

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

August 16, 2024

TO: All interested persons.

RE: Treasure Island Laguna Azure, LLC
TPDES Permit No. WQ0016092001

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 Van Alstyne Public Library, 151 West Cooper Street, Van Alstyne, 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/mb

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
Treasure Island Laguna Azure, LLC
TPDES Permit No. WQ0016092001

The Executive Director has made the Response to Public Comment (RTC) for the application by Treasure Island Laguna Azure, LLC for TPDES Permit No. WQ0016092001 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 (WQ0016092001) 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 Van Alstyne Public Library, 151 West Cooper Street, Van Alstyne, Texas.

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Treasure Island Laguna Azure, LLC
TPDES Permit No. WQ0016092001

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See Attached List

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TPDES PERMIT NO. WQ0016092001

APPLICATION BY	§	BEFORE THE
TREASURE ISLAND LAGUNA AZURE LLC	§	TEXAS COMMISSION ON
TPDES PERMIT NO. WQ0016092001	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment on the application by Treasure Island Laguna Azure LLC (Treasure Island, Applicant) for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016092001 and on the ED's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code (30 TAC) Section (§) 55.156, before a permit is issued, the ED prepares a response to all timely, relevant, and material, or significant comments. The Office of the Chief Clerk (OCC) received timely comments and hearing requests from Representative Reggie Smith, Kim Siedelmann, Justin Powers, Jim Dubois, Katrina Lynn Arsenault, Tonya Bingham, Stefanie Hauser, Nancy Jan Shaw, Emily W. Rogers (City of Van Alstyne), Richard Linnebur, Carolyn Fleck, Neal Hunter, James Anthony Grisolia, Laruen J. Kalisek (representing North Texas Municipal Water District (NTMWD)), Winter Morris, Michael Geddie, Laura Mitchell, Greg Bates, Chandler Ladd, Tracie Zweifel-Gibson, Ryan Gibson, Jennifer Null, Kyle Henrichsen, Brandy Marie Schoener, Andrew Harlow, Mary Taylor, Wilson Taylor, Lee Dahlen, Deb Dahlen, Kristen Cooley, A Concerned Citizen, Katricia Navarrete, Charlie Moster, Lanisha Weaver, John McCrary, Christy McCrary, Stephen Campeau, Natasha Welborn, Kenda R Blackshear, Greg Peters (City of Anna), Mark S. McKinney, David Stone, Meagan Stone, Jennifer Lynn Nowakowski, , Angelica Pena, Kim Reed, Lon Reed, Joanna Hasselman, Bobby Boatman, Mike Lauerhahs, Val Lauerhahs, Candice Barnard, Jay McDonald, Sarah Coleman, Ryan Coleman, Jenny Vonbehren, Rich Borel, Renae Borel, Bill Morrison, Erica Northrup, Edgar J. Gauer, Paige Hamilton, Crystal DeBacker, Lane H. Jones (City Manager of Van Alstyne), Matt Grisolia, Ann Barnard, Jim Jerome, Ricky Bourland, Jim Atchison (Mayor of Van Alstyne), Charlie Tuttle, Lee Thomas, John Spies, Whitney Holmes, Mark Houser, David G. Sileven, Wilson Taylor, James Watson, Len McManus, Jeff Whitmire (Grayson County), and John Mosby. This response addresses all timely public comments received, whether withdrawn or not.

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

I. BACKGROUND

The Applicant applied for new TPDES permit No. WQ0016092001 to authorize a discharge of treated domestic wastewater (effluent) at a daily average flow limit in Interim I Phase of 0.20 million gallons per day (MGD), at a daily average flow limit in Interim II Phase of 0.40 MGD, and at a daily average flow limit in the Final Phase of 1.40 MGD (proposed discharge) from the Applicant's Wastewater Treatment Facility (WWTF), Treasure Island WWTP (Treasure Island facility). The draft permit authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill,

wastewater treatment facility, or facility that further processes sludge.

Description of Facility/Discharge Route

If this draft permit is ultimately issued, the Treasure Island facility will be located approximately 0.81 of a mile northeast of the intersection of Farmington Road and Hodgins Road, in Grayson County, Texas 75495 and will be a suspended growth activated sludge process plant operated in a single-stage nitrification mode. The treatment units in the Interim I phase will include a manual bar screen, two aeration basins, one clarifier, two multi-stage aerobic digesters, and a chlorine contact basin. The treatment units in the Interim II phase will include one elevated screening structure with a manual bar screen and flow splitting weirs, four aeration basins, two clarifiers, four multi-stage aerobic digesters, and two chlorine contact basins. The treatment units in the Final phase will include one elevated screening structure with a manual bar screen and flow splitting weirs, three 0.46 MGD treatment trains with each train consisting of an aeration basin and secondary clarifier, two multi-stage aerobic digesters, and a chlorine contact basin. The discharge route for the proposed discharge is to West Prong Whites Creek, thence to Whites Creek, thence to East Fork Trinity River above Lake Lavon, thence to Lake Lavon in Segment No. 0821 of the Trinity River Basin (proposed discharge route).

Technical Review

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

The unclassified receiving water use is high aquatic life use for West Prong Whites Creek. The designated uses for Segment No. 0821 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 Texas Administrative Code (TAC) Section 307.5 and the TCEQ's 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. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in West Prong Whites Creek, which has been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

The technical review process for surface water quality is conducted by staff in the ED's Water Quality Division (WQD staff) on the Standards Implementation Team (Standards Team) and WQD staff in the Water Quality Assessment Section (Modeling

Team). With the goal of the technical review being to maintain a level of water quality sufficient to protect the existing uses of the receiving surface waters, WQD staff reviewed the application in accordance with the TSWQS and TCEQ's IPs.

The first component of the ED's technical review involved WQD staff on the Standards Team reviewing the classifications, designations, and descriptions of the receiving surface waters for the proposed discharge. Along with other available information, reviewing the receiving waters for the proposed discharge allows the Standards Team to preliminarily determine the aquatic life uses in the area of the proposed discharge's possible impact and assign the corresponding minimum DO criterion as stipulated at 30 TAC § 307.5 (TSWQS) and in the TCEQ's IPs. For applications for new discharges, the Standards Team performs an antidegradation analysis of the proposed discharge, and per 30 TAC § 307.5 (TSWQS) and the TCEQ's IPs, an antidegradation review of the receiving waters was performed that included nutrient screenings. A nutrient screening indicates that no nutrient limitations are warranted at this time and based on Best Professional Judgment (BPJ), no limit is needed.

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

The second component of the ED's technical review involved WQD staff on the Modeling Team performing water quality modeling to assess effluent limits required to protect the aquatic life uses of the receiving waterbodies. The proposed permit's water quality-related effluent limits, established by the Modeling Team's QUAL-TX modeling results, will maintain and protect the existing instream uses. Similarly, conventional effluent parameters such as minimum dissolved oxygen (DO), Five-day Carbonaceous Biochemical Oxygen Demand (CBOD₅), Total Suspended Solids (TSS), and Ammonia Nitrogen (NH₃-N), are based on stream standards and waste load allocations for water quality-limited streams as established in the TSWQS and the State of Texas Water Quality Management Plan.

Based on model results, the effluent limits below are predicted to be **necessary** to maintain dissolved oxygen level above the criteria stipulated by the Standards Implementation Team for West Prong Whites Creek is high aquatic life use and 5.0 milligrams per liter (mg/L) dissolved oxygen.

0.20 MGD phase:	10 mg/L CBOD₅, 3 mg/L NH₃-N, and 4.0 mg/L DO
0.40 MGD phase:	10 mg/L CBOD₅, 3 mg/L NH₃-N, and 6.0 mg/L DO
1.40 MGD phase:	7 mg/L CBOD₅, 2 mg/L NH₃-N, and 5.0 mg/L DO

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

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

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

Segment No. 0821 is not currently listed on the State's inventory of impaired and threatened waters (the 2022 Clean Water Act § 303(d) list). However, the East Fork Trinity River above Lake Lavon (0821D) is listed for “bacteria in water” in a portion of the East Fork Trinity River extending from the confluence with Lake Lavon (Segment No. 0821) to the upper end of the water body (National Hydrography Dataset [NHD] reach code [RC] 12030106000074) in Grayson County, Texas (Assessment Unit 0821D_01). This facility is designed to provide adequate disinfection and, when operated properly, should not add to the bacterial impairment of the NHD RC 12030106000074 portion of the East Fork Trinity River above Lake Lavon (0821D). In addition, in order to ensure that the proposed discharge meets the contact recreation use standard, an effluent limitation of 126 colony-forming units (CFU) or most probable number (MPN) of *Escherichia coli* (*E. coli*) per 100 ml bacteria effluent limitation has been added to the draft permit. Therefore, the proposed discharge is not expected to contribute to the bacteria impairment of the NHD RC 12030106000074 portion of the East Fork Trinity River above Lake Lavon (0821D).

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 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.

Procedural Background

TCEQ received the application on January 18, 2022, and declared it administratively complete on February 28, 2022. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in *The Dallas Morning News* on March 2, 2022. The ED completed the technical review of the application on April 27, 2023, and prepared the proposed draft permit, which if approved, establishes the conditions under which the facility must operate. The Applicant published the Notice of Application and Preliminary Decision (NAPD) in *The Dallas Morning News* on August 12, 2023.

A public meeting was scheduled for October 9, 2023. Publication of the Notice of Public Meeting was published on August 25, 2023, in *The Dallas Morning News*. A public meeting was held on October 9, 2023, at Days Inn by Wyndham Sherman, “Dallas” Meeting Room, 3605 South US Highway 75 Sherman, Texas 75090.

The public comment period ended on October 9, 2023. This application was filed 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 TAC 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.

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 (select “TAC Viewer” on the right, then “Title 30 Environmental Quality”)
- Texas statutes: www.statutes.legis.state.tx.us
- TCEQ website: www.tceq.texas.gov/rules/indxpdf.html (for downloadable rules in Microsoft Word or Adobe PDF formats, 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/current/title-40
- Federal environmental laws: www.epa.gov/lawsregs

Commission records for this application are available for viewing and copying at TCEQ’s main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk, for the current application until final action is taken). Some documents located at the Office of the Chief Clerk may also be located in the TCEQ Commissioners’ Integrated Database at www.tceq.texas.gov/goto/cid. The permit application has been available for viewing and copying at Van Alstyne Public Library, 151 West Cooper Street, Van Alstyne, Texas, since publication of the NORI. The final permit application, proposed permit, statement of basis/technical summary, and the ED’s preliminary decision are now available for viewing and copying at the same location since publication of the NAPD.

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

II. COMMENTS AND RESPONSES

COMMENT: 1:

Jim Dubois, Katrina Lynn Arsenault, Emily W. Rogers (City of Van Alstyne), Laruen J. Kalisek (NTMWD), Brandy Marie Schoener, Wilson Taylor, Kristen Cooley, Katricia Navarrete, Christy McCrary, John McCrary, Natasha Welborn, Jennifer Lynn Nowakowski, and David G. Sileven raised concerns about the draft permit’s potential impact on water quality and aesthetics of the receiving waters.

RESPONSE 1:

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

The proposed draft permit was developed in accordance with the TSWQS to be protective of water quality, provided that Treasure Island operates and maintains the proposed facility according to TCEQ rules and the proposed permit's requirements. The methodology outlined in the *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010) is designed to ensure compliance with the TSWQS (30 TAC 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. In order 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 TAC § 307.5 and the TCEQ *Procedures for the Implementation of the Texas Surface Water Quality Standards* (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. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in West Prong Whites Creek, which has been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. 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. BOD₅, 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).

TCEQ does not have the authority to address aesthetic concerns as part of the wastewater permitting process. TWC Chapter 26 and applicable wastewater regulations do not authorize the TCEQ to consider issues such as aesthetics, traffic, noise, light pollution, or property values. Additionally, the draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other

causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

COMMENT: 2:

Jim Dubois, Nancy Jan Shaw, Laruen J. Kalisek (NTMWD), and John Mosby expressed concerns about the draft permit's effluent limits, including phosphorous.

RESPONSE 2:

ED staff conducted a technical review of the application in accordance with the TSWQS and IPs. The technical review process is to determine the draft permit's consistency with all applicable statutory and regulatory requirements. ED staff completed this review and developed effluent limits consistent with the aforementioned requirements so that the draft permit will maintain a level of water quality sufficient to protect the existing uses of the receiving surface waters.

The first component of the ED's technical review involved WQD staff on the Standards Team reviewing the classifications, designations, and descriptions of the receiving surface waters for the proposed discharge. Along with other available information, reviewing the receiving waters for the proposed discharge allows the Standards Team to preliminarily determine the aquatic life uses in the area of the proposed discharge's possible impact and assign the corresponding minimum DO criterion as stipulated at 30 TAC § 307.5 (TSWQS) and in the TCEQ's IPs. For applications for new discharges, the Standards Team performs an antidegradation analysis of the proposed discharge, and per 30 TAC § 307.5 (TSWQS) and the TCEQ's IPs, an antidegradation review of the receiving waters was performed that included nutrient screenings. A nutrient screening indicates that no nutrient limitations are warranted at this time and based on Best Professional Judgment (BPJ), no limit is needed.

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

The second component of the ED's technical review involved WQD staff on the Modeling Team performing water quality modeling to assess effluent limits required to protect the aquatic life uses of the receiving waterbodies. The proposed permit's water quality-related effluent limits, established by the Modeling Team's QUAL-TX modeling results, will maintain and protect the existing instream uses. Similarly, conventional effluent parameters such as minimum dissolved oxygen (DO), Five-day Carbonaceous Biochemical Oxygen Demand (CBOD₅), Total Suspended Solids (TSS), and Ammonia Nitrogen (NH₃-N), are based on stream standards and waste load allocations for water quality-limited streams as established in the TSWQS and the State of Texas Water Quality Management Plan.

Based on model results, the effluent limits below are predicted to be **necessary** to maintain dissolved oxygen level above the criteria stipulated by the Standards Implementation Team for West Prong Whites Creek is high aquatic life use and 5.0 mg/L dissolved oxygen.

0.20 MGD phase: 10 mg/L CBOD₅, 3 mg/L NH₃-N, and 4.0 mg/L DO
0.40 MGD phase: 10 mg/L CBOD₅, 3 mg/L NH₃-N, and 6.0 mg/L DO
1.40 MGD phase: 7 mg/L CBOD₅, 2 mg/L NH₃-N, and 5.0 mg/L DO

Coefficients and kinetics used in the model are a combination of estimated and standardized default values and values derived from the waste load evaluation. The results of this evaluation can also be reexamined upon receipt of information that conflicts with the assumptions employed in this analysis.

Based on the TCEQ Water Quality Assessment model results, total phosphorus (TP) from this facility was not a concern based on characteristics of the receiving waters. These characteristics include an intermittent stream with relatively heavy shading from tree canopy, mud or sand bottom, and turbid waters, which are not typically conducive to increased algal growth; similar facilities that discharge to the same receiving waters do not have TP limits. This preliminary determination can be reexamined and may be modified if new information is received.

COMMENT: 3:

Nancy Jan Shaw, Tracie Zweifel-Gibson, Ryan Gibson, Jennifer Null, Lee Dahlen, Deb Dahlen, Kristen Cooley, Mike Lauerhahs, Val Lauerhahs, Kyle, Henrichsen, Katricia Navarrete, Erica Northrup, and David G. Sileven stated that they had concerns regarding the draft permit's potential health impacts.

RESPONSE 3:

The health concerns of area residents, as well as those of the public, are considered in reviewing applications for domestic wastewater discharge permits. The TCEQ takes the concerns and comments expressed by the public, relating to human health, water quality, and protecting the State's rivers and lakes, into consideration in deciding whether to issue a wastewater discharge permit.

Chapter 26 of the TWC and TCEQ's water quality rules are written for the protection of public health, aquatic life, and the environment. Accordingly, the stated policy of both the Water Code and the TSWQS is:

to maintain the quality of water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, and the operation of existing industries, taking into consideration the economic development of the state; to 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 require the use of all reasonable methods to implement this policy.¹

The proposed permit also requires the Applicant to "take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health.

WQD staff evaluated the application as an authorization to discharge treated wastewater into water in the State. Thus, the quality of the discharge and method of achieving that quality must follow the Federal Clean Water Act, TWC, and the TSWQS.

The TSWQS is a primary mechanism for the TCEQ to protect human health,

¹ Texas Water Code § 26.003 and 30 TAC § 307.1.

surface and groundwater quality, aquatic life, the environment, and specifically, the designated uses of the receiving waters. The TSWQS require that discharges not cause surface waters to be toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals, not degrade receiving waters, and not result in situations that impair existing, attainable, or designated uses. Likewise, the TPDES program mandates that discharges of treated effluent into water in the state from facilities regulated by TPDES permits meet the requirements of the TSWQS.

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

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

This is because the methodology outlined in the TCEQ IPs 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.

WQD Staff drafted the proposed permit to preclude significant degradation of water quality in the waterbodies in the route of the proposed discharge by including effluent limits and monitoring requirements designed to ensure protection of the waterbodies according to the TCEQ rules and procedures.

According to the TCEQ rules, the plans and specifications of the plant design must comply with 30 TAC Chapter 217, relating to "Design Criteria for Domestic Wastewater Systems." The Applicant is required at all times to ensure that the Treasure Island facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Consequently, health impacts from pests should not occur. Nearby residents' quality of life is protected by the fact that the Applicant is only authorized to discharge according to the limitations, monitoring requirements, and other conditions listed in the proposed permit.

Additional protection of human health comes from the rule in 30 TAC § 309.3(g)(1) (Disinfection), which requires disinfection of domestic wastewater into water in the state in a manner conducive to the protection of both public health and aquatic life. The rules do not mandate a specific method of disinfection, as a permittee may disinfect domestic wastewater through use of 1) chlorination, 2) ultra-violet light, or 3) an equivalent method of disinfection with prior approval from the ED. Whichever

form is used, the design criteria for chemical disinfection by chlorine, including safety requirements, in 30 TAC Chapter 217, Subchapter K must be observed. Therefore, in accordance with the TCEQ rules (30 TAC § 309.3(g)(1)), the proposed permit requires the treated effluent to be disinfected prior to discharge in a manner conducive to protect both the public health and aquatic life.

For this facility, the Applicant has chosen chlorine disinfection. Chlorination may be via gaseous, liquid, or tablet forms. Chlorine is one of the most practical and effective means of disinfection because it can kill disease-causing bacteria and nuisance organisms and can eliminate certain noxious odors during disinfection.² The effluent from the Wilco facility, disinfected with chlorine, must contain a chlorine residual of at least 1.0 mg/L. The permit limit for maximum total chlorine residual is 4.0 mg/L after a detention time of at least 20 minutes (based on peak flow), which must be monitored five times per week by grab sample.³

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

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

COMMENT: 4:

Kristen Cooley, Candice Barnard, Joanna Hasselman, Katricia Navarrete, Bobby Boatman, Ann Barnard, expressed concerns about the draft permit's potential impact on livestock, wildlife, and migratory birds.

RESPONSE 4:

The TSWQS in 30 TAC 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.⁴ The effluent limits in the draft permit are set to maintain and protect the existing instream uses.

The proposed draft permit was developed in accordance with the TSWQS to be protective of water quality, provided that the Treasure Island 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 TAC Chapter 307).

Specifically, the methodology is designed to ensure that no source will be

² U.S. EPA *Wastewater Technology Fact Sheet- Chlorine Disinfection* (EPA 832-F-99-062)

³ The Vantage Austin, LLC Draft Permit, Effluent Limitations and Monitoring Requirements, p.2; *see also* 30 TEX. ADMIN. CODE § 309.3(G)(2)

⁴ 30 TEX. ADMIN. CODE § 307.6(b)(4).

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. In order 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.

The ED has made a preliminary determination that the draft permit, if issued, meets all statutory and regulatory requirements regarding impacts to these organisms. The TCEQ also submitted the draft permit to the U.S. Environmental Protection Agency (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 the Treasure Island's permit application.

Regarding impacts on migratory birds, 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, or consumption of water. The TCEQ does not have specific water-quality based effluent limitations for water consumed by wildlife, however, the TCEQ Water Quality Assessment Section has determined that the draft permit meets the requirements of the TSWQS, which are established to protect human health and terrestrial and aquatic life. Aquatic organisms are more sensitive to water quality components than terrestrial organisms; therefore, terrestrial wildlife would not be negatively impacted by the discharge from this facility if the applicant maintains and operates the facility in accordance with TCEQ rules and the provisions in the permit.

COMMENT: 5:

Kim Siedelmann, Justin Powers, Tonya Bingham, Stefanie Hauser, James Anthony Grisolia, Chandler Ladd, Edgar J. Gauer, Paige Hamilton, Kim Reed, Lon Reed, Tracie Zweifel-Gibson, Ryan Gibson, and Kenda R Blackshear provided comments of general opposition to the permit.

RESPONSE 5:

The ED acknowledges the comments in opposition to the proposed permit.

However, the TCEQ is statutorily mandated by TWC § 26.028 (Action on Application) to begin processing applications for TPDES permits, when it receives the application, and to issue notices to the public of the TCEQ's processing of the application. Likewise, TWC § 26.027 makes clear that the TCEQ may issue permits for discharges into Water in the State through the ED's evaluation of TPDES permit applications using the information provided in the application and recommending permit issuance or denial, based on the application's compliance with the TWC, TCEQ rules, and the TSWQS (30 TAC Chapter 307).

The applicant is the entity that proposes the location of the WWTF, the discharge point, and the route for the proposed discharge, rather than the ED. Instead, the ED may only evaluate a location for a WWTF according to what is proposed in the application, the Location Standards of the TCEQ rules, and the impact of the discharge on the WQ uses of the receiving streams starting at the outfall. Likewise, the TCEQ's WQ authority does not include the ability to mandate a different location for a WWTF, if the location in the application complies with 30 TAC Chapter 309, Subchapter B (Location Standards), specifically 30 TAC § 309.13 pertaining to "Unsuitable Site Characteristics" for a discharge facility.

If an applicant were to revise its application with a different location and discharge route for a WWTF, the ED would reevaluate the new location and discharge route to make sure that the permit contains proper limits and conditions for the revised discharge route and location, which may require notice to additional landowners because of the new location and discharge route.

Texas' WQ control regime, Chapter 26 of the TWC, does not, nor does TCEQ's regulatory authority, limit who can apply for a TPDES permit. The rules related to applications for TCEQ authorizations for business entities require registration to do business in Texas with the Texas Secretary of State. The TCEQ rules related to operating a WWTF, found at 30 TAC Chapter 30 (Occupational Licenses and Registrations), do not require an Applicant to have previous experience in operating a WWTF. Other Requirement No.1 of the proposed permit provides that the Applicant must employ or contract with one or more licensed WWTF operators, or companies specializing in Wastewater System operations, holding a valid license or registration according to the requirements of 30 TAC Chapter 30, specifically subchapter J (Wastewater Operators and Operations Companies).

COMMENT 6:

Justin Powers, Jim Dubois, Jennifer Lynn Nowakowski, Jim Jerome, and Lee Thomas expressed concerns about the proposed facility's future growth and plant's capacity to process wastewater.

RESPONSE 6:

The Application states in the Domestic Technical Report, Worksheet 1.1 in the application, in September 2035, there will be total 3,060 single family units, 1,500 apartment units, and 6 commercial connections. For design purposes, the wastewater flow for residential and apartment connections is 300 gallons per day per connection (gpd/conn) and 185 gpd/conn, respectively, which is equivalent to 1,400,000 gpd (1.40 MGD) for total 4,566 connections. This information is also necessary so that the Applicant can plan for expansion of the proposed facility because whenever flow measurements for the proposed facility reach 75% of the permitted daily average or annual average flow for three consecutive months, the Applicant must initiate engineering and financial planning for expansion or upgrading the proposed facility. Whenever the flow reaches 90% of the permitted daily average or annual average flow for three consecutive months, the Applicant must obtain authorization from the TCEQ to commence construction of the necessary additional treatment or collection

facilities. These two rules are known as the “75/90 rules.”⁵

The operational requirements of any existing facility specify that whenever flow measurements for any domestic wastewater treatment facility reach 75 percent of the permitted daily average flow for three consecutive months, the permittee must initiate engineering and financial planning for expanding and/or upgrading the domestic wastewater treatment and/or collection facilities.

COMMENT 7:

Justin Powers, Nancy Jan Shaw, Brandy Marie Schoener, Mark S. McKinney, and Bobby Boatman expressed concerns about the suitability of the discharge route and its ability to handle effluent.

RESPONSE 7:

TCEQ does not have the authority to mandate a different discharge location or discharge route of the wastewater treatment plant if the applicant’s proposed discharge location and discharge route comply with the TWC Chapter 26 and 30 TAC Chapter 309, relating to “Domestic Wastewater Effluent Limitations and Plant Siting.” The TCEQ does not have jurisdiction over zoning.

The discharge route is reviewed and approved by the Water Quality Standards Reviewer based on the information provided in the application. The application requires specific coordinates for the proposed outfall location. Based on the coordinates and maps submitted with the application the discharge route is traced using mapping tools. The proposed discharge route is “to West Prong Whites Creek, thence to Whites Creek, thence to East Fork Trinity River above Lake Lavon, thence to Lake Lavon in Segment No. 0821 of the Trinity River Basin”.

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

COMMENT 8:

Jim Dubois, Katrina Lynn Arsenault, Tonya Bingham, Nancy Jan Shaw, Emily W. Rogers (City of Van Alstyne), Joanna Hasselman, James Anthony Grisolia, Laruen J. Kalisek (NTMWD), Greg Bates, Tracie Zweifel-Gibson, Ryan Gibson, Kyle Henrichsen, Andrew Harlow, Mary Taylor, Lee Dahlen, Deb Dahlen, Katricia Navarrete, Natasha Welborn, Greg Peters (City of Anna), Mark S. McKinney, John Spies, Jennifer Lynn Nowakowski, Angelica Pena, Bobby Boatman, Ryan Coleman, Erica Northrup, Jim Jerome, Jim Atchison (Mayor of Van Alstyne), Charlie Tuttle, Lee Thomas, Whitney Holmes, Mark Houser, David G. Sileven, Len McManus (Engr City of VA), Jeff Whitmire (Grayson County), John Mosby, and Lane H. Jones provided comments and questions related to regionalization.

⁵ 30 TEX. ADMIN. CODE § 305.126(a).

RESPONSE 8:

Under section 26.081 of the Texas Water Code, the TCEQ must “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.” Additionally, section 26.0282 of the Texas Water Code provides the following:

In considering the issuance, amendment, or renewal of a permit to discharge waste, the commission may deny or alter the terms and conditions of the proposed permit, amendment, or renewal based on consideration of need, including the expected volume and quality of the influent and the availability of existing or proposed areawide or regional waste collection, treatment, and disposal systems not designated as such by commission order pursuant to provisions of this subchapter. This section is expressly directed to the control and treatment of conventional pollutants normally found in domestic wastewater.

The ED evaluates regionalization inquiries when an applicant files an application for a new permit or an application for a major amendment to an existing permit to increase flow. In these instances, if there is a wastewater treatment facility or collection system within three miles of the proposed facility, the applicant is required to provide information to the ED as to whether the nearby facility has sufficient existing capacity to accept the additional volume of wastewater proposed in the application. If such a facility exists and it is willing to accept the proposed waste, the applicant must provide an analysis of expenditures required to connect to the existing wastewater treatment facility. Additionally, the applicant is required to provide copies of all correspondence with the owners of the existing facilities within three miles of the proposed facility regarding connecting to their systems.

TCEQ’s policy on regionalization does not require the agency to deny a wastewater discharge application on the basis that there is a pending application for a regional plant within three miles of a proposed facility. Additionally, the fact that a facility or collection system is located within three miles of a proposed facility is not an automatic basis to deny an application. For example, the ED has approved new discharges or major amendments to increase flow in situations where the applicant has provided an economic justification by demonstrating that connecting to the existing facility would be prohibitively expensive.

On page 22 of the Domestic Technical Report 1.1 in the application, the Applicant answered that there is one (1) domestic wastewater treatment facilities or collection systems located within three (3) miles of the proposed facility. On July 27, 2021, the Applicant mailed a certified letter requesting service to ‘The City of Howe and Howe Commercial Ltd’ public sewer supply system within the 3-mile radius. According to the Applicant, there was no response from ‘The City of Howe and Howe Commercial Ltd’. Accordingly, the ED concluded that the Applicant’s draft permit in this case is consistent with the Commission’s regionalization policy.

COMMENT 9:

Emily W. Rogers, Candice Barnard, Joanna Hasselman, Jim Dubois, Katrina Lynn Arsenault, Nancy Jan Shaw, Jim Jerome, Mary Taylor, Lanisha Weaver, Matt Grisolia,

Ricky Bourland, John Spies, and John Mosby expressed concerns regarding the draft permit and development's potential impacts on groundwater and local aquifers.

RESPONSE 9:

In regard to concern for groundwater, Texas Water Code § 26.401(b) provides that “it is the goal of groundwater policy in this state that the existing quality of groundwater not be degraded.” Under TWC § 26.401(c)(1), it is the State of Texas’s policy that “discharges of pollutants, disposal of wastes, or other activities subject to regulation by state agencies be conducted in a manner that will maintain present uses and not impair potential uses of groundwater or pose a public health hazard.” The TCEQ has the responsibility to regulate the discharges of pollutants into water in the state. The Executive Director has determined that if a permit is protective of surface water quality, groundwater quality in the vicinity will not be impacted by the discharge.

The Executive Director has determined that the draft permit is in accordance with the 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 Executive Director 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 intended to maintain the existing uses of the surface waters and preclude degradation will also protect groundwater. Regarding the potential for groundwater contamination, the proposed permit amendment includes effluent limits and monitoring requirements for five-day carbonaceous biochemical oxygen demand, total suspended solids, ammonia nitrogen, *E. coli*, dissolved oxygen, chlorine residual, and pH to ensure that the wastewater treatment facility meets state and federal water quality standards for the protection of surface water quality, groundwater, and human health.

COMMENT 10:

Emily W. Rogers, Candice Barnard, Katrina Lynn Arsenault, Neal Hunter, Nancy Jan Shaw, Richard Linnebur, Carolyn Fleck, John McCrary, Christy McCrary, Natasha Welborn, and Jim Atchison (Mayor of Van Alstyne) stated they are concerned that the draft permit could negatively impact the local drinking water sources and aquifers. They also provided comments regarding concerns they have about the source of the development's water supply.

RESPONSE 10:

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

COMMENT 11:

Emily W. Rogers (City of Van Alstyne), Bobby Boatman, Natasha Welborn, Jim Jerome, and David G. Sileven requested information regarding the applicant's

compliance history and experience as a facility operator.

RESPONSE 11:

During the technical review of the application, TCEQ reviewed Treasure Island's compliance history according to the rules in 30 TAC Chapter 60. The compliance history is reviewed for the company and site for the five-year period prior to the date the permit application was received by the Executive Director. The compliance history includes multimedia compliance-related components about the site under review. These components include the following: enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emissions events, investigations, notices of violations, audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs and early compliance.

A company and site may have one of the following classifications and ratings:

1. a ***high performer classification***, has a rating of fewer than 0.10 points and is considered to have an above-satisfactory compliance record;
2. a ***satisfactory performer classification***, has a rating between 0.10 points to 55 points and is considered to generally comply with environmental regulations; or
3. an ***unsatisfactory performer classification***, has a rating above 55 points and is considered to perform below minimal acceptable performance standards established by the commission.⁶

This permit application is for a new permit and as such there is no compliance history report available for this applicant.

The draft permit includes several permit provisions to ensure the proper operation of the facility. For example, Operation Requirement No. 1, which requires the Applicant to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained at all times; Operational Requirement No. 9, which requires that domestic wastewater treatment plants to be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined by 30 TAC Chapter 30; and Other Requirement No. 1, which requires Applicants to employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration according to the requirements of 30 TAC Chapter 30, Occupational Licenses and Registrations, and in particular 30 TAC Chapter 30, Subchapter J, Wastewater Operators and Operations Companies.

This Category C (Interim I and II phases) and Category B (Final phase) facility must be operated by a chief operator or an operator holding a Class C license or higher in the Interim I [0.2 MGD] and II [0.4 MGD] phases and Class B license or higher in the Final [1.4 MGD] phase. 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

⁶ 30 TEX. ADMIN. CODE § 60. 2 (Compliance History Classification).

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.

All of these permit provisions are designed to help prevent unauthorized discharges of raw sewage. If an unauthorized discharge occurs, the Applicant is required to report it to TCEQ within 24 hours.

If anyone experiences any 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.

COMMENT 12:

Richard Linnebur, Carolyn Fleck, and Neal Hunter provided comments stating that the adjacent landowners list for the application was incorrect.

RESPONSE 12:

To the ED's knowledge, the applicants provided all the affected landowner information required by section 1 in the application's attachment F, the adjacent landowners map, and attachment C, the adjacent landowner list, both of which were supplemented in a filing dated January 18, 2022. The Treasure Island has provided a total of 44 landowners in the application as part of the requirement.

Additionally, TCEQ's notice rules for a new permit or major amendment require mailed notice of the NORI and NAPD to landowners named on the application map and persons on the mailing list maintained by the Office of the Chief Clerk.⁷ The applicant is required to submit a landowner map as part of the application materials. The landowner map must include the property boundaries of landowners surrounding the applicant's property and the property boundaries of all landowners surrounding the discharge point and on both sides of the discharge route for one full stream mile downstream of the discharge point. The landowner map provided by the Treasure Island did indicate 'Mr. Richard Linnebur' as being an adjacent landowner. However, Carolyn Fleck, and Neal Hunter were not listed as landowners. Therefore, they were not included on the mailing list for the NORI. Any persons who submit a comment or contested case hearing request prior to the end of the public comment period are added to the mailing list for that permit action.

In accordance TCEQ's notice rules, two public notices were published for the submitted application. The Treasure Island published the NORI in *The Dallas Morning News* on March 9, 2023, and the NAPD in *The Dallas Morning News* on August 12, 2023.

COMMENT 13:

Jim Dubois, Katrina Lynn Arsenault, James Anthony Grisolia, Tracie Zweifel-Gibson, Ryan Gibson, Jennifer Null, Wilson Taylor, Lee Dahlen, Deb Dahlen, and Charlie Tuttle raised concerns about the draft permit's potential to create nuisance odors.

⁷ See 30 TEX. ADMIN. CODE §§ 39.413, 39.418, 39.419, and 39.551.

RESPONSE 13:

All wastewater treatment facilities have the potential to generate odors. To control and abate odors TCEQ rules require domestic WWTPs to meet buffer zone requirements for the abatement and control of nuisance odor according to 30 TAC § 309.13(e), which provides three options for applicants to satisfy the nuisance odor abatement and control requirements. The Treasure Island 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 Treasure Island; or 3) providing nuisance odor control.⁸

According to its application, the Treasure Island 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.⁹ This requirement is incorporated in the draft permit.¹⁰ 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, the Treasure Island proposes in its application that the Treasure Island WWTP will be an activated sludge process plant operated in the extended aeration 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 the Treasure Island 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 14:

James Anthony Grisolia expressed concerns about the draft permit's impact on air quality.

RESPONSE 14:

TCEQ is the state agency that is responsible for enforcing air pollution laws. Certain types of facilities have been found to not make significant contributions of air contaminants to the atmosphere. Such facilities are permitted by rule under the Texas Clean Air Act, found in Chapter 382 of the Texas Health and Safety Code, and TCEQ air quality rules. Wastewater treatment facilities performing only the functions listed in 30 TAC § 106.532 are permitted by rule. That includes domestic facilities, like the

⁸ 30 TEX. ADMIN. CODE § 309.13(e).

⁹ Treasure Island Permit Application, Administrative Report, 1.1, Item No. 2(b), page 2, and Attachment E.

¹⁰ Treasure Island Draft Permit, Other Requirements, Item No. 4, page 34.

proposed facility in this case. Pursuant to section 382.057 of the Texas Health and Safety Code, the activities listed in 30 TAC § 106.532 have been reviewed and determined not to make a significant contribution of air contaminants to the atmosphere.

COMMENT 15:

Laruen J. Kalisek (NTMWD), and Mary Taylor provided comments regarding the draft permit's compliance with TCEQ's rules, specifically regarding the requirements of 30 TAC Chapters 21, 39, 281, and 305.

RESPONSE 15:

The ED has reviewed the draft permit and has determined that it complies with all applicable rules and statutes, including the requirements of 30 TAC Chapters 39, 281, and 305. Chapter 21, relating to water quality fees, is not part of the review process for a TPDES permit.

COMMENT 16:

Winter Morris stated that the GPS link provided in the notices was not functioning properly.

RESPONSE 16:

The TCEQ included the link to an electronic map showing the facility's general location. This link was provided in the Notice of Receipt of Application and Intent to Obtain Water Quality Permit (NORI) and Notice of Application and Preliminary Decision (NAPD) as a public courtesy and is not part of the application or notice.

<https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=db5bac44afbc468bbddd360f8168250f&marker=-96.631606%2C33.455858&level=12>

According to the application the location of the proposed facility is:

'approximately 0.81 of a mile northeast of the intersection of Farmington Road and Hodgins Road, in Grayson County, Texas 75495'.

COMMENT 17:

Laura Mitchell expressed concerns about a MUD application and the possibility that it will be serviced by the proposed treatment facility.

RESPONSE 17:

District creation is not part of the review process for wastewater applications. The Commission reviews district creations separately from TPDES authorizations and will not take a district creation into consideration when determining if a TPDES permit should be issued.

COMMENT 18:

Kyle Henrichsen, Kristen Cooley, Jenny Vonbehren, Joanna Hasselman, Lanisha Weaver, and Charlie Tuttle expressed concerns about the draft permit's environmental impacts.

RESPONSE 18:

Treated effluent discharged into water in the state from a facility regulated under the Texas Pollutant Discharge Elimination System is required to meet the Texas Surface Water Quality Standards, which can be found in title 30, chapter 307 of the Texas Administrative Code. The Standards and other applicable state and federal rules are protective of aquatic life, human health, and the environment, including the receiving waters' designated uses. In this case, that includes the designated uses for Segment No. 0821 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. The proposed permit was drafted to ensure that the effluent limits and conditions meet the Texas Surface Water Quality Standards. The TCEQ does not anticipate that pollutants in the treated effluent will have an adverse effect on the receiving waters or their designated uses under the proposed permit's terms.

The ED has determined that the proposed permit is protective of the environment, water quality, aquatic life, and human health and that it will meet the applicable TCEQ rules and requirements if Treasure Island facility operates and maintains the facility as required by the proposed permit and TCEQ rules. However, if you believe the facility is not operating in accordance with its permit and TCEQ rules, you can report complaints about the facility, including but not limited to complaints about odor, to the TCEQ using the contact information provided above in section I.C. Noncompliance with the permit may result in enforcement action against Treasure Island.

COMMENT 19:

Kristen Cooley, and John Mosby provided comments in which they raised concerns about the draft permit's impact on aquatic life.

RESPONSE 19:

The proposed permit was drafted in accordance with 30 TAC § 307.5 and the TCEQ *Procedures for the Implementation of the Texas Surface Water Quality Standards* (June 2010). The Texas Surface Water Quality Standards provide that surface waters cannot be toxic to aquatic or terrestrial organisms.¹¹ While the TSWQS and the IPs do not specifically designate criteria for the protection of cattle or livestock, they do designate criteria for the protection of aquatic life that should preclude negative impacts to the health and performance of cattle or wildlife.

The draft permit was developed to protect aquatic life and human health in accordance with the TSWQS. As part of the application review process, TCEQ must determine the uses of the receiving water and set effluent limitations that are protective of those uses, including aquatic and terrestrial life uses. The Commission does not have specific water-quality based effluent limitations for cattle. However, the Executive Director has determined that the proposed draft permit for the facility meets the requirements of the TSWQS, which are established to protect human health, terrestrial, and aquatic life. Aquatic organisms are more sensitive to water quality components than terrestrial organisms.

The draft permit includes effluent limits and monitoring requirements for CBOD₅, TSS, NH₃-N, DO, *E. coli*, chlorine residual, and pH to ensure that discharges

¹¹ 30 TEX. ADMIN. CODE § 307.4.

from the proposed wastewater treatment plant meet water quality standards for the protection of surface water, groundwater, and human health in accordance with TCEQ rules and policies. The proposed draft permit includes requirements for the disposal of domestic sludge generated from the WWTF based on TCEQ rules. The Executive Director expects that human health, and the environment will be protected if Treasure Island operates and maintains the facility as permitted and in accordance with TCEQ rules. Any noncompliance with the terms of the draft permit could result in an enforcement action against the Treasure Island.

COMMENT 20:

Kristen Cooley, a Concerned Citizen, Charlie Moster, John McCrary, Christy McCrary, Jennifer Lynn Nowakowski, and Jenny Vonbehren requested that the applicant pursue alternative means of treating the wastewater.

RESPONSE 20:

The TCEQ does not have the authority to mandate the method of disposal of treated effluent if the applicant adheres to the rules and provisions under TWC Chapter 26 and 30 TAC Chapters 217, 305, 307 and 309.

COMMENT 21:

Nancy Jan Shaw and Lanisha Weaver provided comments in which they expressed concerns about negative economic impacts.

RESPONSE 21:

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

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

COMMENT 22:

Katrina Lynn Arsenault, Candice Barnard, Jennifer Lynn Nowakowski, and Jim Jerome requested information about how TCEQ would measure compliance and how TCEQ's enforcement procedures would work should the applicant violate the terms of the permit.

RESPONSE 22:

The draft permit contains multiple requirements related to preventing unauthorized discharges at the proposed facility. For example, Permit Condition No. 2.g prohibits unauthorized discharges, Operational Requirement No. 1 requires the permittee to properly operate and maintain the facility at all times, and Operational Requirement No. 4 requires the permittee to install safeguards that will prevent the discharge of untreated wastewater during a power failure. Under Monitoring and Reporting Requirement No. 1, the Applicant must submit their effluent test results to

TCEQ each month. If an unauthorized discharge that endangers human health or the environment occurs, the Applicant is required to report it to TCEQ within 24 hours under Monitoring and Reporting Requirement No. 7. This must be followed up by a written report within five working days that includes a description of the potential danger to human health and the environment, the timeframe for when the problem will be corrected, and the steps the Applicant will take to mitigate any damage and prevent this type of problem from reoccurring. Failure to comply with TCEQ rules or the permit may subject the Applicant to enforcement action.

TCEQ's Office of Compliance and Enforcement ensures ongoing compliance with applicable state and federal regulations. As part of that responsibility, the Region 4 Dallas Office is required to conduct a mandatory comprehensive compliance investigation at minor facilities (facilities with a permitted flow of less than 1.0 MGD) once every five fiscal years. Additional mandatory investigations can be required if the facility is considered to be in significant noncompliance with its permit, which is determined by TCEQ's Compliance Monitoring Section and is based on self-reported effluent violations. If citizens observe any unauthorized discharges or other permit violations, the violations can be reported to the Region 4 Office at 817-588-5700. If the proposed facility is found to be out of compliance with the draft permit, the Applicant may be subject to enforcement action. Records relating to the facility are public record and may be accessed at TCEQ's main office at 12100 Park 35 Circle in Austin.

Furthermore, 30 TAC Chapter 319 outlines specific instances in which facility owners are required to notify members of the public in the event of unauthorized discharges as well as sanitary sewer overflows. Under 30 TAC § 319.302(b), the owner of a facility, through its responsible individual, must notify appropriate local government officials and the local media for spills regardless of volume, that the facility owner knows or has reason to know will adversely affect a public or private source of drinking water.

COMMENT 23:

Matt Grisolia and Candice Barnard provided comment stating concerns about how the draft permit could impact agriculture.

RESPONSE 23:

The Texas Surface Water Quality Standards (TSWQS) provide "Water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, or domestic animals, resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. 30 TAC § 307.6(b)(4))" The draft permit was developed in accordance with the TSWQS to be protective of water quality in the receiving waters including waters located downstream of the permitted outfall, provided that Treasure Island operates and maintains the proposed facility according to TCEQ rules and the proposed permit's requirements. To ensure compliance with the TSWQS (30 TAC Chapter 307), the Executive Director follows the methodology outlined in the *Procedures to Implement the Texas Surface Water Quality Standards* (IPs; June 2010).

Specifically, the methodology is designed to ensure that no facility will be allowed to discharge 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. Compliance with the TSWQS ensures protection of the existing uses of the receiving waters, including agriculture and crops.

COMMENT 24:

Matt Grisolia, Jim Jerome, Erica Northrup, and John Whitmire provided comments expressing concerns about how PFAS and pharmaceuticals would be treated if they are received in the water treatment facility.

RESPONSE 24:

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 in wastewater. So, while the EPA and other agencies continue to study the presence of PFAS, there is currently no clear regulatory regime available to address the treatment of PFAS in domestic wastewater.

COMMENT 25:

Charlie Tuttle expressed concerns about the proposed facility generating noise and its aesthetic impact on the local community.

RESPONSE 25:

TCEQ's jurisdiction over the permitting process is established by the Texas Legislature and is limited to controlling the discharge of pollutants into and protecting the quality of water in the state. Pursuant to TCEQ's rules under 30 TAC Chapter 309, Subchapter B, the TCEQ has the authority to condition the issuance of a wastewater discharge permit on the selection of a site that minimizes certain nuisance conditions. However, the TCEQ does not have the authority to address concerns about noise pollution and its aesthetic impact on the local community when determining whether to grant a discharge permit application. The draft permit does not limit the ability of an individual to seek legal remedies against the applicant regarding any potential trespass, nuisance, or other cause of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

COMMENT 26:

Justin Powers, Jim Dubois, Katrina Lynn Arsenault (City Council), Tonya Bingham, Stefanie Hauser, Stefanie Hauser, Nancy Jan Shaw, Emily W. Rogers (City of Van Alstyne), Richard Linnebur, Carolyn Fleck, Neal Hunter, John Spies, Laura Mitchell, Katricia Navarrete, John McCrary, Christy McCrary, Stephen Campeau, Rep. Reggie Smith, Bobby Boatman, Ryan Coleman, Ricky Bourland, Charlie Tuttle, Lee Thomas, Jeff Whitmire (Grayson County), and Lane H. Jones expressed several concerns regarding the draft permit's impact on local infrastructure, including roads, schools, and emergency services.

RESPONSE 26:

TCEQ does not have the authority to address traffic and local infrastructure, including roads, schools, and emergency service concerns as part of the wastewater

permitting process. While the Texas Legislature has given the TCEQ the responsibility to protect water quality, the water quality permitting process is limited to controlling the discharge of pollutants into or adjacent to water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ cannot consider issues such as noise and traffic in the review of a TPDES application. For concerns about traffic, roads, and emergency services please contact Grayson county.

COMMENT 27:

Justin Powers, Candice Barnard, Jim Dubois, Tonya Bingham, Stefanie Hauser, Nancy Jan Shaw, Richard Linnebur, Ryan Coleman, Carolyn Fleck, Neal Hunter, Tracie Zweifel-Gibson, Ryan Gibson, Jennifer Null, Andrew Harlow, Deb Dahlen, Lee Dahlen, Bobby Boatman, and Matt Grisolia expressed concerns about the development project and its impact on population density.

RESPONSE 27:

TCEQ does not have jurisdiction to address these types of issues, such as increasing or decreasing population density in certain areas as part of the wastewater permitting process. While the Texas Legislature has given the TCEQ the responsibility to protect water quality, the water quality permitting process is limited to controlling the discharge of pollutants into or adjacent to water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ cannot consider issues such as property values and a neighborhood's appearance when reviewing wastewater applications and preparing draft permits. However, the draft permit does not authorize any invasion of personal rights or any violation of federal, state, or local laws. It also does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation, or use and enjoyment of property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

COMMENT 28:

Justin Powers, Crystal DeBacker, Katrina Lynn Arsenault, Nancy Jan Shaw, Wilson Taylor, Katricia Navarrete, John McCrary, Mike Lauerhahs, Val Lauerhahs, Christy McCrary, Stephen Campeau, Rep. Reggie Smith, Erica Northrup, Charlie Tuttle, Lee Thomas, David G. Sileven, and James Watson stated that the development project and proposed facility would have an impact on taxes and property values.

RESPONSE 28:

TCEQ does not have the authority to address these types of issues such as increasing taxes and property values as part of the wastewater permitting process. TWC Chapter 26 and applicable wastewater regulations do not authorize the TCEQ to consider issues such as aesthetics, traffic, noise, light pollution, or property values. The water quality permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ does not have jurisdiction under the Texas Water Code or its regulations to address or consider property values or the marketability of adjacent property when determining whether to approve or deny a permit application. Additionally, the TCEQ does not have the authority to address concerns about the

impact of the facility on the economy, businesses, tourism, or the resale of homes as part of the wastewater permitting process. The scope of the TCEQ's regulatory jurisdiction does not affect or limit the ability of a landowner to seek relief from a court in response to activities that interfere with landowner's use and enjoyment of his property.

COMMENT 29:

Jim Dubois, Nancy Jan Shaw, Kim Reed, Lon Reed, Candice Barnard, Rich Borel, Renae Borel, Richard Linnebur, Carolyn Fleck, Bill Morrison, Wilson Taylor, Katricia Navarrete, Mark S. McKinney, Bobby Boatman, Erica Northrup, and Ann Barnard provided comments stating that they are concerned that the draft could contribute to flooding and erosion.

RESPONSE 29:

The ED encourages the participation of all individuals in the environmental permitting process. However, there are certain concerns of individuals that the TCEQ cannot address in the review of a wastewater discharge permit, as the scope of the ED's jurisdiction in a TPDES application is limited to the issues set out by statute. The 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.

While the Texas Legislature has given the TCEQ the responsibility to protect water quality, and section 26.027 of the Texas Water Code (TWC) authorizes the TCEQ to issue permits to control the discharge of wastes or pollutants into state waters and to protect the water quality of the state's rivers, lakes and coastal waters, and the proposed permit establishes terms and conditions that are intended to provide water quality pollution control, which focuses on controlling the discharge of pollutants into water in the state, the ED through his Water Quality Division (WQD) has no jurisdiction to address flooding or erosion issues in the wastewater permitting process, which is limited to controlling the discharge of pollutants into waters in the state and protecting the water quality of the state's waterbodies.

While the TCEQ does not have jurisdiction to regulate flooding in the context of a wastewater discharge permit to the extent that a concern over flooding also involves water quality, the Applicant is always required to comply with all the numeric and narrative effluent limitations and other conditions in the proposed permit, including during flooding conditions. Likewise, the proposed permit includes effluent limits and other requirements that the Applicant must meet even during rainfall events and periods of flooding. According to the application, the Treasure Island facility will be located above the 100-year flood plain. For additional protection, the proposed permit includes Other Requirement No. 4, which requires the Applicant to provide protection for the facility against a 100-year flood event.

For flooding concerns, please contact the local floodplain administrator for this area. If you need help finding the local floodplain administrator, please call the TCEQ Resource Protection Team at (512) 239-4691. For Grayson County Floodplain Management call 903-813-5275. Additionally, the Federal Emergency Management Agency (FEMA) has programs designed to mitigate damage caused by flooding, that can be found at the following website: <https://www.fema.gov/floodplain-management>.

The issuance of a permit by TCEQ does not authorize any injury to persons or property or an invasion of others property rights. In addition, the scope of TCEQ's regulatory jurisdiction does not, nor does the proposed permit, limit the ability of nearby landowners to seek relief from a court or use common law remedies in response to trespass, nuisance, other causes of action in response to activities that may or do interfere with the use and enjoyment of their property, or that may or do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property. If the Applicant's activities create any nuisance conditions, TCEQ may be contacted to investigate whether a permit violation has occurred.

COMMENT 30:

Nancy Jan Shaw, Michael Geddie, Jennifer Null, Brandy Marie Schoener, Mary Taylor, Wilson Taylor, John McCrary, Joanna Hasselman, Christy McCrary, Kim Reed, Lon Reed, David Stone, Meagan Stone, Jennifer Lynn Nowakowski, and David G. Sileven provided comments in which they expressed their concerns about the draft permit damaging their property.

RESPONSE 30:

TPDES permits establish terms and conditions that are intended to provide water quality pollution control. Therefore, the ED's review of an application for a TPDES permit focuses on controlling the discharge of pollutants into water in the state. In the wastewater permitting process TCEQ does not have the authority to regulate flooding or erosion on the discharge route. The draft permit includes effluent limits and other requirements that it must meet even during rainfall events and periods of flooding. Additionally, according to the application, the proposed facility is located above the 100-year flood plain. For additional protection, the draft permit includes Other Requirement No. 5, which requires the Applicants to provide protection for the facility from a 100-year flood. Finally, the draft permit does not authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. As stated in subsection C of the Background Information (Access to Rules, Laws, and Records), the proposed permit does not limit any landowner's ability to seek private action against the Applicants.

The Texas Surface Water Quality Standards (TSWQS) found in 30 TAC 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, endangering livestock, or domestic animals. The effluent limits in the draft permit are set to maintain and protect the existing instream uses. The draft permit was developed in accordance with the TSWQS to be protective of water quality, provided that Treasure Island facility operates and maintains the proposed facility according to TCEQ rules and the proposed permit's requirements. The methodology outlined in the *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010) is designed to ensure compliance with the TSWQS (30 TAC 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. Considering overflow, the facility's design will undergo

further review during the Plans and Specifications Team's review under section 217.6 of TCEQ's rules, which must be completed prior to facility construction. The facility has been designed to serve a certain number of connections, so excessive inflows should not be an issue. To ensure the facility will continue to have sufficient capacity as its customer base grows, Operational Requirement No. 8 of the draft permit will require the applicants to start planning a facility expansion when the facility reaches 75% of its capacity and obtain authorization to construct the facility expansion when it reaches 90% of its capacity.

In addition, the draft permit does not limit any affected person's ability to seek legal remedies against the Applicant regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that interfere with the normal use and enjoyment of property. If anyone experiences nuisance odor conditions or any other suspected incidents of noncompliance with the permit or TCEQ rules, they may 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.

COMMENT 31:

Candice Barnard requested information about whether an Environmental Impact Statement or "study" has been done.

RESPONSE 31:

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 major, federal action. This wastewater treatment facility is not a federal action and therefore an EA is not required.

III. CHANGES MADE TO THE PERMIT IN RESPONSE TO COMMENT

No changes to the draft permit have been made in response to public comments.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel
Executive Director

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 August 9, 2024, the Executive Director's Response to Public Comment for Permit No. WQ0016092001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.

A handwritten signature in cursive script, appearing to read "Harrison Cole Malley", written in black ink.

Harrison Cole Malley, Staff Attorney
State Bar No. 24116710