per 100 mL, and 4.0 mg/L minimum dissolved oxygen (DO) in all phases.

In the Interim I and II phases, the effluent shall contain a total chlorine residual of at least 1.0 mg/L and shall not exceed a total chlorine residual of 4.0 mg/L after a detention time of at least 20 minutes based on peak flow. In the Final phase, the effluent shall contain a total chlorine residual of at least 1.0 mg/L after a detention time of at least 20 minutes (based on peak flow). Then permittee shall dechlorinate the chlorinated effluent to less than 0.1 mg/L total chlorine residual.

The Draft Permit includes a requirement for the permittee to provide nuisance odor prevention for the treatment units located closer than 150 feet to the nearest property line according to 30 Tex. Admin. Code § 309.13(e)(2).

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

determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species.

Segment No. 0814 is currently listed on the State's inventory of impaired and threatened waters (the 2022 Clean Water Act § 303(d) list). The listing is specifically for bacteria in water (recreation use) from just upstream of the confluence with Cummins Creek up to just upstream of the confluence with Waxahachie Creek (Assessment Unit; AU 0814_02). This facility is designed to provide adequate disinfection and, when operated properly, should not add to the contact recreational use impairment of this portion of the segment. In addition, in order to ensure that the proposed discharge meets the stream bacterial standard, an effluent limitation of 126 colony-forming units (CFU) or most probable number (MPN) of *Escherichia coli* (*E. coli*) per 100 ml has been included in the Draft Permit.

The daily average effluent limitations requested in the application are included in the Draft Permit with the addition of 126 CFU or MPN of *E. coli* per 100 ml bacteria effluent limitation. The draft permit includes total phosphorus (TP) effluent limitations to preclude potential eutrophication in the receiving waters, per the Standards Implementation Team Interoffice Memorandum dated December 16, 2022. The Draft Permit includes all updates based on the 30 Tex. Admin. Code Chapter 312 rule change effective April 23, 2020.

B. Procedural Background

The permit application was received on October 26, 2022, and declared administratively complete on December 7, 2022. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published in English on December 11, 2022, in the *Waxahacie Daily Light*. The Executive Director's staff in the Water Quality Division (WQD) completed its technical review of the application on February 1, 2023, and prepared the Draft Permit which if approved, would establish the conditions under which the proposed facility must operate. The Notice of Application and Preliminary Decision (NAPD) was published in English on November 2, 2023, in the *Midlothian Mirror*. A public meeting was held on March 4, 2024, at the Venus Civic Center, 210 S. Walnut Street, Venus, Texas 76084. The public comment period ended on March 4, 2024, at the close of the public meeting.

The Circle S Midlothian permit application, Executive Director's preliminary decision, and Draft Permit are available for viewing and copying at Nicholas P. Sims Library & Lyceum, 515 West Main Street, Waxahachie, Texas. Further information may also be obtained from Circle S Midlothian by calling Mr. Rick Miskimom at (214) 546-5366.

This application was filed on or after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to HB 801, 76th Legislature (1999), and SB 709, 84th Legislature (2015), both implemented by the Commission in its rules in 30 Tex. Admin. Code Chapters 39, 50, and 55.

C. Access to Rules, Laws, and Records

Please consult the following websites to access the rules and regulations applicable to this permit:

- the Secretary of State website: <http://www.sos.state.tx.us>;
- TCEQ rules in Title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac/ (select "View the current Texas Administrative Code" on the right, then "Title 30 Environmental Quality");
- Texas statutes: www.statutes.capitol.texas.gov/;
- the TCEQ website: www.tceq.texas.gov (for downloadable rules in Adobe PDF format, select "Rules" then "Current Rules and Regulations," then "Download TCEQ Rules");
- Federal rules in Title 40 of the Code of Federal Regulations: www.ecfr.gov; and
- Federal environmental laws: <http://www.epa.gov/laws-regulations>. Federal environmental laws and executive orders: www.epa.gov/laws-regulations/laws-and-executive-orders.

Commission records for this Application and Draft Permit are available for viewing and copying at the TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of the Chief Clerk), until final action is taken. Some documents located at the Office of the Chief Clerk may also be located in the TCEQ Commissioners' Integrated Database at www.tceq.texas.gov/goto/cid. The permit application has been available for viewing and copying at Nicholas P. Sims Library & Lyceum, 515 West Main Street, Waxahachie, Texas since publication of the NORI. The final permit application, draft permit, the Executive Director's Statement of Basis and Technical Summary, and the Executive Director's preliminary decision are now available for viewing and copying at the same location since publication of the NAPD.

The Executive Director has determined that the Draft Permit, if issued, meets all statutory and regulatory requirements and is protective of the environment, water

quality, and human health. However, if you would like to file a complaint about the proposed facility concerning its compliance with the provisions of its permit or with TCEQ rules, you may contact the TCEQ Environmental Complaint Line at 1-888-777-3186. Calls will be routed automatically to the closest TCEQ regional office. Complaints may also be filed online at tceq.texas.gov/compliance/complaints. If an inspection by the Regional Office finds that the Applicant is not complying with all the requirements of the permit, or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.

II. COMMENTS AND RESPONSES

COMMENT 1:

Ellis County, Hayden Farrell, Maliya Farrell, Phillip Farrell, Robyn Farrell, Gabriel Griffin, Jacob Griffin, Nick Griffin, Rene Griffin, Lisa Healy, Michael Monroe Jackson, and Louis Ponder expressed general opposition to the Circle S Midlothian application and Draft Permit.

RESPONSE 1:

The Executive Director acknowledges these comments.

COMMENT 2:

Karen Anderson, Tammy Baker, Melissa Bristow, Margaret Burriss, Hayden Farrell, Kimberley Farrell, Maliya Farrell, Phillip Farrell, Robyn Farrell, Phillip H. Gaither, Gabriel Griffin, Jacob Griffin, Nick Griffin, Rene Griffin, Trinity Buck Hull, Kellye Justice, Ronald Kasowski, Carol Latham, Krista Martin, Courtney Poole, Pam Poole, Gina Rischmann, Jacob Rischmann, Chance Sanders, Victoria Sanders, Robin Scotton, Loretta Thomas, Kellen Timms, Janis Timms, Edgar Trevino, Kim Vanderveen, John Weatherley, Randall Wright, and Cheryl Zink stated that the venue of the public meeting should have been held in Midlothian, Texas rather than Venus, Texas.

RESPONSE 2:

The Executive Director acknowledges these comments. Due to the amount of public interest in this application, the Venus Civic Center was chosen because it could accommodate the anticipated number of attendees and its close vicinity to the proposed facility's location.

COMMENT 3:

Ellis County, Carol Weideman, and William Weideman expressed concerns regarding whether an Environmental Impact study has been done.

RESPONSE 3:

The National Environmental Policy Act (NEPA) requires federal agencies to integrate environmental values into their decision-making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. To meet this requirement, federal agencies must prepare detailed statements which include an Environmental Assessment and either a Finding of No Significant Impact or Environmental Impact Statement. However, these requirements pertain to a proposed federal action. An environmental impact statement and compliance with NEPA are not required as part of the TPDES wastewater permitting process.

For additional information about NEPA and Environmental Impact Statements, EPA's website has a page about NEPA and how to request information at:

<https://www.epa.gov/nepa> and <https://www.epa.gov/nepa/forms/contact-us-about-national-environmental-policy-act>.

As described in Section I.A. (Description of Facility), the Executive Directors's Staff in the Water Quality Division performed a technical review of the Application and prepared the Draft Permit. The Draft Permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary determination that this permit, if issued, meets all statutory and regulatory requirements.

COMMENT 4:

Carol Weideman and William Weideman expressed concern regarding a proposed Municipal Utility District (MUD) creation.

RESPONSE 4:

Chapter 54 of the Texas Water Code governs municipal utility districts and their creation, whereas Chapter 26 of the Tex. Water Code governs the TCEQ's permitting process. District creation is not part of the review process for wastewater applications.

For additional information about municipal utility districts, please visit the following TCEQ webpages available at the following links:

<https://www.tceq.texas.gov/waterdistricts> and <https://www.tceq.texas.gov/waterdistricts/rules-forms.html>.

COMMENT 5:

Hayden Farrell, Maliya Farrell, Phillip Farrell, Robyn Farrell, Gabriel Griffin, Jacob Griffin, Nick Griffin, and Rene Griffin expressed concern regarding groundwater protection.

RESPONSE 5:

As stated in Tex. Water Code § 26.401(b), the Texas Legislature has determined that “the goal of groundwater policy in this state is that the existing quality of groundwater not be degraded. This goal of non-degradation does not mean zero-contaminant discharge.” Also, Tex. Water Code § 26.401(c)(1) states, “discharges of pollutants, disposal of wastes, or other activities subject to regulation by state agencies be conducted in a manner that will maintain present uses and not impair potential uses of groundwater or pose a public health hazard.”

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

The Groundwater Rule does not address private drinking water wells, as they are not under the jurisdiction of the Safe Drinking Water Act and are not subject to TCEQ regulation. TCEQ recommends that well owners periodically test their water for microbial and chemical contaminants and properly maintain their well. Private well owners should also take steps to have their water quality tested routinely tested. Wells should be tested more often if under the influence of nearby surface water, or if contamination is suspected. For more information on testing private water wells, please see the National Ground Water Association website at wellowner.org/resources/water-quality/water-testing. If your well tests positive for fecal coliform bacteria, please see the Texas A&M AgriLife Extension publication titled “*What to Do About Coliform Bacteria in Well Water*” at twon.tamu.edu/wp-content/uploads/sites/3/2021/06/what-to-do-about-coliform-in-

[well-water.pdf](#), or the TCEQ publication titled “*Disinfecting Your Private Well*” at www.tceq.texas.gov/downloads/drinking-water/preparedness-resources/gi-432.pdf.

COMMENT 6:

Hayden Farrell, Maliya Farrell, Phillip Farrell, Robyn Farrell, Gabriel Griffin, Jacob Griffin, Nick Griffin, and Rene Griffin expressed concern regarding human health protection.

RESPONSE 6:

As specified in the TSWQS, water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, and domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. Water in the state must also be maintained to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three.

The Draft Permit includes provisions to ensure that these surface water quality standards will be maintained. Conventional domestic sewage does not typically contain toxic compounds in measurable quantities that might result in toxic effects in the receiving waterbodies, unless there are significant industrial users contributing to the waste stream. This facility is a private domestic wastewater treatment facility and is not expected to receive industrial wastewater.

COMMENT 7:

Ellis County, Hayden Farrell, Maliya Farrell, Phillip Farrell, Robyn Farrell, Gabriel Griffin, Jacob Griffin, Nick Griffin, Rene Griffin, and Janice Patterson expressed concern regarding emerging contaminants such as Per- and Polyfluorinated Substances (PFAS), pharmaceuticals, hormones, antibiotics, steroids viruses, and health care products in the effluent.

RESPONSE 7:

TCEQ has not investigated the potential effects of emerging contaminants, which includes pharmaceuticals, hormones, antibiotics, steroids viruses, health care products, and per - and polyfluoroalkyl substances (PFAS) in effluent.

Neither TCEQ nor EPA has promulgated rules or criteria limiting emerging contaminants in wastewater. Removal of some emerging contaminants has been documented during municipal wastewater treatment; however, standard removal

efficiencies have not been established. In addition, there are currently no federal or state effluent limits for emerging contaminants.

The science on emerging contaminants is currently evolving, and while EPA and other agencies continue to study the presence of emerging contaminants, there is currently no clear regulatory regime available to address the treatment emerging contaminants in domestic wastewater. Accordingly, neither TCEQ nor EPA has rules on the treatment of emerging contaminants in domestic wastewater.

COMMENT 8:

Hayden Farrell, Maliya Farrell, Phillip Farrell, Robyn Farrell, Gabriel Griffin, Jacob Griffin, Nick Griffin, Rene Griffin, and Michael Monroe Jackson expressed concern regarding the discharges effect on livestock.

RESPONSE 8:

The proposed permit was drafted in accordance with 30 Tex. Admin. Code § 307.5 and the TCEQ *Procedures for the Implementation of the Texas Surface Water Quality Standards* (IPs; June 2010). The TSWQS provide that surface waters cannot be toxic to aquatic or terrestrial organisms. While the TSWQS and the IPs do not specifically designate criteria for the protection of livestock, they do designate criteria for the protection of aquatic life that should preclude negative impacts to the health and performance of livestock or wildlife.

Aquatic organisms are more sensitive to water quality components than terrestrial organisms. The Executive Director has determined that the Draft Permit for the facility meets the requirements of the TSWQS, which are established to protect human health, terrestrial, and aquatic life.

COMMENT 9:

Hayden Farrell, Maliya Farrell, Phillip Farrell, Robyn Farrell, Gabriel Griffin, Jacob Griffin, Nick Griffin, and Rene Griffin expressed concern that the Draft Permit is not protective of human health and safety of downstream landowners, aquatic life, wildlife, and plant life in the area. These commenters expressed concern that the effluent would harm recreational interest, such as swimming, fishing, tubing, snorkeling, kayaking, and canoeing.

RESPONSE 9:

The TSWQS in 30 Tex. Admin. Code Chapter 307 require that discharges may not degrade the receiving waters and may not result in situations that impair existing, attainable or designated uses, and that surface waters not be toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals. The effluent limits in the draft permit are set to maintain and protect the existing instream uses. Additionally, the treated effluent will be disinfected prior to discharge to protect human health.

In this case, the designated uses for Segment No. 0814 are primary contact recreation, public water supply, and high aquatic life use. The Executive Director has determined that these uses should be protected if the facility is operated and maintained as required by the Draft Permit's terms and conditions and applicable regulations.

The Executive Director has made a preliminary determination that the Draft Permit, if issued, meets all statutory and regulatory requirements. TCEQ has also submitted the Draft Permit to EPA Region 6 for review. The EPA reviewed the draft permit and did not have any objections to the issuance of the draft permit.

The Texas Parks and Wildlife Department (TPWD) is the state agency that oversees and protects wildlife and their habitat. It can be contacted by calling 1 (800) 792-1112 or by mail at 4200 Smith School Road, Austin, Texas 78744. The TPWD received notice of Circle S Midlothian, LLC's TPDES application.

COMMENT 10:

Hayden Farrell, Maliya Farrell, Phillip Farrell, Robyn Farrell, Gabriel Griffin, Jacob Griffin, Nick Griffin, and Rene Griffin expressed concern regarding endangered species and migratory birds.

RESPONSE 10:

As provided in the *Procedures to Implement the State Surface Water Quality Standards* (June 2010), the Executive Director reviewed the application for potential impacts to aquatic or aquatic-dependent federally listed endangered or threatened species. The discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System (TPDES; September 14, 1998; October 21, 1998 update). To make this determination for TPDES permits, TCEQ and EPA only

considered aquatic or aquatic dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species.

USFWS and TPWD were afforded an opportunity to review the permit application and proposed Draft Permit. Neither of these agencies expressed concern about the proposed discharge's effects on wildlife in the area. Potential impacts to endangered terrestrial species do not specifically fall under the purview of the Executive Director's evaluation of the proposed discharge; however, the requirements included in the Draft Permit to protect aquatic and aquatic-dependent endangered species should also protect terrestrial species.

COMMENT 11:

Hayden Farrell, Maliya Farrell, Phillip Farrell, Robyn Farrell, Gabriel Griffin, Jacob Griffin, Nick Griffin, and Rene Griffin expressed concern related to nuisance odors from the facility.

RESPONSE 11:

All wastewater treatment facilities have the potential to generate odors. To control and abate odors, TCEQ's rules in 30 Tex. Admin. Code Chapter 309 require domestic WWTPs to meet buffer zone requirements for the abatement and control of nuisance odor. 30 Tex. Admin. Code § 309.13(e) provides three options for applicants to satisfy these nuisance odor abatement and control requirements. Circle S Midlothian, LLC can comply with the rule by: (1) ownership of the buffer zone area; (2) restrictive easement from the adjacent property owners for any part of the buffer zone not owned by Circle S Midlothian, LLC; or (3) providing nuisance odor control.

According to its Application, Circle S Midlothian, LLC intends to comply with the requirement to abate and control nuisance of odor by use of a nuisance odor prevention plan. This requirement is incorporated into the Draft Permit, and the nuisance odor prevention plan must adhere to the requirements of 30 Tex. Admin. Code § 309.13(e)(2). Therefore, nuisance odor is not expected to occur as a result of the permitted activities at the facility if the permittee operates the facility in compliance with TCEQ's rules and the terms and conditions of the Draft Permit.

Further, Circle S Midlothian, LLC proposes in its Application that the Circle S Subdivision WWTP will be an activated sludge process plant operated in the complete mix mode. The activated sludge process is the most frequently used biological wastewater treatment process for treating domestic wastewater, and the use of the extended aeration variation has been known to produce highly treated effluent with low biosolids production. When properly treated by the proposed wastewater treatment process, the effluent is not expected to have an offensive odor.

If anyone experiences nuisance odor conditions or any other suspected incidents of noncompliance with the permit or TCEQ rules, they may be reported to TCEQ by calling the TCEQ Environmental Complaint Line at 1-888-777-3186. Calls will be routed automatically to the closest TCEQ regional office. Complaints may also be filed online at tceq.texas.gov/compliance/complaints. Moreover, the permit does not limit the ability of an individual to seek legal remedies against Circle S Midlothian, LLC 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.

COMMENT 12:

Hayden Farrell, Maliya Farrell, Phillip Farrell, Robyn Farrell, Gabriel Griffin, Jacob Griffin, Nick Griffin, and Rene Griffin stated that the proposed facility's location listed in the Application is wrong and should be listed as within the City of Midlothian and not the City of Venus.

RESPONSE 12:

The proposed facility location in the draft permit is "located approximately one-mile northeast of the intersection of Murr Road and Farm-to-Market Road 157, in Ellis County, Texas 76084" which lies outside both cities' jurisdiction. A city was not included in the proposed facility location description because the proposed facility location does not reside within a city's boundaries.

COMMENT 13:

Ellis County, Hayden Farrell, Maliya Farrell, Phillip Farrell, Robyn Farrell, Gabriel Griffin, Jacob Griffin, Nick Griffin, Rene Griffin, and Todd Little expressed concern whether the regionalization policy was adhered to during the permitting process.

RESPONSE 13:

The state’s regionalization policy is enumerated in Tex. Water Code § 26.081, which states that the policy should “encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.” In furtherance of that policy, Tex. Water Code § 26.0282 authorizes TCEQ, when considering the issuance of a permit to discharge waste, to deny or alter the terms and conditions of a proposed permit based on need and the availability of existing or proposed area-wide or regional waste collection, treatment, and disposal systems.

Domestic Technical Report 1.1 of the application requires information concerning regionalization of wastewater treatment plants. Applicants requesting a new permit or certain major amendments are required to review a three-mile area surrounding the proposed facility to determine if there is a wastewater treatment plant or sewer collection lines within the area that the permittee can utilize. Applicants are required to contact those facilities to inquire if they currently have the capacity or are willing to expand to accept the volume of wastewater proposed. If an existing wastewater facility does have the capacity and is willing to accept the proposed wastewater, the applicant must submit an analysis of expenditures required to connect to a permitted wastewater treatment facility or collection system located within three miles versus the cost of the proposed facility or expansion. Finally, applicants are required to provide copies of all correspondence with the owners of existing plants within three miles of the proposed plant regarding regionalization with their system.

There is one existing wastewater treatment facilities or collection systems within a three-mile radius of the proposed facility site location. However, the Applicant has informed TCEQ that it has contacted the existing wastewater treatment facility and the City of Venus indicated that it could not provide wastewater service to the proposed site.

COMMENT 14:

Hayden Farrell, Maliya Farrell, Phillip Farrell, Robyn Farrell, Gabriel Griffin, Jacob Griffin, Nick Griffin, and Rene Griffin stated that the Draft Permit and Application are deficient and do not meet all state and federal legal and technical requirements, including the Texas Water Quality Standards and implementation procedures for the standards, the Clean Water Act, and wastewater treatment design.

RESPONSE 14:

The Executive Director has reviewed Circle S Midlothian, LLC's Application for new TPDES Permit No. WQ0016243001 and determined that the Draft Permit meets all applicable legal and technical requirements. The following items were considered in developing the Draft Permit:

- Application received from Circle S Midlothian, LLC on October 26, 2022, and additional information received on November 3, 2022, and November 17, 2022.
- 2018 Texas Surface Water Quality Standards (TSWQS), 30 TAC §§ 307.1 - 307.10, effective March 1, 2018; 2014 TSWQS, effective March 6, 2014; 2010 TSWQS, effective July 22, 2010; and 2000 TSWQS, effective July 26, 2000.
- 30 Tex. Admin. Code Chapter 309, Subchapter A: Effluent Limitations;
- 30 TAC Chapter 30, Subchapter J: Wastewater Operators and Operations Companies;
- 30 Tex. Admin. Code Chapter 217: Design Criteria for Domestic Wastewater Systems;
- 30 Tex. Admin. Code Chapter 312: Sludge Use, Disposal, and Transportation;
- 30 Tex. Admin. Code Chapter 319, Subchapter A: Monitoring and Reporting Requirements;
- Interoffice memoranda from the Water Quality Assessment Section of the TCEQ Water Quality Division;
- *Procedures to Implement the Texas Surface Water Quality Standards (IP)*, Texas Commission on Environmental Quality, June 2010, as approved by EPA and the IP, January 2003, for portions of the 2010 IP not approved by EPA.
- Texas 2022 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, June 1, 2022; approved by the U.S. Environmental Protection Agency on July 7, 2022.
- Texas Natural Resource Conservation Commission Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits, Document No. 98-001.000-OWR-WQ, May 1998.

The Draft Permit was reviewed internally before it was reviewed and approved by EPA on November 22, 2023. Additionally, all procedural requirements have been met. As discussed in the procedural section above, all required notices have been mailed and published for this application. A public meeting was held March 4, 2024, in

Venus, Texas. The Executive Director has made a preliminary decision that this Draft Permit, if issued, meets all statutory and regulatory requirements. The preliminary determination can be reexamined and may be modified if new information is received.

COMMENT 15:

Hayden Farrell, Maliya Farrell, Phillip Farrell, Robyn Farrell, Gabriel Griffin, Jacob Griffin, Nick Griffin, and Rene Griffin expressed concern that the proposed facility location is in a floodplain.

RESPONSE 15:

TCEQ does not prohibit the location of a wastewater treatment facility in a floodplain, as long as the facility design adheres to TCEQ rules. The proposed Circle S Subdivision WWTP shall be subject to plans and specifications review prior to construction. Part of this review will include adherence to 30 Tex. Admin. Code § 217.35, relating to “One Hundred-Year Flood Plain Requirements.” Accordingly, the Draft Permit requires that the facility design must provide protection from inundation during a 100-year flood event per Other Requirement No. 4.

As for issues related to flooding that also involves water quality, Circle S Midlothian, LLC is required to comply with all the numeric and narrative effluent limitations and other conditions in the proposed permit at all times, including during flooding conditions.

COMMENT 16:

Ellis County has expressed concerns relating to oversight and proper operation and maintenance of the proposed WWTP.

RESPONSE 16:

TCEQ issues permits that describe the conditions under which the wastewater facility must operate. All facilities must be designed, operated, and maintained consistent with applicable TCEQ rules. These provisions require that a facility is properly operated and maintained at all times. Per Other Requirement No. 1 in the draft permit, the proposed facility must be operated by a chief operator or an operator holding a Class C license or higher. The facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher. The licensed chief operator or operator holding the required level of license or higher must be available by telephone or pager seven days per week.

Where shift operation of the wastewater treatment facility is necessary, each shift that does not have the on-site supervision of the licensed chief operator must be supervised by an operator in charge who is licensed not less than one level below the category for the facility.

The TCEQ's Office of Compliance and Enforcement ensures compliance with applicable state and federal regulations. The Region 4 office is required to conduct a mandatory comprehensive compliance investigation (CCI) at minor facilities (facilities with permitted flow less than 1 million gallons per day) once every five fiscal years. Additional mandatory investigations can be required if the facility is categorized as significant noncompliance (SNC). SNC is determined by the Compliance Monitoring Section of the TCEQ and is based on self-reported effluent violations.

If the facility is found to be out of compliance with the terms or conditions of the permit, Circle S Midlothian, LLC may be subject to an enforcement action resulting from any violations.

COMMENT 17:

Hayden Farrell, Maliya Farrell, Phillip Farrell, Robyn Farrell, Gabriel Griffin, Jacob Griffin, Nick Griffin, and Rene Griffin expressed concern that the proposed facility will be undersized for the potential development.

RESPONSE 17:

Circle S Midlothian, LLC provided justification for the requested flows during the application process. In its Application, Circle S Midlothian, LLC provided sufficient information regarding anticipated future wastewater needs and explained the timing of the proposed additional flow phases.

Circle S Midlothian, LLC proposed a Final phase flow of 0.950 MGD, which was based on up to 5,000 new wastewater connections at a flow of 190 gallons per connection. As for the timing of the phases, according to correspondences received from Circle S Midlothian, LLC, the developer intends to begin construction in 2024 with the construction of 1,053 homes, and continue developing towards the final 5,000 home buildout by 2028.

COMMENT 18:

Martha Johnson and Michael Monroe Jackson expressed concern about potential surface water runoff due to the proposed development.

RESPONSE 18:

Surface water runoff falls outside the scope of this permit authorization. If the proposed development disturbs more than 1 acre, the activity may need to obtain authorization under the Construction General Permit. For additional information, the TCEQ Stormwater Program can be contacted by calling (512) 239-4671.

COMMENT 19:

Hayden Farrell, Maliya Farrell, Phillip Farrell, Robyn Farrell, Gabriel Griffin, Jacob Griffin, Nick Griffin, Rene Griffin, and Janice Patterson expressed concerns regarding impacts to surface water quality impact and about the discharge negatively affecting drinking water and fish consumption in the watershed.

RESPONSE 19:

TCEQ is responsible for the protection of water quality with federal regulatory authority over discharges of pollutants to Texas surface water. The TCEQ has a legislative responsibility to protect water quality in the State of Texas and to authorize wastewater discharge TPDES permits under Tex. Water Code Chapter 26, and 30 Tex. Admin. Code Chapters 305, 307 and 309, including specific statutes regarding wastewater treatment systems under 30 Tex. Admin. Code Chapters 217 and 309.

The proposed draft permit was developed in accordance with the TSWQS to be protective of water quality, provided that Circle S Midlothian, LLC operates and maintains the proposed facility according to TCEQ rules and the proposed permit's requirements. The methodology outlined in the IPs is designed to ensure compliance with the TSWQS (30 Tex. Admin. Code Chapter 307).

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

As part of the application process, TCEQ staff must determine the uses of the receiving waters and set effluent limits that are protective of those uses. To achieve the goal of maintaining a level of water quality sufficient to protect existing water body uses, the proposed permit contains several water quality specific parameter requirements that limit the potential impact of the discharge on the receiving waters.

In accordance with 30 Tex. Admin. Code § 307.5 and the IPs, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

Effluent limitations in the draft permit for the conventional effluent parameters (i.e., CBOD₅, TSS, and minimum DO) are based on stream standards and waste load allocations for water quality-limited streams as established in the TSWQS and the State of Texas Water Quality Management Plan (WQMP).

COMMENT 20:

Ellis County is concerned that the proposed discharge may not comply with applicable antidegradation requirements.

RESPONSE 20:

The Executive Director's Tier 1 and Tier 2 antidegradation review, performed by the Water Quality Division, complied with all the applicable statutory and regulatory requirements. The following describes the antidegradation review performed by the Water Quality Division:

Overview: New TPDES permits, as well as amendments to TPDES permits, that allow increased pollution loading are subject to review under Tier 1 of the antidegradation policy; all pollution that could cause an impairment of existing uses is included in the evaluation. The Executive Director's Tier I antidegradation review ensures that existing water quality uses are not impaired by increases in pollution loading. Numerical and narrative criteria necessary to protect existing uses will be maintained.

New TPDES permits, as well as amendments to TPDES permits, that allow an increase in loading are also subject to review under Tier II of the

antidegradation policy. A Tier II antidegradation review generally applies to water bodies that have existing, designated, or presumed uses of intermediate, high, or exceptional aquatic life uses. The Executive Director's Tier II antidegradation review ensures that where water quality exceeds the normal range of fishable/swimmable quality, the water quality will be maintained, unless lowering it is necessary for important economic or social development.

Executive Director's Tier I Review: According to Circle S Midlothian, LLC's application, the unclassified receiving waters are Spring Branch, Armstrong Creek, Cottonwood Creek, and North Fork Chambers Creek. These receiving waters were assessed to have limited aquatic life use, and dissolved oxygen (DO) criterion of 3.0 mg/L. However, the Draft Permit contains more stringent DO requirements: 4.0 mg/l DO for outfall 001. Further, the Draft Permit requires disinfection of the treated effluent, and includes bacteria limits, to maintain and protect the primary contact recreation uses. The Executive Director's Tier I antidegradation review of the Circle S Midlothian, LLC application preliminarily determined that existing water quality uses will not be impaired by the Draft Permit if it is issued. Numerical and narrative criteria to protect existing uses will be maintained.

Executive Director's Tier II Review: No water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required.

Protection of Wildlife: The extensive technical reviews performed resulted in permit limits to ensure the permitted discharge is consistent with applicable laws, rules, and procedures and protective of the Texas Surface Water Quality Standards, which includes the antidegradation policy, designated and presumed uses. Therefore, the permit is expected to be protective of aquatic-dependent species that reside in the receiving streams and other wildlife that utilize the receiving streams.

COMMENT 21:

Hayden Farrell, Maliya Farrell, Phillip Farrell, Robyn Farrell, Gabriel Griffin, Jacob Griffin, Nick Griffin, Rene Griffin, Martha Johnson, Michael Monroe Jackson, Jim

William Justice, and Janice Patterson expressed concern regarding erosion and flooding of the receiving water caused by the discharge.

RESPONSE 21:

TCEQ does not have jurisdiction to address flooding or erosion issues in 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.

For flooding concerns, please contact the local floodplain administrator for this area. Since the proposed facility is located within Ellis County, the local floodplain administrator for this area is Ellis County's County Engineer. Contact information for the County Engineer is available at: <https://www.co.ellis.tx.us/Directory.aspx?DID=10>. Additional information related to Ellis County Floodplain management can be found on Ellis County's website: <https://www.co.ellis.tx.us/1043/FEMA-Floodplain>.

COMMENT 22:

Hayden Farrell, Maliya Farrell, Phillip Farrell, Robyn Farrell, Gabriel Griffin, Jacob Griffin, Nick Griffin, Rene Griffin, Martha Johnson, Michael Monroe Jackson, and Jim William Justice expressed concern regarding economic damages and loss of property.

RESPONSE 22:

TCEQ does not have the authority to address these types of issues as part of the wastewater permitting process as they are outside the Commission's general jurisdiction as described in Tex. Water Code § 5.013. Also, Tex. Water Code Chapter 26 and applicable wastewater regulations do not authorize TCEQ to consider issues such as economic damages or loss of property. However, the Draft Permit, if issued, does not limit the ability of an individual to seek legal remedies against Circle S Midlothian, LLC regarding any potential trespass, nuisance, or other causes of action resulting from activities that may result in injury to human health, property damages, or interference with the normal use and enjoyment of property.

Concerns regarding personal safety or security should be directed to local law enforcement or the Ellis County Sheriff's Office at (972) 825-4901.

III. CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENTS

No changes were made to the draft permit in response to comments.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel,
Executive Director

Erin Chancellor, Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division



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REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on June 27, 2024, the “Executive Director’s Response to Public Comment” for Permit No. WQ0016243001 was filed with the Texas Commission on Environmental Quality’s Office of the Chief Clerk.



Fernando Salazar Martinez, Staff Attorney
Environmental Law Division
State Bar No. 24136087

Attachment A

List of Commenters

A

Anderson, Karen

B

Butler, Kyle
Burriss, Margaret
Bristow, Melissa
Baker, Tammy
Birdwell, Brian

F

Farrell, Robyn
Farrell, Phillip
Farrell, Maliya
Farrell, Hayden
Farrell, Kimberely

G

Griffin, Gabriel
Gaither, Phillip H
Griffin, Rene
Griffin, Jacob
Griffin, Nick

H

Healy, Lisa
Hodges, Sherry
Hull, Trinity Buck

J

Johnson, Martha
Jackson, Christine
Jackson, Michael Monroe
Justice, Kellye
Justice, Jim William

K

Kasowski, Ronald

L

Little, Todd
Latham, Carol

M

Mayfield, Stacy
Martin, Krista Medici

P

Ponder, Louis
Patterson, Janice
Poole, Courtney
Poole, Pam

R

Rosales, Alicia
Rodgers, Mike
Rischmann, Gina
Rischmann, Jacob
Rodgers, Emily W

S

Scotton, Robin
Sanders, Chance
Sanders, Victoria

T

Timms, Kellen
Timms, Janis
Trevino, Edgar
Thomas, Loretta

V

Vanderveen, Kim

W

Weideman, William
Weideman, Carol
Weatherly, John
Wright, Randall

Z

Zink, Cheryl L