

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 31, 2024

TO: All interested persons.

RE: Moore Farm WCID No. 1
TPDES Permit No. WQ0016274001

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 Riter C. Hulsey Public Library, 301 North Rockwall Avenue, Terrell, Texas.

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

How to Request a Contested Case Hearing.

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

The request must include the following:

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

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

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

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

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

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

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

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

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

Deadline for Submitting Requests.

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

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

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

Processing of Requests.

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

How to Obtain Additional Information.

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

Sincerely,



Laurie Gharis
Chief Clerk

LG/mb

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
Moore Farm WCID No. 1
TPDES Permit No. WQ0016274001

The Executive Director has made the Response to Public Comment (RTC) for the application by Moore Farm WCID No. 1 for TPDES Permit No. WQ0016274001 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 (WQ0016274001) 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 Riter C. Hulsey Public Library, 301 North Rockwall Avenue, Terrell, Texas.



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas reduciendo y previniendo la contaminación

31 de julio de 2024

TO: Todas las personas interesadas.

RE: Moore Farm WCID No. 1
TPDES Permiso No. WQ0016274001

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 Riter C. Hulsey Public Library, 301 North Rockwall Avenue, Terrell, 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/mb

Recinto

RESPUESTA DEL DIRECTOR EJECUTIVO AL COMENTARIO DEL PÚBLICO
para
Moore Farm WCID No. 1
TPDES Permiso No. WQ0016274001

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de Moore Farm WCID No. 1 del permiso de TPDES Permiso No. WQ0016274001. 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 (WQ0016274001) 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 Riter C. Hulsey Public Library, 301 North Rockwall Avenue, Terrell, Texas.

MAILING LIST / LISTA DE CORREO
for / para
Moore Farm WCID No. 1
TPDES Permit No. WQ0016274001 / TPDES Permiso No. WQ0016274001

FOR THE APPLICANT /
PARA EL SOLICITANTE:

Rob Soper, District President
Moore Farm WCID No. 1
14755 Preston Road, Suite 600
Dallas, Texas 75254

Jonathan Nguyen
Quiddity Engineering
3100 Alvin Devane Boulevard, Suite 150
Austin, Texas 78741

Michelle Troy
Quiddity Engineering
4500 Mercantile Plaza Drive
Fort Worth, Texas 76137

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

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

Deba Dutta, 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

BARBER , TERRY
601 E NASH ST
TERRELL TX 75160-2845

BROUWER , D J DIRECTOR OF UTILITIES
CITY OF TERRELL
PO BOX 310
TERRELL TX 75160-0006

CHAMBERS , MARIS MARSHALL
SPENCER FANE LLP
STE 1200
816 CONGRESS AVE
AUSTIN TX 78701-2442

SIMS , MIKE CITY MANAGER
CITY OF TERRELL
PO BOX 310
TERRELL TX 75160-0006

BELL , THE HONORABLE KEITH STATE
REPRESENTATIVE
TEXAS HOUSE OF REPRESENTATIVES DISTRICT 4
RM E2.410
PO BOX 2910
AUSTIN TX 78768-2910

BULLOCK , MRS EDE
16480 COUNTY ROAD 255
TERRELL TX 75160-0552

GODWIN , JOHN
HR
201 E NASH ST
TERRELL TX 75160-2741

SIMS , MIKE CITY MANAGER
CITY OF TERRELL
201 E NASH ST
TERRELL TX 75160-2741

BONO , JUSTIN
STE 700
3625 N HALL ST
DALLAS TX 75219-5106

BULLOCK , RANDY
PO BOX 2303
ROCKWALL TX 75087-7803

PARKS , BRANDY
16098 COUNTY ROAD 255
TERRELL TX 75160-0562

TPDES PERMIT No. WQ0016274001

APPLICATION BY	§	BEFORE THE
MOORE FARM WCID No. 1	§	TEXAS COMMISSION
FOR TPDES PERMIT	§	ON ENVIRONMENTAL
NO. WQ0016274001	§	QUALITY

EXECUTIVE DIRECTOR’S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the application for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016274001 by Moore Farm Water Control and Improvement District (WCID) No. 1 (Moore Farm) and on the Executive Director’s preliminary decision. As required by Title 30 of the Texas Administrative Code (30 TAC) Section (§) 55.156, before this application is approved, the Executive Director prepares a response to all timely, relevant and material, or significant comments. Representative Keith Bell requested a Public Meeting. Additionally, the Office of the Chief Clerk received timely comments from D. J. Brouwer, Director of Utilities for the City of Terrell and Mike Sims, City of Terrell City Manager (collectively Terrell or City). The Executive Director also received late comments from Ede Bullock and Brandy Parks. This Response addresses all timely public comments received, whether or not withdrawn.

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 on the TCEQ web site at www.tceq.texas.gov.

I. BACKGROUND

A. Description of Facility

Moore Farm applied for a new permit to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.20 million gallons per day (MGD) in the Interim I phase, a daily average flow not to exceed 0.50 MGD in the Interim II phase, and an annual average flow not to exceed 1.60 MGD in the Final phase. The proposed wastewater treatment facility will serve a residential subdivision consists of

5,250 residential connections, located approximately 1.5 miles north of the City of Terrell.

The facility will be located approximately 0.35 miles southwest of the intersection of County Road 243 and County Road 245, in Kaufman County, Texas 75160. If the draft permit is issued, the treated effluent will be discharged to Little High Point Creek, thence to High Point Creek, thence Big Brushy Creek, thence to Kings Creek, thence to Cedar Creek Reservoir in Segment No. 0818 of the Trinity River Basin. The unclassified receiving water uses are limited aquatic life use for Little High Point Creek, and high aquatic life use for High Point Creek and Big Brushy Creek. The designated uses for Segment No. 0818 are primary contact recreation, public water supply, and high aquatic life use. The effluent limits in the draft permit will maintain and protect the existing instream uses. All determinations are preliminary and subject to additional review and revisions.

The Moore Farm WCID No. 1 Wastewater Treatment Facility will be a suspended growth activated sludge process plant operated in the single-stage nitrification mode. Treatment units in the Interim I phase will include an on-site lift station, a manual bar screen, two aeration basins, a final clarifier two multi-stage aerobic digesters, and a chlorine contact chamber. Treatment units in the Interim II phase will include an on-site lift station, a manual bar screen, five aeration basins, two final clarifiers, six multi-stage aerobic digesters, a chlorine contact chamber, and dechlorination. Treatment units in the Final phase will include an on-site lift station, a manual bar screen, three aeration basins, three final clarifiers, three multi-stage aerobic digesters, a chlorine contact chamber, and dechlorination. The facility has not been constructed.

The draft permit includes the following proposed effluent limitations and monitoring requirements. All flows, except the two-hour peak flow, are expressed in million gallons per day (MGD). The two-hour (2-hr) peak flow is expressed in gallons per minute (gpm). Concentration values are expressed in milligrams per liter (mg/L). Mass-based values are expressed as pounds per day (lbs/day). Bacteria values are expressed in colony-forming units (CFU) or most probable number (MPN) per 100 milliliters (CFU or MPN/100 mL).

Table 1. Interim Phase I Effluent Limitations: Outfall 001

Parameter/Pollutant	Daily Average		7-day Average	Daily Maximum
	lbs/day	mg/L	mg/L	mg/L
Carbonaceous Biochemical Oxygen Demand, 5-day (CBOD ₅)	17	10	15	25
Total Suspended Solids (TSS)	25	15	25	40
Ammonia Nitrogen (NH ₃ -N)	5	3	6	10
Total Phosphorus (TP)	1.7	1	2	4
<i>E. coli</i> (CFU or MPN/100 mL)	N/A	126	N/A	N/A
Dissolved Oxygen (minimum)	N/A	4.0	N/A	N/A

The daily average flow of effluent in the Interim Phase I shall not exceed 0.20 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 555 gpm.

Table 2. Interim Phase II Effluent Limitations: Outfall 001

Parameter/Pollutant	Daily Average		7-day Average	Daily Maximum
	lbs/day	mg/L	mg/L	mg/L
Carbonaceous Biochemical Oxygen Demand, 5-day (CBOD ₅)	29	7	12	22
Total Suspended Solids (TSS)	50	12	20	40
Ammonia Nitrogen (NH ₃ -N)	8.3	2	5	10
Total Phosphorus (TP)	4.2	1	2	4
<i>E. coli</i> (CFU or MPN/100 mL)		126	N/A	399

The daily average flow of effluent shall not exceed 0.50 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 1,389 gpm.

Table 3. Final Phase Effluent Limitations: Outfall 001

Parameter/Pollutant	Daily Average		7-day Average	Daily Maximum
	lbs/day	mg/L	mg/L	mg/L
Carbonaceous Biochemical Oxygen Demand, 5-day (CBOD ₅)	67	5	10	20
Total Suspended Solids (TSS)	160	12	20	40
Ammonia Nitrogen (NH ₃ -N)	21	1.6	3	6
Total Phosphorus (TP)	13	1	2	4
<i>E. coli</i> (CFU or MPN/100 mL)	126		N/A	399

The annual average flow of effluent shall not exceed 1.60 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 4,444 gpm.

B. Procedural Background

The TCEQ received the application on December 14, 2023, and declared it administratively complete on January 11, 2023. The Executive Director completed the technical review of the application on August 28, 2023, and prepared a draft permit.

Moore Farm published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in English in the *Dallas Morning News* on January 18, 2023, and in Spanish in the *Al Dia* newspaper on January 18, 2023. Moore Farm published the Notice of Application and Preliminary Decision (NAPD) and Notice of the Public Meeting in English in the *Dallas Morning News*, and in Spanish in the *Al Dia* newspaper on December 20, 2023.

A public meeting was held at the Fairfield Inn & Suites, 351 Market Center Drive, Terrell, TX 75160 on January 25, 2024; the comment period ended at the close of the public meeting. This application was filed on or after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature (1999) and Senate Bill 709, 84th Legislature, (2015), which are implemented by the Commission in its rules in 30 TAC 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:

- Secretary of State website: www.sos.state.tx.us;
- TCEQ rules in 30 TAC: www.sos.state.tx.us/tac;
- Texas statutes: www.statutes.legis.state.tx.us;
- TCEQ downloadable rules: www.tceq.texas.gov/rules/indxpdf.html;
- Federal rules in Title 40 of the Code of Federal Regulations: www.ecfr.gov; and
- Federal environmental laws: www.epa.gov/lawsregs.

Commission records for this facility are available for viewing and copying at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk), until final action is taken. In addition, some documents located in the Office of the Chief Clerk may be located on the Commissioners' Integrated Database at www14.tceq.texas.gov/epic/eCID/. The permit application for this proposed facility, Executive Director's Preliminary Decision, and the draft permit are available for viewing

and copying at the Riter C. Hulseley Public Library, 301 North Rockwall Avenue, Terrell, Texas.

The Executive Director determined that the draft permit, if issued, meets all statutory and regulatory requirements and is protective of the environment, water quality, and human health. Complaints 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. If an inspection by the Regional Office finds that the facility is out of compliance, the facility may be subject to enforcement actions.

II. COMMENTS AND RESPONSES

COMMENT 1:

Terrell commented that Moore Farm does not own the plant site and the application does not indicate that Moore Farm has the legal right to operate the wastewater treatment facility.

RESPONSE 1:

The application indicates Moore Farm WCID No. 1 will be the owner of the facility and applied for the permit.

COMMENT 2:

Terrell commented that the draft permit does not comply with TCEQ's regionalization policy. In support of its position Terrall noted the following statutory provisions regarding regionalization: Texas Water Code (TWC) § 26.0282, TWC § 13.183(c), TWC § 13.241(d), TWC § 26.0135(a).

RESPONSE 2:

The Moore Farm application indicates that there are no domestic permitted wastewater treatment facilities or collection systems located within a three-mile radius of the proposed facility. According to the Applicant, Moore Farm met with the City of Terrell and they noted that they cannot immediately serve the Moore Farm site with sewer service. The development is outside of the city limits, and the City of Terrell's treatment plant is over three miles away. The requirements of Chapter 13 of the Texas Water Code are outside the scope of the ED's review of a TPDES application.

COMMENT 3:

Terrell commented that the application is inaccurate because, according to the application, Moore Farm indicated that there are no domestic permitted wastewater treatment facilities or collection systems located within a three-mile radius of the proposed city. According to Terrell, it has collection facilities approximately 2.8 miles from the proposed site. Terrell also noted that the application does not include the required cost analysis to determine if there is a need for the proposed facility.

RESPONSE 3:

If an existing wastewater facility has 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. The applicant represented to the ED that the City of Terrell had indicated they could not serve the Moore Farm site; therefore, the cost analysis was not required.

COMMENT 4:

Terrell commented that the application is incomplete because Moore Farm did not include copies of any communications with Terrell regarding the availability of service.

RESPONSE 4:

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. The Moore Farm application indicates that there are no domestic permitted wastewater treatment facilities or collection systems located within a three-mile radius of the proposed facility. Therefore, communications with Terrell regarding the availability of service were not required.

COMMENT 5:

Terrell commented that the draft permit does not comply with TCEQ's antidegradation policy. Specifically, Terrell noted that a discharge into Segment No. 0818 would negatively impact water quality. Terrell also commented that the draft permit should be denied because the proposed discharge may unnecessarily degrade the exceptional quality of the receiving water.

RESPONSE 5:

The treated effluent will be discharged to Little High Point Creek, thence to High Point Creek, thence Big Brushy Creek, thence to Kings Creek, thence to Cedar Creek Reservoir in Segment No. 0818 of the Trinity River Basin. The unclassified receiving water uses are limited aquatic life use for Little High Point Creek, and high aquatic life use for High Point Creek and Big Brushy Creek. The designated uses for Segment No. 0818 are primary contact recreation, public water supply, and high aquatic life use. In accordance with the Texas Surface Water Quality Standards (30 TAC §307.5) and 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. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in High Point Creek or Big Brushy Creek, which have been identified as having high aquatic life uses. Existing uses will be maintained and protected.

COMMENT 6:

Terrell commented that the location of the proposed outfall is uncertain, noting several discrepancies in the latitude and longitude referenced in the Moore Farm application. According to Terrell, the discrepancies could result in the effluent set in the draft permit being inconsistent with applicable statutory and regulatory requirements.

RESPONSE 6:

The draft permit indicates the outfall location in decimal degrees as the 32.804411 N latitude and 96.309061 W longitude. The treated effluent will be discharged to Little High Point Creek, thence to High Point Creek, thence Big Brushy Creek, thence to Kings Creek, thence to Cedar Creek Reservoir in Segment No. 0818 of the Trinity River Basin, via this outfall. TCEQ 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 will be treated to required standards and to effluent limits that will ensure protection of existing uses for the receiving water bodies. Based on our review and analysis, TCEQ established effluent limits and

conditions to be included in the draft permit to maintain the receiving water body's uses and to protect human health and aquatic life.

COMMENT 7:

Terrell commented that it is unclear if Moore Farm complied with the applicable public notice requirements because when the City contacted the public viewing location (Riter C. Hulseley Public Library) the application was not available for viewing or copying. Terrell also noted that the application should have been available for public review in both Kaufman and Rockwall counties because, according to the service map, the service area for the proposed facility encompasses both Kaufman and Rockwall Counties.

RESPONSE 7:

The Applicant had indicated that the Moore Farm application was made available for public viewing at Riter C. Hulseley Public Library, 301 North Rockwall Avenue, Terrell, Texas. Texas Water Code Section 5.552(e) related to NORI says, "The applicant shall make a copy of the application available for review and copying at a public place in the county in which the facility is located or proposed to be located." The public notices and application materials for Moore Farm were placed in Kaufman County, and the facility will be located in Kaufman County if the draft permit is issued.

COMMENT 8:

Terrell commented that the application materials are inconsistent with regard to whether the proposed facility should be classified as a major facility or minor facility.

RESPONSE 8:

During the application process the Environmental Protection Agency (EPA), determines if the facility will be a minor or major facility. EPA reviewed the Moore Farm draft permit and classified the Moore Farm as a minor facility.

COMMENT 9:

Terrell commented that, according to the Admin Review Checklist, a receiving water assessment determination was not completed as part of the Application review process. However, a receiving water assessment checklist was completed by TCEQ Staff. According to Terrell, this discrepancy creates confusion regarding the location of the proposed plant and outfall.

RESPONSE 9:

TCEQ completed a receiving water assessment checklist during the technical review of the application. Any needed changes from the application are reflected in the draft permit.

COMMENT 10:

Terrell commented that a copy of the lease agreement or easement should have been included in the application; alternatively, the Developer should have been included as a co-applicant.

RESPONSE 10:

The Moore Farm application indicates that the owner of the land where the treatment facility is or will be located is owned by the applicant, Moore Farm WCID No. 1.; therefore, a lease agreement or easement would not be applicable.

COMMENT 11:

Terrell commented that it is unclear if EPA approved the draft permit.

RESPONSE 11:

EPA received the draft permit on December 19, 2023, transmitted via the file transfer protocol (ftp) site. Based on its review, EPA approved the draft permit on February 2, 2024.

COMMENT 12:

Terrell commented that it is unclear if TCEQ's Region 4 office responded to the Requests for Comments.

RESPONSE 12:

TCEQ Region 4 provided comments on the draft permit on August 30, 2024, which were addressed in the draft permit. Region 4 requested changing the *E. coli* testing frequency to once/week in the Final phase. It was changed accordingly.

COMMENT 13:

Terrell commented that the information submitted to EPA was not accurate. Specifically, Terrell notes that the NPDES Certification Checklist is not accurate because

Kings Creek in Segment 0818C is impaired by bacteria and Cedar Creek Reservoir in Segment 0818 is impaired by pH.

RESPONSE 13:

All required information was sent to EPA on December 19, 2023. Segment No. 0818 is currently listed on the State's inventory of impaired and threatened waters (the 2022 Clean Water Act Section 303(d) list). The Segment No. 0818 listing is specifically for pH in Caney Creek cove (Assessment Unit (AU) 0818_02); Clear Creek cove (AU 0818_03); the lower portion of the reservoir east of Key Ranch Estates (AU 0818_04); the cove off the lower portion of the reservoir adjacent to Clearview Estates (AU 0818_05); Twin Creeks cove (AU 0818_07); Prairie Creek cove (AU 0818_08); the upper portion of the reservoir adjacent to Lacy Fork cove (AU 0818_09); the upper portion of the reservoir east of Tolosa (AU 0818_11); and the uppermost portion of the reservoir downstream of Kings Creek (AU 0818_12). Kings Creek is also currently listed on the 2022 303(d) list for elevated bacteria levels in water (recreation use) from the confluence with Cedar Creek Reservoir at normal pool elevation upstream to the headwaters adjacent to FM 986 approximately 5 kilometers north of Terrell in Kaufman County (AU 0818C_01).

COMMENT 14:

Terrell commented that the Executive Director relied on outdated information, specifically with respect to the United States Fish and Wildlife Service (USFWS) biological opinion. According to Terrell, the biological opinion is out of date.

RESPONSE 14:

The Executive Director used the most current available biological opinion, dated September 14, 1998; October 21, 1998 update. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. 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. 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.

COMMENT 15:

Terrell expressed concern over vibration during construction and disturbances of vegetation or wetlands.

RESPONSE 15:

The construction process of the development is outside the jurisdiction of the TCEQ. The permittee is required to submit plans and specifications of the plant design for review and approval pursuant to 30 TAC Chapter 217, relating to “Design Criteria for Domestic Wastewater Systems,” before starting the construction of the wastewater treatment plant. The proposed permit addresses only the wastewater aspect of the development and operation. The permittee is required to obtain other authorizations, as applicable, that further ensure protection of the environment.

COMMENT 16:

Terrell commented that the applicant failed to provide the information required regarding the operator of the facility.

RESPONSE 16:

The applicant is not required to provide operator information in its application. The draft permit provides:

According to the Other Requirement No. 1 (Page 34) of the draft permit, the permittee shall employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration according to the requirements of 30 TAC Chapter 30, Occupational Licenses and Registrations, and in particular 30 TAC Chapter 30, Subchapter J, Wastewater Operators and Operations Companies.

This Category C facility in the Interim I and II phases, and Category B facility in the Final phase, must be operated by a chief operator or an operator holding a Class C license or higher in the Interim I and II phases, and Class B license or higher in the Final phase.

COMMENT 17:

Terrell commented that the facility is likely to create nuisance odors.

RESPONSE 17:

All wastewater treatment facilities have the potential to generate odors. To control and abate odors the TCEQ rules require domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor according to 30 TAC § 309.13(e), which provides three options for applicants to satisfy the nuisance odor abatement and control requirements. Applicant 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 the Applicant; or 3) providing nuisance odor control.

According to its application, the Applicant intends to comply with the requirement to abate and control nuisance of odor by locating the treatment units at least 150 feet from the nearest property line. This requirement is incorporated in the draft permit. 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.

COMMENT 18:

Terrell commented that the Applicant will not be able to comply with the buffer zone requirements.

RESPONSE 18:

According to Other Requirement No. 4 (Page 34) of the draft permit, the permittee must comply with the requirements of 30 TAC § 309.13(a) through (d). In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC § 309.13(e). If the permittee fails to comply with all requirements of the permit, it may be subject to enforcement action.

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 this facility 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 anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report these 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 www.tceq.texas.gov/compliance/complaints.

COMMENT 19:

Terrell noted that the application is not correct. According to Terrell, the City, through recent annexation, abuts Morre Farm's fence line.

RESPONSE 19:

The Moore Farm application submitted December 14, 2023, indicates the Moore Farm WCID No. 1 Wastewater Treatment Plant will serve a residential subdivision located approximately 1.5 miles north of the City of Terrell. The application also indicated that no portion of the proposed service area is located inside another utility's Certificate of Convenience and Necessity (CCN) area.

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 www.tceq.texas.gov/compliance/complaints.

Moreover, the permit does not limit the ability of an individual 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.

COMMENT 20:

Terrell indicated that it would like to work cooperatively with the developer to ensure the developer maintains the control of the land, but also ensure that Terrell is able to provide emergency services.

RESPONSE 20:

The TPDES 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 provision of emergency services is outside the scope of the evaluation of an application for a TPDES permit.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

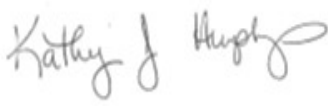
No changes to the draft permit were made in response to comments.

Respectfully submitted,

Texas Commission on Environmental
Quality

Kelly Keel, Executive Director

Charmaine Backens, Deputy Director
Environmental Law Division

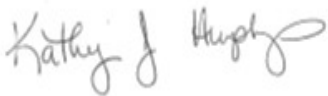
By 

Kathy J. Humphreys, Staff Attorney
Environmental Law Division
State Bar No. 24006911
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
512-239-3417

Representing the Executive Director of the
Texas Commission on Environmental
Quality

III. CERTIFICATE OF SERVICE

I certify that on July 25, 2024, the “Executive Director’s Response to Public Comment” for Moore Farm Water Control and Improvement District No. 1, TPDES Permit No. WQ0016274001 was filed with the Texas Commission on Environmental Quality’s Office of the Chief Clerk.



Kathy J. Humphreys, Staff Attorney
Environmental Law Division
State Bar No. 24006911