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February 15, 2024

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

REVIEWED
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By GCW H

CHIEF CLERK'S OFFICE

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CONFIDENTIAL

Re: Application of Caddo Mills Laguna Land Azure, LLC for Proposed TPDES Permit No. WQ0016434001 for Mykonos WWTP; Public Comments and Request for Contested Case Hearing

Dear TCEQ Chief Clerk:

I represent the **City of Caddo Mills** (the "City") regarding the above-referenced TPDES permit application (the "Application"). The City opposes the issuance of the permit and hereby submits formal public comments on the Application as set forth below. By this letter, the City is also submitting a request for contested case hearing on the Application. The development to be served by the proposed wastewater plant including the proposed plant site, is located in the extra-territorial jurisdiction ("ETJ") of the City. The City is very concerned about water quality impacts on land within the City's ETJ and the proliferation of unneeded small package sewer plants in its ETJ. Accordingly, the City is directly affected by the proposed wastewater plant and is raising relevant and material issues as set forth below.

I. The City's Location and Distance From the Proposed Wastewater Plant

The proposed wastewater plant site would be located approximately three miles south of downtown Caddo Mills, and the proposed development including the plant site would be located directly adjacent to the City's incorporated limits and squarely within the City's ETJ.

II. Disputed Issues of Fact That Are Relevant and Material to the Application

The following are disputed issues of fact that are relevant and material to the TCEQ's decision on the Application:

1. Whether the proposed design of the wastewater treatment plant is adequate to ensure that the required effluent water quality will be achieved. The City has concerns that the proposed package wastewater plant will create operational problems and result in inadequate treatment of sewage influent. The proposed plant could malfunction or overflow in the event of unexpected influent contaminants, heavy rainfall and other unexpected events. The

Application does not discuss or even identify what, if any, emergency notification features and alarms will be used to ensure that treatment mishaps can be immediately addressed.

2. Whether the water quality parameters in the draft permit are inadequate to ensure that the existing water quality uses will not be impaired. Under the effluent parameters set forth in the draft permit, the effluent discharge from the proposed plant may result in the creation of algae blooms which in summer months will decay, create offensive smells and impair the existing uses of the land. The City believes a Tier 2 antidegradation review may be warranted based on Brushy Creek being more properly classified as a perennial stream with high aquatic life uses, and that a total phosphorus limit of 0.5 mg/l may be justified.
3. Whether the proposed wastewater discharge will harm fish, wildlife and other environmental receptors immediately downstream of the discharge point. Inadequately treated wastewater from the proposed wastewater package plant may result in a quality of effluent that harms the fish and aquatic life in Brushy Creek, the wildlife and wildlife habitat in and around Brushy Creek, as well as the trees and other native vegetation in and around Brushy Creek. The introduction of Phase 3 discharges of 950,000 gals/day of possibly inadequately treated wastewater from 2,700 equivalent single-family connections could adversely impact the entire ecosystem in and around Brushy Creek in other unforeseen ways.
4. Whether nuisance odor conditions will be created. Because the current draft permit may not have sufficiently stringent effluent limits on nutrients, algae blooms could be created which will decay in summer months and produce persistent nuisance odors. Moreover, noxious odors (e.g., hydrogen sulfide gases) will result from any plant malfunction or operational error. City residents and employees inhabiting or using the land just downstream of the discharge point, as well as numerous adjacent homeowners, will be forced to endure noxious odors that will prevent or impair current use and enjoyment of their property.
5. Whether the establishment of a new package plant violates TCEQ's regionalization policy. TCEQ's regionalization policy is intended to prevent the proliferation of new unneeded package plants when a regional wastewater service provider is available. In this case, the City of Caddo Mills has a wastewater collection system within less than three miles from the proposed wastewater plant. The City of Caddo Mills has its own permitted wastewater plant and wastewater collection system that can be expanded and used to serve the area of its ETJ proposed to be served by the permit applicant. Indeed, the City has an application nearing PUC approval for inclusion of the proposed development within the City's sewer CCN. See PUC Dk. No. 52978. The City is also planning for construction of a new regional wastewater plant to serve growth in the area of the Applicant's proposed development which regional plant would be located almost directly across FM1565 from the proposed Mykonos wastewater plant. Indeed, the City responded to the Applicant's inquiry for service letter dated October 12, 2023 by stating that the City did have the capacity and willingness to serve the development proposed to be served by the Mykonos wastewater plant. However, it does not appear that the City's response letter is contained in the Application and accordingly, a copy of Caddo Mills' response letter is attached hereto as Exhibit 1. Therefore, there is no need for

the small package plant proposed in the application, and approving the application would clearly violate TCEQ's Regionalization Policy.

6. Whether the wastewater plant is subject to potential flood dangers and will exacerbate downstream flooding and erosion. Although the proposed wastewater plant itself does not appear to be located in a designated flood zone, it is located immediately adjacent to FEMA Zone "AE" which is the 100-year floodplain. Any existing error in how the Zone AE boundaries were drawn, or a future modification by FEMA of the AE Zone boundary line of only a few feet to the east, would place the proposed plant within the 100-year flood zone. Accordingly, the plant should be designed with special flood protection features.

III. Request For Contested Case Hearing

Based on the above concerns, the City hereby requests a contested case hearing so that these issues can be thoroughly evaluated and TCEQ can make an informed decision on the application and draft permit. Pursuant to 30 TAC § 55.201(d), the following facts show that the City is an "affected person" and is entitled to a contested case hearing in this matter:

- (1) Name, address, daytime telephone number fax number of hearing requester:

City of Caddo Mills
c/o Matt McMahan, City Manager
2309 Main Street
Caddo Mills, TX 75135
Tel: 903-527-3116
Email: mattmcmahan11@outlook.com

- (2) Justiciable Interest: The City is an affected person because the proposed wastewater plant will serve an area located directly adjacent to the City's incorporated limits and within the City's ETJ which is an area in which the City has a specialized interest and regulatory authority. See, e.g., Tex. Loc. Govt. Code §§ 42.001 and 212.044. Accordingly, the City has authority under state law over issues contemplated by the wastewater permit application and the City must therefore be considered an "affected person" under 30 Tex. Admin. Code § 55.256(b). Moreover, as expressly acknowledged in the application, the City has wastewater collection lines located less than three miles from the proposed wastewater plant. Finally, various City functions and services, including water and wastewater services, drainage and flood control, roadway and transportation, and emergency response services will be affected by the development proposed to be served by the wastewater plant. Therefore, the City would be adversely affected by the granting of the requested permit in a manner not common to members of the general public.

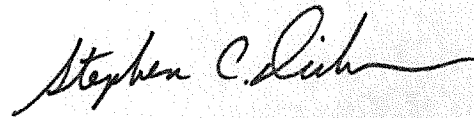
- (3) Relevant and Material Disputed Issues of Fact: See the above listed issues.

In conclusion, a contested case hearing is needed to evaluate the above issues so that the TCEQ can make a fully informed decision in this case. Thank you for your consideration of the

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above public comments and request for contested case hearing. If you have any questions regarding this submittal, please feel free to contact me at any time.

Very truly yours,

A handwritten signature in black ink, reading "Stephen C. Dickman", with a long horizontal flourish extending to the right.

Stephen C. Dickman
Attorney for the City of Caddo Mills

cc: Matt McMahan, City Manager of City of Caddo Mills

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