

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 29, 2024

TO: All interested persons.

RE: Cedar Creek MH, LLC
TPDES Permit No. WQ0016303001

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 Bastrop County Public Library, 1100 Church Street, Bastrop, Texas.

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

How to Request a Contested Case Hearing.

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

The request must include the following:

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

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

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

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

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

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

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

Deadline for Submitting Requests.

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

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

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

Processing of Requests.

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

How to Obtain Additional Information.

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

Sincerely,

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

Laurie Gharis
Chief Clerk

LG/cb

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
Cedar Creek MH, LLC
TPDES Permit No. WQ0016303001

The Executive Director has made the Response to Public Comment (RTC) for the application by Cedar Creek MH, LLC for TPDES Permit No. WQ0016303001 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 (WQ0016303001) 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 Bastrop County Public Library, 1100 Church Street, Bastrop, Texas.



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas reduciendo y previniendo la contaminación

29 de agosto de 2024

TO: Todas las personas interesadas.

RE: Cedar Creek MH, LLC
TPDES Permit No. WQ0016303001

Decisión del Director Ejecutivo.

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

Se adjuntan a esta carta las instrucciones para ver en Internet la Respuesta del Director Ejecutivo al Comentario Público (RTC). Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a chiefclk@tceq.texas.gov. Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios públicos, están disponibles para su revisión en la Oficina Central de TCEQ. Además, una copia de la solicitud completa, el borrador del permiso y la decisión preliminar del director ejecutivo están disponibles para ver y copiar en Biblioteca Pública del Condado de Bastrop, 1100 Calle Iglesia, Bastrop, Tejas.

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

Cómo solicitar una audiencia de caso impugnado.

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

La solicitud debe incluir lo siguiente:

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

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

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

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

Cómo solicitar la reconsideración de la decisión del Director Ejecutivo.

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

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

Fecha límite para la presentación de solicitudes.

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

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

Procesamiento de solicitudes.

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

Cómo obtener información adicional.

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

Atentamente,



Laurie Gharis
Secretaria Oficial

LG/cb

Recinto

RESPUESTA DEL DIRECTOR EJECUTIVO AL COMENTARIO DEL PÚBLICO
para
Cedar Creek MH, LLC
TPDES Permiso No. WQ0016303001

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de Cedar Creek MH, LLC del permiso de TPDES No. WQ0016303001. Puede ver e imprimir el documento visitando la Base de Datos Integrada de los Comisionados de TCEQ en el siguiente enlace:

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

Para ver el RTC en el enlace anterior, ingrese el número de identificación TCEQ para esta solicitud (WQ0016303001) y haga clic en el botón "Buscar". Los resultados de la búsqueda mostrarán un enlace al RTC.

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

Información adicional

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

Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios, están disponibles para su revisión en la Oficina Central de TCEQ en Austin, Texas. Además, una copia de la solicitud completa, el borrador del permiso y la decisión preliminar del director ejecutivo están disponibles para ver y copiar en Biblioteca Pública del Condado de Bastrop, 1100 Calle Iglesia, Bastrop, Tejas.

MAILING LIST / LISTA DE CORREO
for / para
Cedar Creek MH, LLC
TPDES Permit No. WQ0016303001/ TPDES Permit No. WQ0016303001

FOR THE APPLICANT /
PARA EL SOLICITANTE:

Shelley Young, P.E., Consulting Engineer
WaterEngineers, Inc.
17230 Huffmeister Road, Suite A
Cypress, Texas 77 429

INTERESTED PERSONS /
PERSONAS INTERESADAS:

See Attached List

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

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

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

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

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

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

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

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

ADAMS , SHIRLEY A
164 SALDANA DR
CEDAR CREEK TX 78612-3394

AMBROSE SR , CHAPMAN EDWARD
131 WALKER WATSON RD
BASTROP TX 78602-3170

COOK , DALE
5461 HIGHWAY 71 E
DEL VALLE TX 78617-3253

COOK , VAN L
5547 HIGHWAY 71 E
DEL VALLE TX 78617-3254

COPPALA , KANDICE
TEXAS DEPARTMENT OF TRANSPORTATION
7901 N INTERSTATE 35
AUSTIN TX 78753-6602

GERDES , THE HONORABLE STAN STATE
REPRESENTATIVE
TEXAS HOUSE OF REPRESENTATIVES DISTRICT 17
PO BOX 2910
AUSTIN TX 78768-2910

KILDAY , G DOUGLAS
GRAVES DOUGHERTY HEARON & MOODY
STE 2700
401 CONGRESS AVE
AUSTIN TX 78701-4071

SALEHI , BOBBY M
GRAVES DOUGHERTY HEARON & MOODY PC
STE 2700
401 CONGRESS AVE
AUSTIN TX 78701-4071

SMITH , SHARON J
ARMBRUST & BROWN PLLC
STE 1300
100 CONGRESS AVE
AUSTIN TX 78701-4072

WIER , MR ANDREW
SIMSBORO AQUIFER WATER DEFENSE FUND
321 SAGE RD
BASTROP TX 78602-5652

WIER , MR ANDREW
SIMSBORO AQUIFER WATER DEFENSE FUND
PO BOX 931
ELGIN TX 78621-0931

TPDES Permit No. WQ0016303001

**APPLICATION BY
CEDAR CREEK MH, LLC
FOR TPDES Permit No.
WQ0016303001**

**§
§
§
§**

**BEFORE THE
TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the application by Cedar Creek MH, LLC (Applicant) for a new Texas Pollutant Discharge Elimination System (TPDES) permit No. WQ0016303001 and the Executive Director'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 Executive Director prepares a response to all timely, significant or relevant and material comments. The Office of the Chief Clerk received timely comments from Chapman Edward Ambrose SR, Andrew Weir on behalf of the Simsboro Aquifer Water Defense Fund (SAWDF), Kandice Coppala on behalf of the Texas Department of Transportation (TxDOT), Shirley A. Adams, Douglas Kilday, Bobby Salehi on behalf of the Lost Pines Groundwater Conservation District (LPGCD), Van Cook, and Sharon J. Smith on behalf of the Carr Family Partnership, Ltd., and Dale Cook. Additionally, a public meeting request was submitted by Representative Stan Gerdes. This response addresses all timely public comments received, whether or not withdrawn.

This application is subject to the requirements in Senate Bill (SB) 709, effective September 1, 2015. SB 709 amended the requirements for comments and contested case hearings. One of the changes required by SB 709 is that the Commission may not find that a "hearing requestor is an affected person unless the hearing requestor timely submitted comments on the permit application." Texas Water Code (TWC) § 5.115(a-1)(2)(B).

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

www.tceq.texas.gov

I. BACKGROUND

A. Description of Facility

The Applicant submitted an application to the TCEQ for a new permit, TPDES Permit No. WQ0016303001 to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 150,000 gallons per day. The Applicant proposes to operate the Cedar Creek Wastewater Treatment Facility to serve the Cedar Creek Subdivision.

The Cedar Creek Wastewater Treatment Facility will be an activated sludge process plant operated in the conventional mode with nitrification. Treatment units will include a bar screen, an anoxic/selector zone basin, two aeration basins, one final clarifier, two aerobic sludge digesters, and a chlorine contact chamber. The facility has not been constructed. The facility will be located at 2883 State Highway 71, Bastrop, in Bastrop County, Texas 78612.

The treated effluent will be discharged to an unnamed tributary of Dry Creek, thence to Dry Creek, thence to the Colorado River Below Lady Bird Lake / Town Lake in Segment No. 1428 of the Colorado River Basin. The designated uses for Segment No. 1428 are primary contact recreation, public water supply, and exceptional aquatic life use. The effluent limits in the draft permit will maintain and protect the existing instream uses. All determinations are preliminary and subject to additional review and revisions.

Geographic coordinates of the outfall location in decimal degrees is provided in Table 1. If this permit is issued, the proposed facility will be located at 2883 State Highway 71, Bastrop, in Bastrop County, Texas 78612.

Table 1. Outfall Coordinate Location

Outfall Number	Latitude	Longitude
001	30.172672 N	97.525667 W

The draft permit includes the following proposed effluent limitations and monitoring requirements. All flows, except the two-hour peak flow, are expressed in million gallons per day (MGD). The two-hour (2-hr) peak flow is expressed in gallons per minute (gpm). All pH values are expressed in standard units (SU). Concentration values are expressed in milligrams per liter (mg/L). Mass-based values are expressed as

pounds per day (lbs/day). Bacteria values are expressed in colony-forming units (CFU) or most probable number (MPN) per 100 milliliters (CFU or MPN/100 mL).

Table 2. Interim Phase I Effluent Limitations: Outfall 001

Parameter/Pollutant	Daily Average		7-day Average	Daily Maximum	Single Grab
	lbs/day	mg/L	mg/L	mg/L	mg/L
Flow, MGD	0.15				
Carbonaceous Biochemical Oxygen Demand, 5-day (CBOD ₅)	6.3	5	10	20	30
Total Suspended Solids (TSS)	6.3	5	10	20	30
Ammonia Nitrogen (NH ₃ -N)	2.5	2	5	10	15
Total Phosphorus (TP)	1.5	1	2	4	6
<i>E. coli</i> (CFU or MPN/100 mL)	126		N/A	N/A	399
pH, SU	6.0-9.0				

B. Procedural Background

The permit application was received on February 22, 2023, and declared administratively complete on April 4, 2023. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on April 19, 2023, in the *Bastrop Advertiser*. The Notice of Application and Preliminary Decision (NAPD) was published on October 11, 2023, in the *Bastrop Advertiser*.

A public meeting was held on February 27, 2024, at the Bastrop Convention and Exhibit Center in Bastrop, Texas. Publication of the Notice of Public Meeting was published on January 24, 2024, in the *Bastrop Advertiser*.

The public comment period ended at the close of the meeting on February 27, 2024. This application was filed on or after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill (HB) 801, 76th Legislature (1999), and Senate Bill (SB) 709, 84th Legislature (2015), both implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55. The Texas Legislature enacted Senate Bill 709, effective September 1, 2015, amending the requirements for comments and contested case hearings. This application is subject to those changes in the law.

C. Access to Rules, Laws, and Records

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

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

Commission records for this application are available for viewing and copying and are located at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk). The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at the following location the Bastrop County Public Library, 1100 Church Street, Bastrop, Texas.

II. Comments and Responses

COMMENT 1:

Chapman Edward Ambrose Sr., SAWDF, and the Carr Family Partnership, Ltd., made comments expressing concern for nuisance odors from the proposed wastewater treatment facility. Mr. Weir noted that there are commercial operations downwind of the proposed wastewater treatment facility.

RESPONSE 1:

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 Applicant can comply with the rule by: 1) ownership of the buffer zone area; 2) restrictive easement from the adjacent property owners for any part of the buffer zone not owned by the Applicant; or 3) providing nuisance odor control.¹

¹ 30 TEX. ADMIN. CODE § 309.13(e).

According to its application, the Applicant intends to comply with the requirement to abate and control nuisance of odor by locating the treatment units at least 150 feet from the nearest property line.² This requirement is incorporated in the draft permit.³ 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.

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 Applicant regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

COMMENT 2:

Chapman Edward Ambrose Sr., and SAWDF inquired how the proposed wastewater treatment facility will handle any flooding that might occur in the area. SAWDF noted that an incorrect FEMA floodplain map was referenced in the application.

RESPONSE 2:

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. However, to the extent that an issue related to flooding also involves water quality, the Applicant is required to comply with all the numeric and narrative effluent limitations and other conditions in the proposed permit at all times, including during flooding conditions.

According to the application, the proposed facility is located above the 100-year flood plain. For additional protection, the proposed permit includes Other

² Cedar Creek MH, LLC Permit Application, Administrative Report, 1.1, Item No. 2(b), page 2, and Exhibit.

³ Cedar Creek MH, LLC Draft Permit, Other Requirements, Item No. 3, page 34.

Requirement No. 4, which requires the permittee to provide protection for the facility from a 100-year flood.⁴

For flooding concerns, please contact the local floodplain administrator for this area. For Bastrop County Floodplain Management call Ms. Marlen Flores at 512-581-7159.

Furthermore, as part of the technical review of the application, the FEMA floodplain viewer is used to identify the location of the treatment facility in reference to the floodplain. The floodplain viewer contains the most up to date floodplain maps available. Additionally, it was noted in the application that the facility would be located on the edge of the floodplain and that the facility will be constructed to provide protection from flooding.

COMMENT 3:

SAWDF, LPGCD, Shirley A. Adams, and the Carr Family Partnership, Ltd. made comments expressing concern for downstream water quality in Segment No. 1248 of the Colorado River Basin. SAWDF is specifically concerned about total nitrogen and overall nutrient enrichment of the segment. LPGCD is concerned about whether the draft permit is protective of water quality and the existing uses of the receiving waters in accordance with applicable Texas Surface Water Quality Standards (TSWQS).

RESPONSE 3:

Phosphorus is a key nutrient necessary for algae growth and is often in limited supply in freshwater systems. By restricting the amount of phosphorus in the treated wastewater, the likelihood of the discharge stimulating excessive growth of algae or other aquatic vegetation is reduced significantly. To ensure the effluent from the Cedar Creek WWTF will not cause an excessive accumulation of algae, the Executive Director performed a nutrient screening which indicated that because of the high clarity of the water column, lack of shade along the banks, and minimal dilution, a total phosphorus limit is needed in the draft permit. The Executive Director included a total phosphorus limit of 1.0 mg/L to preclude the excessive accumulation of algae. Additionally, the Executive Director added a total nitrogen limit of 2 mg/L to the draft permit which will also help preclude the excessive accumulation of algae.

⁴ Cedar Creek MH, LLC Draft Permit, Other Requirements, page 34-35.

COMMENT 4:

SAWDF and the LPGCD made comments expressing concern about the potential effects to groundwater from the proposed discharge.

RESPONSE 4:

The legislature has determined that “the goal of groundwater policy in this state is that the existing quality of groundwater not be degraded. This goal of non-degradation does not mean zero-contaminant discharge.”⁵ Chapter 26 of the Texas Water Code further states, “discharges of pollutants, disposal of wastes, or other activities subject to regulation by state agencies be conducted in a manner that will maintain present uses and not impair potential uses of groundwater or pose a public health hazard.”⁶

The Executive Director has determined that the draft permit’s effluent limitations are consistent with the TSWQS and are therefore protective of surface water quality, human health, and the environment. This level of surface water protection would also ensure protection of groundwater quality and its known uses.

30 TAC § 309.13(c) states that a wastewater treatment plant unit may not be located closer than 500 feet from a public water well nor 250 feet from a private water well. Public water supply systems in Texas are regulated by TCEQ’s Water Supply Division. Please contact the Water Supply Division at 512-239-4691 for more information.

The Groundwater Rule does not address private drinking water wells as they are not under the jurisdiction of the Safe Drinking Water Act and are not subject to TCEQ regulation. TCEQ recommends that well owners periodically test their water for microbial and chemical contaminants and properly maintain their well. Private well owners should take steps to have their water quality tested routinely tested. Wells should be tested more often if under the influence of nearby surface water, or if contamination is suspected. For more information on testing private water wells, please see the National Ground Water Association website at wellowner.org/resources/water-quality/water-testing. If your well tests positive for

⁵ Texas Water Code § 26.401(b).

⁶ Texas Water Code § 26.401(c)(2).

fecal coliform bacteria, please see the Texas A&M AgriLife Extension publication titled [What to Do About Coliform Bacteria in Well Water](#) or the TCEQ publication titled [Disinfecting Your Private Well](#) (GI-432).[WSD updated February 2024]

COMMENT 5:

SAWDF, the LGPCD, and the Carr Family Partnership, Ltd. made comments that expressed concern over the proposed facility's adherence to the TCEQ regionalization policy. The commentors noted the proximity of the proposed facility to both proposed and existing wastewater treatment facilities.

RESPONSE 5:

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

Domestic Technical Report 1.1 of the application requires information concerning regionalization of wastewater treatment plants.⁷ Applicants requesting a new permit or certain major amendments are required to review a three-mile area surrounding the proposed facility to determine if there is a wastewater treatment plant or sewer collection lines within the area that the permittee can utilize. Applicants are required to contact those facilities to inquire if they currently have the capacity or are willing to expand to accept the volume of wastewater proposed. If an existing wastewater facility does have the capacity and is willing to accept the proposed wastewater, the applicant must submit an analysis of expenditures required to connect to a permitted wastewater treatment facility or collection system located within three miles versus the cost of the proposed facility or expansion. Finally, applicants are

⁷ Domestic Technical Report 1.1 (TCEQ Form 10054), Section 1, Item B, page 21.

required to provide copies of all correspondence with the owners of existing plants within three miles of the proposed plant regarding regionalization with their system.

There are three existing wastewater treatment facilities or collection systems within a three-mile radius of the proposed facility site location. The applicant sent letters via certified mail to the three facilities. The facilities contacted include the City of Austin's Pearce Lane Wastewater Treatment Facility (WWTF) (WQ0010543015), Atlantis WKA Bastrop LLC's WWTF (WQ0016210001), and Aqua Water Supply Corporation's WWTF (WQ0014833001). The applicant submitted a response from the facility operated by the City of Austin (WQ0010543015) which declined to accept the proposed wastewater volume. The other two facilities contacted (WQ0016210001 and WQ0014833001) did not respond within the allotted timeframe of thirty (30) days.

COMMENT 6:

SAWDF made comments regarding the discharge location and wastewater treatment plant location.

RESPONSE 6:

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

If Cedar Creek MH, LLC 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 7:

LGPCD raised concerns about the inadequacy of the antidegradation review. LGPCD expressed its opinion that a Tier 1 review was not sufficient and that a Tier 2 review should be performed.

RESPONSE 7:

The designated uses for Segment No. 1428 are primary contact recreation, public water supply, and exceptional aquatic life use. The effluent limitations in the draft permit will maintain and protect the existing instream uses. In accordance with 30 TAC Section 307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

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

COMMENT 8:

Van Cook and LCGPD made comments expressing concern for the health of the livestock and wildlife that utilize Dry Creek.

RESPONSE 8:

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* (IPs; June 2010). The TSWQS provide that surface waters cannot be toxic to aquatic or terrestrial organisms.⁸ The IPs state that water in the state shall be maintained to preclude adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic

⁸ 30 TEX. ADMIN. CODE § 307.4.

animals, resulting from contact, consumption of aquatic organisms, or consumption of water.

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.

COMMENT 9:

LCGPD commented inquiring whether the drinking water supply would be protected under the draft permit.

RESPONSE 9:

The Texas Surface Water Quality Standards (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.⁹ The effluent limits in the draft permit are set to maintain and protect the existing instream uses.

In this case, the designated uses for Segment No. 1428 are primary contact recreation, public water supply, and exceptional aquatic life use. The Executive Director determined that these uses should be protected if the facility is operated and maintained as required by the proposed permit and regulations. Additionally, the treated effluent will be disinfected prior to discharge to protect human health.

The ED has made a preliminary determination that the draft permit, if issued, meets all statutory and regulatory requirements.

COMMENT 10:

LCGPD commented inquiring whether the draft permit contains adequate operator requirements to ensure proper maintenance and operation of the facility.

⁹ 30 TEX. ADMIN. CODE § 307.6(b)(4).

RESPONSE 10:

TCEQ issues permits that describe the conditions under which the wastewater facility must operate. All facilities must be designed, operated, and maintained consistent with applicable TCEQ rules. These provisions require that a facility is properly operated and maintained at all times.

TCEQ's Office of Compliance and Enforcement ensures compliance with applicable state and federal regulations. The Region 11 office is required to conduct a mandatory comprehensive compliance investigation (CCI) at minor facilities (facilities with permitted flow less than 1 million gpd) once every five fiscal years. Additional mandatory investigations can be required if the facility is categorized as significant noncompliance (SNC). SNC is determined by the Compliance Monitoring Section of the TCEQ and is based on self-reported effluent violations.

If the facility is found to be out of compliance with the terms or conditions of the permit, the Applicant may be subject to enforcement. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report these by calling the TCEQ Environmental Complaint Line at 1-888-777-3186. Calls will be routed automatically to the closest TCEQ regional office. Complaints may also be filed online at tceq.texas.gov/compliance/complaints. If the Applicant fails to comply with all requirements of the permit, it may be subject to enforcement action

COMMENT 11:

TxDOT commented that it had denied the request to discharge wastewater onto TxDOT's Right of Way (ROW).

RESPONSE 11:

The applicant is responsible for obtaining any needed permission to use the proposed discharge route.

COMMENT 12:

SAWDF made comments inquiring if the draft permit will adversely affect human health.

RESPONSE 12:

As specified in the IPs, water in the state shall be maintained to preclude adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals, resulting from contact, consumption of aquatic organisms, or consumption of water. Water in the state must also be maintained to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three. Additionally, the treated effluent will be disinfected prior to discharge to protect human health.

If you would like to make an environmental complaint, you may call 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.

III. Changes Made to the Draft Permit in Response to Comments:

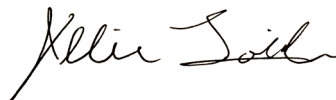
In response to Public Comments, the Executive Director has not made changes to the draft permit.

Respectfully submitted,

Texas Commission on Environmental Quality

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