

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

December 3, 2024

TO: All interested persons.

RE: Harris County Municipal Utility District No. 531
TPDES Permit No. WQ0016334001

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 the Northwest Branch Library, 11355 Regency Green Drive, Cypress, 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,



Laurie Gharis
Chief Clerk

LG/erg

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
Harris County Municipal Utility District No. 531
TPDES Permit No. WQ0016334001

The Executive Director has made the Response to Public Comment (RTC) for the application by Harris County Municipal Utility District No. 531 for TPDES Permit No. WQ0016334001 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 (WQ0016334001) 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 Northwest Branch Library, 11355 Regency Green Drive, Cypress, Texas.



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas reduciendo y previniendo la contaminación

3 de diciembre de 2024

TO: Todas las personas interesadas.

RE: Harris County Municipal Utility District No. 531
TPDES Permiso No. WQ0016334001

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 la Northwest Branch Library, 11355 Regency Green Drive, Cypress, Texas.

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

Cómo solicitar una audiencia de caso impugnado.

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

La solicitud debe incluir lo siguiente:

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

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

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

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

Cómo solicitar la reconsideración de la decisión del Director Ejecutivo.

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

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

Fecha límite para la presentación de solicitudes.

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

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

Procesamiento de solicitudes.

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

Cómo obtener información adicional.

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

Atentamente,



Laurie Gharis
Secretaria Oficial

LG/erg

Recinto

RESPUESTA DEL DIRECTOR EJECUTIVO AL COMENTARIO DEL PÚBLICO
para
Harris County Municipal Utility District No. 531
TPDES Permiso No. WQ0016334001

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de Harris County Municipal Utility District No. 531 del permiso de TPDES No. WQ0016334001. 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 (WQ0016334001) 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 la Northwest Branch Library, 11355 Regency Green Drive, Cypress, Texas.

MAILING LIST / LISTA DE CORREO
Harris County Municipal Utility District No. 531
TPDES No. WQ0016334001 / TPDES No. WQ0016334001

FOR THE APPLICANT /
PARA EL SOLICITANTE:

Paul White, President
Harris County MUD No. 531
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027

Ashley Broughton, P.E.
LJA Engineering, Inc.
3600 West Sam Houston Parkway South
Suite 600
Houston, Texas 77042

Sarah Velez, P.E.
LJA Engineering, Inc.
3600 West Sam Houston Parkway South
Suite 600
Houston, Texas 77042

INTERESTED PERSONS /
PERSONAS INTERESADAS:

See attached list. / Ver lista adjunta.

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

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

John Hearn, 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

ABEGGLEN , MATT
16226 KYLE CREST TRL
CYPRESS TX 77433-5861

ASHFORD , LAURA
20102 MISTY RIVER WAY
CYPRESS TX 77433-5793

ATKINSON , LISA K
20810 DURAND OAK CT
CYPRESS TX 77433-5717

AUGUSTIN , MR WARREN
20402 STONE FALLS CT
CYPRESS TX 77433-5763

BEE , PATTY
15711 TWISTING SPRINGS DR
CYPRESS TX 77433-5572

BRINKERHOFF , MRS BECKI FAIRFIELD
16318 KYLE CREST TRL
CYPRESS TX 77433-5860

BROWNE , MICHAEL
20639 ORANGE POPPY DR
CYPRESS TX 77433-2582

CALES , NIKOLE
20206 PRIM PINE CT
CYPRESS TX 77433-5859

CROCKETT , DAVID C
20327 WHISPERING WATER WAY
CYPRESS TX 77433-5774

ELY , WILLIAM
20715 ORANGE POPPY DR
CYPRESS TX 77433-2584

FAULK , RUSSELL
20807 GOLDEN SYCAMORE TRL
CYPRESS TX 77433-6072

FORE , DAWN
16314 KYLE CREST TRL
CYPRESS TX 77433-5860

GABINO , KRISTIN
20314 MISTY RIVER WAY
CYPRESS TX 77433-5797

GALLIA , GLENN & JENNIFER
16414 BASTON CREEK DR
CYPRESS TX 77433-5155

GAUDET , KAREN
20303 WHISPERING WATER WAY
CYPRESS TX 77433-5774

GEE , DIANA
16102 PEBBLE CREEK TRL
CYPRESS TX 77433-5405

GIBSON , JAIME
20743 CHAPPELL KNOLL DR
CYPRESS TX 77433-5512

GOINS , BILL
20322 LAKELAND FALLS DR
CYPRESS TX 77433-5727

GRISSOM , KEREN
16114 PEBBLE CREEK TRL
CYPRESS TX 77433-5405

GUSLER , JAY
20114 MISTY RIVER WAY
CYPRESS TX 77433-5793

HAWLEY , JESSICA
20906 REFUGE CREEK DR
CYPRESS TX 77433-3588

JONES , MRS CHARLENE
20434 SCENIC WOODS DR
CYPRESS TX 77433-6021

KWIATKOWSKI , DEVYNN
16310 ROLLING VIEW TRL
CYPRESS TX 77433-5856

LALONDE , NATHAN
20827 S BLUE HYACINTH DR
CYPRESS TX 77433-6700

LEHMANN , CORY
20211 TIMBERLINE TRL
CYPRESS TX 77433-5853

LLOYD , DANICA
16300 NORTHWEST FWY
JERSEY VILLAGE TX 77040-1916

MAJORS , DEBBIE S
19175 CYPRESS CHURCH RD
CYPRESS TX 77433-1442

MCCLURE , JOHN
NONE
20215 MISTY RIVER WAY
CYPRESS TX 77433-5796

MELCHER , CHARLES
20215 TIMBERLINE TRL
CYPRESS TX 77433-5853

MELCHER , SANDRA
20215 TIMBERLINE TRL
CYPRESS TX 77433-5853

MONACELLI , JASON PAUL
16319 ROLLING VIEW TRL
CYPRESS TX 77433-5856

MORRIS , JAY
16210 ROLLING VIEW TRL
CYPRESS TX 77433-5857

MORRIS JR , JULES M
16210 ROLLING VIEW TRL
CYPRESS TX 77433-5857

MORRIS , CADENCE R
16210 ROLLING VIEW TRL
CYPRESS TX 77433-5857

MULLINAX , JAY B
16227 KYLE CREST TRL
CYPRESS TX 77433-5862

NEWMAN , MARC
15218 HILLSIDE PARK WAY
CYPRESS TX 77433-5608

OGDEN , CHAD
STE 305
19707 IH 10 W
SAN ANTONIO TX 78257-1745

OLIVERSON , THE HONORABLE TOM STATE
REPRESENTATIVE
TEXAS HOUSE OF REPRESENTATIVES DISTRICT 130
PO BOX 2910
AUSTIN TX 78768-2910

OLIVERSON , THE HONORABLE TOM STATE
REPRESENTATIVE
TEXAS HOUSE OF REPRESENTATIVES DISTRICT 130
STE 201
11803 GRANT RD
CYPRESS TX 77429-4032

OLMOS , MARIE
16202 MORNING PINE TRL
CYPRESS TX 77433-5849

PAPPANO , MRS MARGARET
16215 MORNING PINE TRL
CYPRESS TX 77433-5851

PAPPANO , MR PHILLIP
16215 MORNING PINE TRL
CYPRESS TX 77433-5851

POWELL , JACK & TRISH
16127 CROOKED LAKE WAY N
CYPRESS TX 77433-5982

RAMIREZ , JENNIFER
21615 BROOKCHASE LOOP
CYPRESS TX 77433-5951

REARDON , BRANDON
20525 CYPRESSWOOD DR
CYPRESS TX 77433-4700

ROSE , BRIAN
20222 TIMBERLINE TRL
CYPRESS TX 77433-5852

ROSE , CAROL
20222 TIMBERLINE TRL
CYPRESS TX 77433-5852

SEKHARAN , MADHU
16614 RADIANT LILAC TRL
CYPRESS TX 77433-6365

SHORES , KATHY
15326 WOODLAND ORCHARD LN
CYPRESS TX 77433-5540

SOTO , GASTON
15803 PEBBLE CREEK TRL
CYPRESS TX 77433-5400

SOTO , JENNIFER
15803 PEBBLE CREEK TRL
CYPRESS TX 77433-5400

SWISHER , ERIC
16214 MORNING PINE TRL
CYPRESS TX 77433-5850

THIBERT , KELLY
15302 BENT TWIG WAY
CYPRESS TX 77433-4621

TOLEDANES , LISA
16819 GYPSY RED DR
CYPRESS TX 77433-6272

VAN WIE , TORY
20810 AUTUMN REDWOOD WAY
CYPRESS TX 77433-5548

VILLEGAS , DIEGO
20203 PRIM PINE CT
CYPRESS TX 77433-5859

WALLACE , BETH & WAYNE
16615 HAVASU DR
CYPRESS TX 77433-5146

WATSON , RUSS
20406 LAKELAND FALLS DR
CYPRESS TX 77433-5728

WEATHERSBY , LAURA (
15438 JUNIPER COVE CT
CYPRESS TX 77433-5702

WHATLEY , MR DARRIN E
16218 MORNING PINE TRL
CYPRESS TX 77433-5850

WHATLEY , MRS KIMBERLY LORRAINE
16218 MORNING PINE TRL
CYPRESS TX 77433-5850

WHITE , DR. LLOYD MICHAEL
PROF EMERITUS THE UNIVERSITY OF TEXAS AT
AUSTIN
16318 KYLE CREST TRL
CYPRESS TX 77433-5860

WIENER , WHITNEY HOUGH
15834 HEARTWOOD WAY
CYPRESS TX 77433-6069

WILCOMB , DEIDRA
20918 HEARTWOOD OAK TRL
CYPRESS TX 77433-4648

WONG , NANCY L
20314 TIMBERLINE TRL
CYPRESS TX 77433-5854

WONG , PATRICK C
20314 TIMBERLINE TRL
CYPRESS TX 77433-5854

WOOD , DANNY & SHREE
16206 MORNING PINE TRL
CYPRESS TX 77433-5849

NEW TPDES PERMIT NO. WQ0016334001

APPLICATION BY HARRIS	§	BEFORE THE
COUNTY MUNICIPAL UTILITY	§	TEXAS COMMISSION
DISTRICT No. 531 FOR TPDES	§	ON ENVIRONMENTAL
PERMIT No. WQ00163340001	§	QUALITY

EXECUTIVE DIRECTOR’S RESPONSE TO PUBLIC COMMENTS

I. INTRODUCTION

The Executive Director (ED) of the Texas Commission on Environmental Quality (“TCEQ” or “Commission”) files this Response to Public Comment on the application and on the ED’s preliminary decision on the application, submitted by Harris County Municipal Utility District (MUD) No. 531 (“Applicant” or “MUD531”) for new Texas Pollutant Discharge Elimination System Permit (TPDES) number (No.) WQ0016334001 (“the application and draft permit”) and the construction of its accompanying Wastewater Treatment Facility (WWTF), the MUD531 WWTF No. 2 (proposed facility).

As required by the TCEQ administrative process and its rules for permits (TPDES permitting process), found in Title 30 of the Texas Administrative Code (30 TAC), section (§) 55.156, before a permit is issued, the ED responds to all timely, relevant, and material, or significant comments that addresses the comments received. The TCEQ’s Office of the Chief Clerk (“TCEQ OCC”) received timely comments on the application from Lisa Atkinson, Warren Augustin, Laura Ashford, Matt Abegglen, Patty Bee, Michael Browne, Becki Brinkerhoff, David Crockett, Nikole Cales, William Ely, Russell Faulk, Dawn Fore, Karen Gaudet, Diana Gee, Jay Gusler, Bill Goins, Jaime Gibson, Kristin Gabino, Keren Grissom, Jessica Hawley, Charlene Jones, Devyn Kwiatkowski, Cory Lehmann, Debbie Majors, Jay Mullinax, John McClure, Jason Monacelli, Tom Oliverson, Marie Olmos, Brandon Reardon, Jennifer Ramirez, Madhu Sekharan, Kathy Shores, Eric Swisher, Lisa Toledanes, Kelly Thibert, Diego Villegas, Tory Van Wie, Whitney Wiener, Laura Weathersby, Deidra Wilcomb, Lloyd White, and Sandra & Charles Melcher, Cadence Morris, Jules & Jay Morris, Margaret & Phillip Pappano, Carol & Brian Rose, Jennifer & Gaston Soto, Kimberly & Darrin Whatley, Nancy & Patrick Wong, and Shree & Danny Wood. This response addresses all comments received, whether withdrawn.

II. ACCESS TO INFORMATION, LAWS, TCEQ RULES & RECORDS, AND REQUIRED NOTICES PROVIDED / PUBLISHED IN SPANISH & ENGLISH

For information about this permit application or the permitting process, please contact the TCEQ’s Public Education Program at (800) 687-4040.

➤ www.tceq.texas.gov/agency/decisions/participation/permitting-participation

Additionally, TCEQ’s community outreach initiatives, which aim to educate the public about pollution prevention and water conservation, can be found on the Take Care of Texas Program’s website below.

➤ <https://takecareoftexas.org/>

For the “TCEQ Rules,” otherwise known as Title 30 of the Texas Administrative Code, use the link below (select TAC Viewer, then Title 30 Environmental Quality).

- <https://www.sos.texas.gov/tac/>

The TCEQ Rules can also be accessed on the TCEQ’s website below (for downloadable rules in WordPerfect or Adobe PDF formats, select “Rules, Policy, & Legislation,” then “Current TCEQ Rules,” then “Download TCEQ Rules”).

- <https://www.tceq.texas.gov>

Texas Laws or Statutes, otherwise known as “Codes,” can be accessed through the link below (select “Water Code” at the bottom).

- www.statutes.capitol.texas.gov

Federal rules or regulations and environmental laws can be accessed through the link to Title 40 of the Code of Federal Regulations (40 C.F.R.) and the United States Environmental Protection Agency’s (EPA) website below.

- <https://www.ecfr.gov/current/title-40>

- <https://www.epa.gov/laws-regulations>

Commission records for the proposed facility are available for viewing and copying at TCEQ’s main office in Austin at 12100 Park 35 Circle, Building F, 1st Floor in the TCEQ’s OCC, for the current application until final action is taken. Some documents located at the TCEQ’s OCC may also be found in the TCEQ Commissioners’ Integrated Database.

- www.tceq.texas.gov/goto/cid

If individuals wish to file a complaint about the proposed facility concerning its compliance with the provisions of its permit or with TCEQ rules, the TCEQ’s Office of Compliance and Enforcement (OCE) should be contacted. Specifically, the TCEQ’s Regional Office (Region 12) in Houston, Texas may be contacted at (713) 767-3500 or the statewide toll-free number at 1-888-777-3186 to address potential permit violations. In addition, complaints may be filed electronically through the link to the TCEQ’s compliance website below or by sending an email to the “complaint” email address below. If an inspection by the TCEQ finds that the Applicant is not complying with all requirements of the proposed permit, or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.

- <https://www.tceq.texas.gov/compliance/complaints> (select “use our online form”) or

- complaint@TCEQ.Texas.gov.

El aviso de idioma alternativo en español está disponible en (Alternative language notice in Spanish is available at):

- <https://www.tceq.texas.gov/permitting/wastewater/pending-permits/application-details#Document-Summary>

III. ADMINISTRATIVE PROCEDURE FOR TPDES APPLICATIONS

The TPDES permitting process finds its roots in Administrative Law, which includes laws and legal principles for the transparent administration of both federal and state governmental; regulatory agencies consistent with the principle of “public participation in government.” The TPDES permitting process requires essential notices of an application be provided to the public from the start of the process and through its completion for purposes of creating a record of the decision-making involved in a TPDES application, otherwise known as an application’s “Administrative Record.” An Administrative Record can be thought of as the documentation for a series of

procedurally relevant events for a TPDES application. The TPDES permitting process starts with the application's submittal and reaches completion when the Commission issues a Final Decision and Order on the application, all of which is documented through an administrative record.

The first notice provided to the public, referred to as the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI), occurs after the application is submitted to the TCEQ and the ED, after review, declares it "administratively complete." The TPDES permitting process requires the NORI to be published in a certain newspaper in the county of the proposed facility's location.

The second notice provided to the public, referred to as the Notice of Application and Preliminary Decision (NAPD), is to be published in the same certain newspaper as the NORI, and is required to be provided to the public after the ED completes her Technical Review (Tech Review) and prepares a draft permit.

During the ED's Tech review, to correct errors, acknowledge changes in the application, or to deliver other important details about the application to the public, the TPDES permitting process allows Applicants to publish a combined notice (CO-NORI-NAPD). As is the case with this application, a combined notice can be used to announce the date of a TCEQ public meeting (CO-NAPD-NOPM) instead of the Applicant publishing a separate Notice of Public Meeting (NOPM).

For this application the required notices were published in Harris County, Texas in English in *the Houston Chronicle* and in Spanish in *El Perico*. As documented in its administrative record, the application's relevant procedural history can be thought of as a timeline of the procedurally relevant events alluded to above.

Consistent with the concept of public participation in government, the TPDES permitting process includes a public comment period, which gives the opportunity for the public to comment on the application for thirty (30) days after publication of the NAPD or CO-NAPD-NOPM was published. Below is the timeline of procedural events relevant to this application.

- **04-28-2023**-Submittal of application.
- **06-21-2023**-Declared Administratively Complete.
- **07-06-2023**-Publicized by NORI in English and Spanish.
- **01-03-2024**-Declared Technically Complete and draft permit prepared.
- **05-01-2024**-Publicized by CO-NAPD-NOPM in English and Spanish.
- **06-03-2024**-TCEQ Public Meeting held at SPJST Lodge, 196 Jednota Cypress, Texas.
- **06-03-2024**-Public Comment period ended at the close of the Public Meeting.

The permit application has been available for viewing and copying at the Northwest Branch Library, Regency Green Drive, Cypress, Texas, since publication of the NORI. The final permit application, proposed permit, Fact Sheet/Technical Summary and the ED's preliminary decision have been available for viewing and copying at the same location since publication of the CO-NAPD-NOPM.

Because the application was received after September 1, 2015, and declared administratively complete after September 1, 1999, it is subject to both the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999, and the TCEQ rules in 30 TAC Chapters 39, 50, and 55, which implement the procedural requirements of Senate Bill 709, 84th Legislature, 2015.

IV. BACKGROUND

Application Request

The Applicant applied for new TPDES Permit No. WQ0016334001 to authorize a discharge from the proposed facility of wastewater (WW) or “effluent,” at a daily average flow not to exceed 0.05/ 0.10 million gallons per day (MGD) in the Interim and Final phases (respectively), referred to in the response as the “proposed discharge,” which is subject to the effluent limitations (Limits) in the draft permit.

Description of Proposed Facility and Discharge Route

If the draft permit is ultimately issued and the proposed facility constructed, it will provide (residential) service within MUD531, and its location will be approximately 0.5 miles southwest of the intersection of Mueschke Road and Schiel Road, in Harris County, Texas 77433. In terms of WW treatment, the draft permit includes a bar screen for preliminary treatment in both the Interim and Final phases, and for secondary treatment the draft permit authorizes the proposed facility, which will be an activated sludge process plant, operated in the complete mix mode with secondary clarification. Treatment units across both of the permit’s phases consist of a final clarifier, two sludge digesters and a chlorine contact chamber. The difference in treatment units across the permit’s two phases is one (1) aeration basin in the Interim Phase, and an additional aeration basin (2) in the Final Phase. Sludge generated at the proposed facility is authorized to be disposed of at a TCEQ-authorized land application site, co-disposal landfill, WWTF, or a facility that further processes sludge.

The route of the proposed discharge is first via pipe to a detention pond (approximately 1.6 acres), then through a series of pipes to another detention pond (approximately 6.0 acres), then to the Schiel Road storm sewer (approximately 0.8 miles), then to a dry-bottom pond & ditch (approximately 7.5 acres and 250 feet) then to Little Cypress Creek (greater than 7 miles) before entering Cypress Creek in Segment No. 1009 of the San Jacinto River Basin.

V. EXECUTIVE DIRECTOR’S TECHNICAL REVIEW

The basis for the ED’s Technical Review of TPDES applications is the TCEQ’s Water Quality Control (WQC) established by the Texas Legislature’s passage of Chapter 26 (relating to Water Quality Control) of the Texas Water Code (“*Ch.26*” and “TWC”) that gives the TCEQ primary authority over Water Quality (WQ), or control of WQ, in Texas. The TCEQ’s WQC combines the WQ authority from *Ch.26* with federally delegated Clean Water Act (CWA) authority for the TPDES program, which controls discharges of pollutants into Texas’ waterbodies, otherwise defined by the TWC as “Waters in the State” (WITS). The TPDES program requires the TCEQ, with EPA approval, to adopt and amend, from time to time, the Texas Surface Water Quality Standards (TSWQS), which are incorporated into TPDES permits by the ED through her staff in the Water Quality Division (WQD Staff) using the *TCEQ’s Procedures to Implement the Texas Surface Water Quality Standards-June 2010* (IPs) (collectively “TSWQS & the IPs”).

It is WQD staff that implement the TCEQ’s WQC through the grant of authority from both the CWA and *Ch.26* to issue permits for discharges of waste or pollutants into, or adjacent to WITS if, after the ED’s Tech Review, a draft permit complies with the measures and policies of the CWA, *Ch.26*, and the TSWQS & the IPs (collectively “WQ objectives”) to achieve a specified level of effluent quality.

Through the ED’s Tech review, WQD staff evaluate a TPDES application as an authorization to discharge to WITS and must determine that the provisions and

conditions established in a draft permit comply with WQ objectives. In the same way, the ED can recommend issuance or denial of an application based on whether the information contained in the application complies with those same WQ objectives. Through the ED's Tech review, WQD staff evaluate a TPDES application as an authorization to discharge to WITS and must determine that the provisions and conditions established in a draft permit comply with WQ objectives.

Not only is a TPDES-permitted discharge required to achieve a certain level of effluent quality while meeting other WQ objectives, a TPDES-permitted WWTF's method of achieving that quality must also meet certain standards to achieve WQ objectives. Just as the TSWQS & the IPs provide a roadmap for a TPDES permit's limits and conditions, the TCEQ's 217 rules (Design Criteria for WWTFs) provide a guide for identifying the types of treatment technology that can achieve the treatment levels required by applicable WQ objectives. Similarly, according to 30 TAC § 217.6(d), the draft permit requires the MUD531 to submit a summary transmittal letter of the proposed facility's plans and specifications to the WQD's Plans & Specifications Review Team (P&S Team) for approval. The Applicant must clearly show how the treatment system will meet the permitted limits required on Pages 2, 2a, and 2b of the draft permit. If more information is requested by the P&S Team, MUD531 must submit *final* plans and specs, and a Final Engineering Design Report which comply with the TCEQ's 217 rules. When reviewing submitted plans and specifications for a proposed facility, the P&S Team uses the TCEQ's 217 rules to ensure a proposed facility's design can adequately treat the effluent according to the limits in the draft permit.

Related to the TCEQ's WQC, the TSWQS, specifically the word "standards," is defined in TCEQ rules as desirable uses such as existing, attainable, designated, or presumed uses, referred to in this document as Water Quality-related uses (WQ uses),¹ and the necessary, narrative, and numerical WQ conditions to support and protect those WQ uses in WITS. Conversely, the TCEQ may refuse to issue a permit when the ED's Tech Review finds that issuing the permit would violate the provisions of any state or federal law or rules or regulations derived from those laws or when it finds that issuing the permit would interfere with TCEQ's WQC.

According to the TSWQS, WITS are assigned WQ uses known as site-specific uses, presumed uses, or "Designated Uses" (DUs) from Appendix A, D, or G of the TSWQS (30 TAC § 307.10).² Typical uses that may be designated for specific water bodies include domestic water supply, recreation categories, aquifer protection, and categories of Aquatic Life Uses (ALUs). The ALU category of a waterbody governs the Dissolved Oxygen (DO) criteria for that water body, which refers to the 24-hour minimum DO level required to support ALUs in WITS. DO concentrations are critical for the overall health of WITS, and in the case of ALUs, are necessary to protect aquatic life in WITS. ALUs are established numerical criteria for aquatic life that are highly dependent on desired uses, sensitivities of aquatic communities, and local physical and chemical characteristics. There are six subcategories of ALUs: minimal, limited, intermediate, high, and exceptional aquatic life and oyster waters.³ Aquatic life use subcategories designated for segments listed in the TSWQS (30 TAC § 307.10-Appendix A) recognize the natural variability of aquatic community requirements and local environmental conditions. To maintain a level of WQ sufficient to protect the existing DUs of WITS in the route of a proposed discharge requires WQD staff on the Standards and Water Quality Assessment (WQA) Teams, when performing multiple WQ-specific analyses, to review data from the application and employ it according to the TSWQS & the IPs. This practice ensures compliance with the

¹ 30 TAC §§ 307.3(19), (50), and (66).

² *Id.*

³ 30 TAC § 307.7 (b)(3).

TSWQS because WQD staff follow the prescribed methodology in the IPs when drafting TPDES permits.

The IPs is a regulatory guidance document written specifically for permits to comply with the TSWQS. Thus, WQD staff and the ED's Tech Review evaluate impacts of effluent discharges on the WQ uses of WITS in the route of a proposed discharge starting at the outfall, and then establishing appropriate limits to protect those WQ uses, as the TSWQS & the IPs require.

A. Texas Surface Water Quality Standards Review

The first WQ analysis required for all new and amended discharges by the TSWQS & the IPs, is an Antidegradation (Anti-Deg) Review of the discharge(s) proposed in an application. The Anti-Deg review is performed by the WQD staff on the "Standards Team" after reviewing and verifying the classifications, descriptions, and DUs of WITS in the route of the proposed discharge. To assess the impacts to WITS from the proposed discharge(s), the Standards Team assesses from the outfall to the end of the "Impact Zone," which is a certain distance from the outfall that corresponds to the volume of the discharge. However, the customary practice of the Standards Teams is to assess the first 3.0 miles of a stream or to the confluence with a classified segment, to ensure the discharge is thoroughly vetted.

Next, the Standards Team reviews the information from an application consistent with the provisions of the TSWQS (30 TAC Chapter 307). The Standards Team must determine the DUs, the ALUs, and then assign the corresponding DO criteria specified by the TSWQS & the IPs for the WITS in a proposed discharge route. The DUs of the WITS in the proposed discharge route were assigned according to the provisions of the TSWQS & the IPs (30 TAC § 307.10, Appendix A).

For this application, the Standards Team reviewed the application consistent with the provisions of the TSWQS that specifically address ALUs, DO, and the assessment of unclassified waters for ALUs (30 TAC §§ 307.4 (h) & (l)), as the proposed discharge is first to a series of detention ponds aZSZ and a dry-bottom pond & ditch, all of which are unclassified waterbodies. Application data enabled the Standards Team to determine the ALU designations and assign the corresponding DO criteria specified by the TSWQS & the IPs for the detention ponds and the dry-bottom pond & ditch.

The WQ uses for Cypress Creek (Segment No. 1009), as designated in Appendix A of the 2018 TSWQS are primary contact recreation, public water supply, and a "high" ALU designation with a corresponding DO criterion of 5.0 mg/L. The provisions of the TSWQS (30 TAC § 307.4 (h)) detail that waterbodies such as the detention ponds and the dry bottom pond and ditch are assigned a 3.0 mg/L DO criteria with a corresponding "minimal" ALU designation.

The Tier 1 Anti-Deg Review of the proposed discharge and its impact zone preliminarily determined that there is no expectation of impairment of existing WQ uses because the draft permit has limits and conditions designed to maintain numerical and narrative criteria to protect DUs of WITS in the discharge route.

Because the ALU designation for Little Cypress Creek is "high," the Tier 2 Anti-Deg review policy from the IPs apply and states that when WITS with "exceptional," "high," or "intermediate" ALU designations are identified within the impact zone of the discharge route, a Tier 2 Anti-Deg review was required.

The Tier 2 Anti-Deg Review preliminarily determined that no significant degradation of water quality is expected in Segment No. 1009 because the existing DUs will be maintained and protected by the limits and conditions of the draft permit.

The proposed discharge is not expected to negatively impact any federal endangered or threatened aquatic or aquatic dependent species or any proposed species or critical habitats. This determination is based on the United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas' authorization of the TPDES permitting program (*eff.* 9/14/98; 10/21/98 *update*) from the United States Environmental Protection Agency (EPA). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion.

B. Water Quality Assessment

To ensure protective limits in TPDES permits, the second analysis of the ED's Tech Review is what is known as Dissolved Oxygen (DO) modeling (DO modeling), which is performed by WQD staff on the "Water Quality Assessment Team" (WQA Team) using a mathematical model (Uncalibrated QUAL-TX model) to assess any impacts from a proposed discharge's interaction with WITS. The process for DO modeling first starts with the WQA Team reviewing the application's data against stream standards from the TSWQS applicable to WITS receiving the proposed discharge, as conventional limits like those for DO and Carbonaceous Biochemical Oxygen Demand (CBOD₅) are based on stream standards and Waste Load Allocations for WQ-limited streams, as established in the TSWQS and the Water Quality Management Plan of Texas (WQMP).

However, coefficients and kinetics used in DO modeling are based on site-specific, standardized default, and estimated values. The WQA Team, using data from the application and information from the TSWQS, evaluate a proposed discharge's effect on instream DO levels of WITS in the route of the proposed discharge using, in this case, an "Uncalibrated QUAL-TX model." Conventional limits such as those for Dissolved Oxygen (DO) and Carbonaceous Biochemical Oxygen Demand (CBOD₅) are based on stream standards and Waste Load Allocations (WLAs) for WQ-limited streams, as established in the TSWQS and the Water Quality Management Plan of Texas (WQMP). However, coefficients and kinetics used in the DO modeling are based on site-specific, standardized default, and estimated values.

DO levels are affected by various factors, including potential direct DO impacts by oxygen-demanding constituents in a proposed discharge, such as DO, CBOD₅ and Ammonia Nitrogen (NH₃-N), which are the specific limits established in the draft permit by the WQA Team's DO modeling. The limit for Total Suspended Solids (TSS) is based on the TCEQ rules at 30 TAC § 309.4 (Table 1, Limits for Domestic WWTFs).

The draft permit includes the following proposed limits 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 1. Interim Phase Limits: Outfall 001

Parameter Pollutant	Daily	Average	7-day Average	Daily Maximum	Single Grab
	lbs/day	mg/L	mg/L	mg/L	mg/L
CBOD ₅	4.2	10	15	25	35
NH ₃ -N	1.3	3	6	10	15
TSS	6.3	15	25	40	60
<i>E. coli</i>	63		N/A	N/A	200
pH	6.0-9.0				
Flow-MGD	0.05				

Table 2. Interim Phase Effluent Limits: Outfall 001

Parameter Pollutant	Daily	Average	7-day Average	Daily Maximum	Single Grab
	lbs/day	mg/L	mg/L	mg/L	mg/L
CBOD ₅	8.3	10	15	25	35
NH ₃ -N	2.5	3	6	10	15
TSS	13	15	25	40	60
<i>E. coli</i>	63		N/A	N/A	200
pH	6.0-9.0				
Flow-MGD	0.10				

Although Segment No. 1009 is not currently listed on the state's inventory of impaired and threatened waters, known as the "2022 CWA § 303(d) list," the Total Maximum Daily Load (TMDL) project, *Fifteen Total Maximum Daily Loads for Indicator Bacteria in Watersheds Upstream of Lake Houston for Segment Numbers 1004E, 1008, 1008H, 1009, 1009C, 1009D, 1009E, 1010, and 1011* (TMDL Project No. 82), was approved for Segment no. 1009 when it was adopted by the TCEQ on April 6, 2011, and approved by the EPA on June 29, 2011. A TMDL is a scientifically derived target for WQ that informs permitting authorities on the greatest amount of a particular substance that can be added to a water body without compromising its health. TMDL Project No. 82 addresses elevated levels of bacteria in nine classified and unclassified segments in the San Jacinto River Basin.

A waste load allocation (WLA), the sum of pollutant loads from regulated sources (WWTFs and stormwater permits), was set for WWTFs at the permitted flow for each facility multiplied by one-half the geometric mean criterion for bacteria. Growth from permitted, existing or new sources is not limited by TMDL Project No. 82 if sources do not exceed the limits of one-half the bacteria geometric mean criterion for *E. coli*.

For more information about TCEQ's TMDL Program or TMDL Project No. 82, please visit the TCEQ website at the links below.

- <https://www.tceq.texas.gov/waterquality/tmdl>
- <https://www.tceq.texas.gov/downloads/water-quality/tmdl/houston-galveston-recreational-42/82-lake-houston-tmdl-adopted.pdf>
- <https://www.tceq.texas.gov/downloads/water-quality/tmdl/houston-galveston-recreational-42/82a-lake-houston-tmdl-addendum-one.pdf>

Ensuring the limitations for the proposed discharge are consistent with the WLAs provided in the TMDL, a concentration based effluent limit of 63 colony-forming units (CFU)/ most probable number per 100 mL (MPN) for *E. coli* was added to the draft permit.

C. Disinfection and Other limits

During all phases of the draft permit, the effluent must be monitored five times per week by grab sample, be disinfected using chlorine (CI), contain a CI residual based on peak flow, of at least 1.0 mg/l, and must not exceed a total CI residual of 4.0 mg/after a detention time of at least 20 minutes.

D. Other Data and the Executive Director's Final Decision.

In consideration of the TCEQ's WQC data-centric approach, all determinations, reviews, or analyses related to the ED's Tech Review of this application can be reexamined and subsequently modified upon receipt of newer information or information that conflicts with the bases employed in the applicable review or analysis.

As the above describes staff from the WQD provide appropriate limits to maintain and protect the existing instream uses through the ED's Tech Review, and for those reasons, the ED has determined that the draft permit, if issued, meets all statutory and regulatory requirements and is protective of the environment, WQ, and human health.

VI. COMMENTS AND RESPONSES

COMMENT 1:

Debbie Majors commented with concerns about the exact discharge route.

RESPONSE 1:

As stated above, the route of the proposed discharge is first via pipe to a detention pond (approximately 1.6 acres), then through a series of pipes to another detention pond (approximately 6.0 acres), then to the Schiel Road storm sewer (approximately 0.8 miles), then to a dry-bottom pond & ditch (approximately 7.5 acres and 250 feet), then to Little Cypress Creek (greater than 7 miles) before entering Cypress Creek in Segment No. 1009 of the San Jacinto River Basin.

The first two detention ponds listed in the discharge route are on MUD531 property. The discharge then enters the storm sewer on the north side of the property at certain geographic coordinates (30.0125 N, -95.7311 W). The proposed discharge will continue through the storm sewer for just under a mile until it empties out into a dry-bottom pond at certain geographic coordinates (30.0186 N, -95.7248 W). The proposed discharge then empties into a ditch for a short distance and into Little Cypress Creek at certain geographic coordinates (30.0203 N, -95.7238 W).

COMMENT 2:

Sekharan Madhu, Debbie Majors, and Shree and Danny Guy Wood expressed concern regarding the appropriate notification to affected landowners. Additionally, Sekharan Madhu commented expressing concern regarding the information MUD531 has disclosed to the public during this permitting process.

RESPONSE 2:

While it is unclear to the ED what specific public disclosures by MUD531 are problematic, the ED notes that TPDES applications are public records, and all information needed to review an application and draft a protective permit is also public record. As noted above, the TCEQ's Public Notice rules require applicants to make available, for public inspection and copying, the permit application, the ED's preliminary decision, and

the draft permit, all of which have been available for viewing and copying at the Northwest Branch Library, 11355 Regency Green Drive, Cypress, Texas.

Related to notifications to landowners, the TCEQ is statutorily mandated by TWC § 26.028 (Action on Application) to issue notice to the public of the TCEQ's receipt of a TPDES application and the start of the ED's processing of that application. The TCEQ's rules for notice of TPDES applications are found in 30 TAC Chapter 39 (Public Notice) and require applicants to provide notice to the public of the submission of a TPDES application through two specific methods.

As discussed above, the initial notice is the NORI. After the ED declares the application "administratively complete," the TCEQ CCO mails this declaration, along with a copy of the NORI, to the Applicant.⁹ Then, no later than 30 days after the ED declared the application administratively complete, applicants must publish the NORI in the newspaper that has the largest circulation in the county where the proposed facility or discharge is located and, in each county or municipality affected by the discharge.⁴ The Applicant must also make a copy of the administratively complete application available for viewing by the public in a specified location within the county in which the facility is located.⁵

The second method requires Applicants, using county deed records, to identify all landowners adjacent to a proposed facility and its discharge route for a certain distance, referred to as "adjacent landowners," and then include a list of those adjacent landowners along with a map identifying the property boundaries of landowners surrounding an applicants' property and the property boundaries of all landowners surrounding the proposed outfall and discharge route, on both sides, for one full stream mile downstream of the outfall. The map must depict the adjacent landowners' locations relative to the proposed facility and discharge route and must be submitted with the adjacent landowners list as part of the application materials required for TPDES applications. The TCEQ's CCO maintains a list of all individuals that commented or requested to be added to the mailing list for the application ("Interested Persons" list), and then uses it, along with the adjacent landowners list, to mail the NORI out to the public, which is referred to as "mailed notice" of an application.

Then after the ED has completed her Tech Review of an application and declared it "Technically Complete," the TCEQ's CCO mails the second notice, the NAPD, to an applicant who then must publish it in the same newspaper as the NORI, while the TCEQ's CCO mails the NAPD to the Interested Persons list and Adjacent Landowners list.

For this application, two public notices were mailed to the public and published in a newspaper according to the TCEQ Public Notice rules. The NORI was published in English on July 6, 2023, in the *Houston Chronicle*; and in Spanish on July 6, 2023, in *El Perico*. The CO-NAPD-NOPM was published in English on May 1, 2024, in the *Houston Chronicle* and in Spanish on May 2, 2024, in *El Perico*.

This application was processed according to the TCEQ's Public Notice rules, and landowners were notified up to 1.0 miles downstream of the proposed outfall.

COMMENT 2:

Cadence Morris, Sekharan Madhu, Brian Rose, Jules & Jay Morris, Jay Gusler, William Ely, Patty Bee, Jaime Gibson, Jennifer Ramirez, Kristin Gabino, Jay Mullinax, Tory Van Wie, Nikole Cales, Shree & Danny Wood, Dawn Fore, Lloyd White, Margaret & Phillip Pappano, John McClure, Becki Brinkerhoff, Laura Ashford, Jason Monacelli, Jennifer & Gaston Soto,

⁴ 30 TAC § 39.551(b)(1).

⁵ 30 TAC § 39.405(g).

Sandra & Charles Melcher, Karen Gaudet, and Marie Olmos all commented opposing the location for the proposed facility.

RESPONSE 2:

The ED acknowledges the comments in opposition to the proposed facility's location. However, applicants are the entity that proposes the location of a WWTF, like the proposed facility, rather than the ED. Likewise, the TCEQ's WQC does not include the authority 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 MUD531 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.

COMMENT 3:

Sekharan Madh, Carol & Brian Rose, Kathy Shores, Jennifer Ramirez, Warren Augustin, Lloyd White, Jennifer & Gaston Soto, and Kimberly & Darrin Whatley commented about the proposed discharge's effects on surface water quality and human health.

RESPONSE 3:

The ED acknowledges these comments and the significance of protecting human health, surface water quality (WQ), and the WQ uses of WITS, and gives that significance due consideration in deciding whether to issue a TPDES permit. Similarly, the ED always considers the health of area residents, as well as those of the public when reviewing applications for wastewater discharge permits. As discussed above and below, the ED's Tech review of TPDES applications also considers surface water quality as it relates to protecting human health and all animal life.

As detailed above in the section describing the ED's Tech review, the CWA, *Ch.26*, and the TSWQS & the IPs contain WQ objectives that TPDES permits, and their methods of achieving that quality, must meet. Equally important, WQD staff evaluated the application as an authorization to discharge to WITS, which requires adherence to those same WQ objectives. In the same way, *Ch.26* and the TSWQS & the IPs were all created for the protection of human health, existing surface and groundwater quality, the environment, the health of aquatic and animal life, and specifically, existing, attainable and designated WQ uses of WITS:

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.⁶

To fulfill the WQ objectives referenced above and to ensure permits are protective of the receiving water uses, including consumption of fish and shellfish, the TCEQ has established numerical criteria in the TSWQS for the protection of aquatic life and for the protection of human health.⁷

⁶ Texas Water Code § 26.003 and 30 TAC § 307.1.

⁷ 30 TAC § 307.6(c)(1), Table 1; 30 TAC § 307.6(d)(1), Table 2.

The TSWQS is a primary mechanism for the TCEQ to implement its WQC to achieve WQ objectives, such as protection of human health, existing surface and groundwater quality, the environment, the health of aquatic and animal life, and specifically, the existing, designated WQ uses of WITS, which involves not only meeting and maintaining numerical criteria but also narrative WQ conditions. The TSWQS require discharges not cause WITS to be toxic to any form of life, not degrade WITS, and not result in impairments of existing, attainable, or designated WQ uses. Similarly, TCEQ's WQC mandates discharges adhere to the TSWQS by use of the IPs for drafting TPDES permits. The focus of the IPs is for WQD staff to draft permits with provisions to meet the requirements of the TSWQS, namely the specific numeric and narrative WQ criteria just described that are applicable to WITS receiving a discharge, which protects existing WQ uses of WITS, human health, the environment, and the health of aquatic and animal life. WQD staff designed the proposed permit to be protective of the WQ uses of all WITS that could be potentially affected by the proposed discharge. In other words, to achieve the goal of supporting a level of WQ sufficient to protect existing WQ uses of WITS, the proposed permit was drafted to preclude degradation of WQ in Cypress Creek (Segment No. 1009) with effluent limits, monitoring requirements, and conditions designed to ensure protection of WITS according to the TSWQS & the IPs.

Protecting WQ in WITS receiving the proposed discharge are the assigned ALUs themselves, which govern what WQ uses and criteria will apply to protect Cypress Creek (Segment No. 1009) and the creeks upstream of Segment No. 1009, their ALUs, and the aquatic life that dwell in them, as well as consumption by terrestrial wildlife. The proposed facility is a minor municipal facility that will discharge first to a detention pond, which is unclassified and has a "minimal" ALU designation, as is the same for the dry-bottom pond and ditch. WITS, such as these that support only "minimal" ALUs still have criteria protecting both the aquatic life that live in the waterbodies and terrestrial wildlife that use the waterbodies as a source of water or food. To ensure that DO will be maintained above the limit established by the Standards Team for the detention pond and dry-bottom pond and ditch (2.0 mg/L DO), the proposed permit requires a DO limit or concentration of 4.0 mg/L to meet a DO criteria that supports an aquatic community with a "minimal" ALU designation but will not negatively affect WITS that support a "high" ALU designations, such as Little Cypress Creek and Cypress Creek in Segment No. 1009 that require 5.0 mg/L DO.

According to the IPs, "Minimal" ALUs fall under a Tier I Antidegradation Review, that evaluates all pollution that may cause an impairment of existing WQ uses. This ensures that those WQ uses are not impaired by increases in pollution loading, as the numerical and narrative criteria necessary to protect existing WQ uses will be maintained because the primary focus of the TSWQS & the IPs and WQD Staff performing the ED's Tech Review is DO, which is critical for the overall health and WQ of WITS.

The draft permit also contains several water quality-specific parameters or requirements that limit the potential impact on WITS receiving the proposed discharge. This is because the proposed permit's effluent limits and conditions were derived from a rigorous, data-centric technical review to ensure compliance with the TSWQS. As stated above, the proposed permit's limits for some of the major constituents were evaluated with a mathematical model of the receiving waters, and results indicated that limits of 10 mg/L CBOD5, 3.0 mg/L NH3-N, and a 4.0 mg/L DO concentration are required for the proposed facility to discharge up to 0.10 MGD to the WITS receiving the proposed discharge. These limits are consistent with the WQMP, and while they are not contained in the approved WQMP, the limits will be included in the next WQMP update. The draft permit's effluent set also satisfies the requirements of the Lake Houston Watershed Rule.

WQD staff, when preparing the draft permit, also incorporated pertinent site-specific factors to reduce uncertainty and bolster confidence in the results of the ED's Tech Review. For example, the Applicant is required to build a collection system and WWTF according to the plans and specifications approved by the ED and must ensure the proposed facility's plans and specifications meet all design requirements in the proposed permit and the 30 TAC Chapter 217 rules. The draft permit requires the Applicant to "take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation reasonably likely to adversely affect human health." WQD Staff determined that the proposed permit complies with the TSWQS, ensuring that the proposed discharge is protective of human health. This is because the ED followed the methodologies outlined in the IPs for drafting the proposed permit, which specify that TPDES permits must maintain WITS to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three. The methodologies were specifically designed to ensure no source will be allowed to discharge WW that: 1) results in instream aquatic toxicity; 2) causes a violation of an applicable narrative or numerical standard in the TSWQS; 3) results in the endangerment of a drinking water supply; or 4) results in aquatic bioaccumulation that threatens human health. Accordingly, human health impacts from the proposed discharge are unlikely to occur, as the Applicant is only authorized to discharge according to the limitations, monitoring requirements, and other conditions of the proposed permit.

Human health is protected by the TCEQ rules in 30 TAC § 309.3(g)(1) (Disinfection), which requires disinfection of WW or effluent prior to discharges to WITS in a manner conducive to the protection of public health. The TCEQ's Disinfection rules, implemented through provisions in a TPDES permit, protect human health with bacteria limits to ensure that the proposed discharge meets the stream bacterial standard of the TSWQS. The draft permit not only includes bacteria limits, but also monitoring requirements to verify proper disinfection. TCEQ's Disinfection rules do not mandate a specific method of disinfection, as an applicant may disinfect domestic WW through use of 1) chlorination (CI), 2) UV, or 3) an equivalent method of disinfection with prior approval from the ED. Whichever form is used, the design criteria for the disinfection system, including safety requirements, must follow the requirements of the 217 rules, specifically Subchapters K or L (Chemical or UV disinfection, *respectively*).

Subchapter K specifies the disinfection requirements for CI systems such as sizing, configuration, dosage, system details, controls, cleaning, safety, and minimum replacement parts for the CI disinfection units. Most importantly for protection of human health, the 217 rules require all disinfection systems to have a backup power system capable of providing sufficient power to operate continuously during outages.

In this case, the Applicant chose chemical disinfection using CI in all phases of the proposed permit. Chlorination may be via gaseous, liquid, or tablet forms. CI 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.⁸ Thus, the proposed discharge, when disinfected with CI, must contain a CI residual of at least 1.0 mg/L. The permit limit for maximum total CI 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.⁹

⁸ U.S. EPA *Wastewater Technology Fact Sheet- Chlorine Disinfection* (EPA 832-F-99-062).

⁹ HCMUD No. 531 Draft Permit, Effluent Limitations and Monitoring Requirements, p.2; *see also* 30 TEX. ADMIN. CODE § 309.3(g)(2).

For protection of human health, the only chemical addition to the treatment process is CI for disinfection purposes. Other than the permit limitation for maximum total CI, no other chemical treatment was indicated in the application. Moreover, conventional domestic WW does not typically contain toxic contaminants in measurable quantities that might result in toxic effects in the receiving waters unless there are significant industrial users contributing to the waste stream. The proposed facility will receive WW from residential users and will not be accepting industrial WW. Therefore, the ED does not anticipate that there will be any industrial wastewater, insecticides, and banned chemicals not allowed to be disposed of and routed to a WWTF; therefore, hazardous liquids and harmful 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 may result in toxic effects in the receiving streams, unless there are significant industrial users contributing wastewater. Therefore, human health and water quality will be protected if the Applicant operates the proposed facility consistent with TCEQ's rules and the terms and conditions of the draft permit.

COMMENT 4:

Sekharan Madh, Brian Rose, Kathy Shores, Jennifer Ramirez, Warren Augustin, Lloyd White, Carol Rose, Jennifer Soto, Gaston Soto, Kimberly Whatley, and Darrin Whatley commented about the proposed discharge's effects on animal and wildlife.

RESPONSE 4:

The draft permit was developed to protect all animal life, vegetation, and aquatic and terrestrial life according to the TSWQS, provided the Applicant operates and maintains the proposed facility according to TCEQ rules and the requirements in the draft permit. The TSWQS require that TPDES-permitted discharges not cause surface waters to be toxic to aquatic life, terrestrial wildlife, livestock, or other animal life. not degrade receiving waters, and not result in situations that impair existing, attainable, or designated WQ uses. Likewise, the proposed permit's effluent limits will protect the WQ uses and the WQ of the WITS receiving the proposed discharge for the benefit of the aquatic and terrestrial wildlife that depend on it. This is because WQD Staff, during the ED's Tech Review, must verify that the proposed permit's limits, conditions, and provisions will ensure that the TSWQS will be maintained by the proposed discharge, which provides protection for aquatic, terrestrial, and wildlife.

WQD Staff determined that the proposed discharge will be consistent with the TSWQS, which validates that it is protective of animal, aquatic, terrestrial, and wildlife. WQD Staff's determination is possible because WQD Staff drafted the proposed permit with provisions that safeguard compliance with the TSWQS. For example, the proposed permit contains additional protection for animal, aquatic, terrestrial, and wildlife through the conditions related to the rule in 30 TAC § 309.3(g)(1) (Disinfection), which requires the effluent to be disinfected prior to discharge in a manner conducive to protect, aquatic, terrestrial, and wildlife.

For more information related to the protection of and the health of wildlife, the Texas Parks and Wildlife Department (TPWD) is the state agency that oversees and protects wildlife and their habitat and can be contacted by calling 1-800-792-1112 or by mail at 4200 Smith School Road, Austin, Texas 78744. The TPWD was sent notice of the application and did not express any opposition to the draft permit.

COMMENT 5:

Cadence Morris, Sekharan Madhu, Jay Morris, Jay Gusler, Shree and Danny Guy Wood, Dawn Fore, Lloyd White, and Jules Morris commented that the applicant has not fulfilled the regionalization policy of Texas.

RESPONSE 5:

According to TWC § 26.081, the State’s policy is 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 prevent pollution and maintain and enhance the quality of the water in the state,” otherwise known as “Regionalization.”

TWC § 26.0282 provides that “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 area wide or regional waste collection, treatment, and disposal systems not designated as area wide or regional disposal systems by Commission Order. This section is expressly directed to the control and treatment of conventional pollutants normally found in domestic wastewater.”

Texas’ Regionalization policy is implemented through the TPDES application’s Domestic Technical Report 1.0 and Domestic Technical Report 1.1. In sections 1 of both technical reports the Applicant must provide the design flow and estimated construction start date of each phase, estimated start dates for effluent disposal, and justification for any phase beyond the facility’s initial phase, among other information regarding the Applicant’s proposed flows.

For evaluating the need for each of the proposed facility’s phases, Domestic Technical Report 1.0 requires the Applicant to justify its proposed flows in the form of LUEs or Equivalent Dwelling Units, which are standard units of water quantity/demand furnished to a single-family residential unit and are defined as the typical flow that would be produced by a single-family residence located in a typical subdivision, with the assumption that 3.5 people reside within a residence.

Related to the evaluation of need for the proposed facility, Domestic Technical Report 1.1 requires the Applicant to contact existing, permitted WWTFs within a three-mile radius of the proposed facility; however, a WWTF located within three miles of a proposed facility is not an automatic basis to deny an application or to compel the Applicant to connect to that WWTF.

The purpose of contacting existing, permitted WWTFs is to determine whether those WWTFs have the capacity and are willing to expand to accept the volume of wastewater proposed by the Applicant. If the other WWTFs are willing to provide service and accept the proposed flows, an analysis of expenditures is required showing the cost to connect to one of those permitted WWTFs within three miles, as opposed to the cost of the proposed facility or expansion. Finally, Applicants are required to provide copies of all correspondence with the owners of the existing WWTFs within three miles regarding connecting to their systems.

Similarly, the TPDES application requires the Applicant to provide justification and the same cost analysis of expenditures to connect to an existing WWTF if any portion of

the proposed service area is inside another utility's CCN area. When applicants provide economic justifications demonstrating that connecting to the other utility's WWTF will be cost-prohibitive, or if a collection system within three miles of the proposed facility does not have the capacity or is unwilling to accept the additional wastewater, the ED will approve the application as it relates to Regionalization.

WQD staff use all information submitted by applicants to evaluate whether the Commission should grant the application and, if so, whether each of the proposed phases should be incorporated into a permit.

Relevant to this application, there are ten existing WWTFs or collection systems within a three-mile radius of the proposed facility's location. MUD531 submitted certified copies of letters sent to the ten existing facilities on April 5, 2023, requesting information about capacity to accept the proposed discharge. April 17, 2023, MUD531 received response letters informing of a lack of capacity for the proposed discharge. Four letters were received back from the notified facilities by April 17, 2023. As of September 4, 2024, the remaining six facilities have not responded.

According to the Applicant, there are no other wastewater treatment facilities located within a three-mile radius of the proposed facility that are willing to provide service. Because WQD staff rely on the representations made in the application during its review of permit applications, applicants are required to certify the accuracy of the information submitted and the application must be signed by a responsible party under penalty of law. Likewise, General Permit Condition No. 1(b) states that the draft permit is granted based on the information supplied and representations made by the Applicant during the processing of the application and the permitting process. Relying upon the accuracy and completeness of the application information and the representations of MUD531, WQD staff concluded that the draft permit is consistent with Texas' Regionalization policy.

COMMENT 6:

Sekharan Madhu and Brian Rose commented about compliance and enforcement for the draft permit including unauthorized discharges from the proposed facility and their reporting requirements.

William Ely commented, asking whether it is legal for MUD531 to begin construction of the proposed facility prior to issuance of the draft permit.

RESPONSE 6:

It is a violation of state law (TWC § 26.027(c)) to commence construction of a WWTF before the TCEQ has issued a permit to authorize the discharge of waste from that WWTF, except with the approval of the Commission.

Additionally, before MUD531 can begin construction of the proposed facility, the TCEQ's Chapter 217 rules require MUD531, after the permit is issued, to submit engineering plans and specifications for review and approval by a licensed Professional Engineer in the WQD's Plans and Specifications Review Team (P&S Team).

Related to compliance and enforcement, the TCEQ's Office of Compliance and Enforcement plays an important role in protecting human health and the environment because it ensures that the Applicant, its operator, and the proposed facility follow applicable state and federal regulations. OCE's Region 12 is required to conduct a mandatory Comprehensive Compliance Investigation at minor facilities (facilities with

permitted flow less than 1 MGD) once every five fiscal years. Additional mandatory investigations can be required if the proposed facility is classified as Significantly Non-Complaint (SNC). SNC is determined by the Compliance Monitoring Section of the TCEQ's OCE and is based on self-reported effluent violations.

TPDES-permitted facilities' compliance with the law, applicable rules and regulations, and the draft permit's limits and conditions are continually monitored through what is known as a "Compliance History" (CH). A CH can include multimedia compliance-related components about the site under review and 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 CH is created for (1) an applicant, the owner or operator of a WWTF, which can be an individual, a company, governmental agency, or several other kinds of entities, and (2) the site or facility. The Owner-Operator rating and classification is the average of the ratings for all sites an applicant owns or operates.

According to the TCEQ rules, found in 30 TAC Chapter 60 (Compliance History), during the ED's Tech review, WQD staff review the CH for the five-year period prior to the date the application was received by the TCEQ. of an applicant for the company or entity, and the proposed site for the five-year period prior to the date the application was received by the TCEQ, which for permit applications received after September 1, 2002, include a rating for both an Applicant and a proposed or existing site with classifications and ratings including:

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

Related to the CH review performed by WQD staff for this Application, the Applicant and site were rated and classified pursuant to 30 TAC Chapter 60, the application was received after September 1, 2002, the ED reviewed the compliance history for both the Applicant and site for the five-year period before the TCEQ received the permit application (12/27/2022), and as an existing entity in the TCEQ's CH database, the Applicant has a classification and rating that corresponds with 'Satisfactory Performer' (4.0 points). There is no site rating, as the proposed facility has not been constructed.

The draft permit was also developed according to the TSWQS & the IPs to be protective of the WQ objectives referenced above, provided that MUD531, through its Operator, runs and maintains the proposed facility according to TCEQ rules and the draft permit's requirements.

Moreover, the TCEQ issues permits that describe the conditions under which the proposed facility must operate. All WWTFs must be designed, operated, and maintained consistent with the provisions of applicable TCEQ rules. These provisions require that a facility is properly operated and always maintained. Operational Requirement No. 9, requires that domestic WWTFs 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. Likewise, Other Requirement No.1 of the draft permit requires MUD531 to employ or contract with one or more licensed WWTF operators or WW 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). While it is MUD531's responsibility to hire the appropriate operator, and although any operator selected by MUD531 is required to operate and maintain the proposed facility according to the TCEQ rules and draft permit, ultimately it is MUD531 who is required to ensure the proposed facility and all its systems of collection, treatment, and disposal are always properly operated and maintained.

According to 30 TAC § 30.350, the proposed permit requires the proposed facility to be operated by a chief operator or an operator holding a Category C license or higher (Figure: 30 TAC § 30.350(e)). The ED determines the level of operator required based on the treatment technology and the maximum permitted flow. A Class C operator must have a high school diploma (or equivalent), two years of work experience, and 60 hours of training. The proposed facility must be operated a minimum of five days a week by the licensed chief operator or an operator holding the required level of license or higher. The Applicant may also contract with a licensed operator or operations company for the day-to-day operations of the proposed facility with a Class C license or higher.

Operational Requirement No. 8(b), requires that the proposed facility's plans and specifications must be approved by the P&S Team, and failure to secure approval before commencing construction or making a discharge is a violation of the draft permit and each day is an additional violation until approval has been secured. The P&S Team ensures that the plant design can adequately treat the proposed discharge according to the limits in the proposed permit.

Related to ensuring the proposed facility is compliant with applicable TCEQ rules, the TCEQ's 217 rules identify types of treatment technology that can achieve the treatment levels required in the proposed permit. Similarly, Other Requirement No. 6 of the proposed permit requires MUD531 to submit a summary transmittal letter of the proposed facility's plans and specifications according to 30 TAC § 217.6(d) to the WQD's P&S Team. If requested by the P&S Team, MUD531 must submit final plans and specifications, *and* a final engineering design report which comply with the TCEQ's 217 rules. MUD531 must clearly show how the treatment system will meet the permitted limits required on Pages 2, 2a, and 2b of the draft permit. The P&S Team's review ensures that the design and operation of the proposed facility can adequately treat the domestic WW according to the limits in the draft permit during.

Related to spills, if the proposed facility is maintained and operated in accordance with TCEQ rules and the provisions in the draft permit, spills are not expected to occur because the draft permit describes the conditions under which the proposed facility must operate and has maintenance and operational safeguards intended to minimize the occurrence of operational mishaps. For example, Operational Requirement No. 1 requires MUD531 to ensure that the proposed facility and all its systems of collection, treatment, and disposal are always operated and maintained consistent with applicable TCEQ rules, including regular, periodic examination of WW solids within the proposed facility by the operator to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to

accepted industry standards for process control. Operational Requirement No. 4 makes MUD531 responsible for installing, prior to plant start-up, and subsequently maintaining adequate safety measures to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated WW.

Operational Requirement No. 2 requires MUD531, upon request by from the ED, to take appropriate samples and provide proper analysis to demonstrate compliance with Commission rules. Sampling, analysis, and reporting for compliance with provisions of the draft permit must be performed by the Applicant according to the draft permit's provisions on Monitoring and Reporting Requirements, the draft permit's Definitions and Standard Permit Conditions, which are based on the TCEQ's rules found at 30 TAC §§ 319.4 - 319.12. Data from Discharge Monitoring Reports (DMRs) must be submitted each month to the TCEQ's Compliance Monitoring Team within the OCE and must be available for inspections by compliance investigators from OCE's Region 12.

Compliance Condition 2(a) of the draft permit requires the MUD531 to tacitly acknowledge that acceptance of an issued permit is an agreement to comply with all the terms and conditions embodied in the permit and the rules and other orders of the Commission. Compliance Condition 2(b) requires MUD531 to comply with all conditions of the draft permit, and failure to do so constitutes a violation of the permit and the TWC or the Texas Health and Safety Code. Compliance Condition 2(d) requires the MUD531 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 or the environment, and Compliance Condition 2(g) prohibits unauthorized discharges of WW or any other waste.

Lastly, Compliance Condition 2(i) ties all these draft permit conditions together and allows them to function as intended because it subjects MUD531 to administrative, civil, and criminal penalties from Chapter 7 of the TWC (Enforcement), for violations of the draft permit and TCEQ rules, including, but not limited to, negligently or knowingly violating the federal CWA §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in the proposed permit issued under the CWA § 402, or any requirement imposed in proposed permit's pretreatment requirements approved under the CWA §§ 402(a)(3) or 402(b)(8).

If spills were to occur at the proposed facility, any spill would be an unauthorized discharge in violation of the draft permit's Compliance Condition 2(g) for which an enforcement action can be brought by TCEQ against MUD531.

Area residents are protected by the fact that MUD531 can only discharge according to the limits, monitoring requirements, and other conditions listed in the draft permit. The draft permit also requires MUD531 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 or the environment.

The draft permit also requires MUD531 to report any unauthorized discharge to TCEQ within 24 hours.¹⁰ According to 30 TAC § 305.125(9), any noncompliance which may endanger human health or safety, or the environment shall be reported by the Applicant to the TCEQ. Except as allowed by 30 TAC § 305.132, the report of noncompliance must be provided orally or by facsimile transmission to the OCE (Region

¹⁰ HCMUD No. 531 Draft Permit, Monitoring and Reporting Requirements, Item 7, p. 7.

12) within 24 hours of becoming aware of the noncompliance. A written submission of the report of noncompliance information must also be provided by MUD531 to the Compliance Monitoring Team of the Enforcement Division of the OCE within five working days of becoming aware of the noncompliance. The written submission must contain a description of the noncompliance and its cause; the potential danger to human health or safety or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.

Additionally, the TCEQ's OCE conducts routine inspections of facilities to ensure compliance with applicable authorizations and that all authorizations are obtained properly. Any observance of complaints about discharges from the facility can be reported for investigation to OCE's Region 12 at (713) 767-3500, by using the statewide toll-free number at (888)-777-3186, or the electronic methods described in Section II.

These and other requirements in the draft permit are designed to prevent unauthorized discharges of raw sewage and have historically been effective at keeping applicants informed as to conditions at the WWTF for meeting treatment limits, avoiding treatment system problems, and preventing unauthorized discharges of raw sewage.

COMMENT 7:

Cadence Morris, Brian Rose, Jay Morris, Jay Gusler, Bill Goins, William Ely, Jessica Hawley, Whitney Hough Wiener, Kathy Shores, Russell Faulk, Jaime Gibson, Jennifer Ramirez, Kristin Gabino, Lisa Toledanes, David Crockett, Tory Van Wie, Warren Augustin, Nikole Cales, Shree and Danny Guy Wood, Dawn Fore, Jules Morris, Cory Lehmann, John McClure, Laura Ashford, Charles Melcher, Sandra Melcher, Karen Gaudet, Diana Gee, and Kimberly & Darrin Whatley commented about nuisance odors from the proposed facility and the draft permit's buffer zone requirements.

RESPONSE 7:

Instances of foul odors from a discharge of effluent can exist when there are insufficient levels of DO concentrations in the effluent. To prevent odors from occurring the number of oxygen-demanding constituents must be controlled, as maintaining an adequate DO concentration in the early stages of WW treatment helps to minimize sulfide generation, which is the most common cause of odor. The proposed effluent limits, specifically the minimum DO limit, restrict the number of oxygen-demanding constituents and are set at levels to significantly reduce the odors in the effluent being discharged and prevent degradation of the receiving waters.

However, all WWTFs have the potential to generate odors. The treatment process proposed by the Applicant supplies oxygen in the air, "aeration," into the effluent for biodegradation of organic contaminants in the effluent, and oxygen converts the sulfide compounds into odorless sulfates.

To control and abate odors, the TCEQ rules require domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor according to 30 TAC § 309.13(e), which provides options for applicants to satisfy the nuisance odor abatement and control requirements. Additionally, nuisance-odor controls have been incorporated into the proposed permit according to 30 TAC § 309.13(e) of the TCEQ's rules, which require domestic WWTFs to meet buffer zone requirements for the

abatement and control of nuisance odor by complying with one of three options: 1) ownership of the buffer zone area; 2) restrictive easements from the adjacent property owners for any part of the buffer zone not owned by the applicant; or 3) providing nuisance odor control.

According to the application, MUD531 intends to comply with the requirement to abate and control nuisance of odor by legal restrictions prohibiting the construction of residences within the buffer zone. This requirement is incorporated in the draft permit. These legal restrictions include a Special Warranty Deed between AHV Shiel BFR Owner, LLC, the landowner of the site of the proposed facility, and MUD531 in accord with 30 TAC § 309.13(e)(3). Therefore, nuisance odor is not expected to occur because 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.

Additionally, information about the proposed facility from the application indicates that the proposed facility will be an activated sludge process plant operated in the complete mix mode. The activated sludge process is the most frequently used biological WW treatment process for treating domestic WW, and the use of the complete mix mode has been known to produce highly treated effluent with low biosolids production. When properly treated by the proposed WW treatment process, the effluent is not expected to have offensive odors.

COMMENT 8:

Sekharan Madhu commented about per- and polyfluoroalkyl substances (PFAS) in the proposed discharge.

RESPONSE 8:

The TCEQ has not developed or proposed, nor has the EPA approved numeric criteria for PFAS chemicals for inclusion in the TSWQS.

The EPA continues to work to develop nationally recommended criteria to protect human health from ingestion of drinking water and consuming fish. Early drafts of national aquatic life criteria for PFAS chemicals, specifically Perfluorooctanoic acid (PFOA) and Perfluorooctane Sulfonic Acid (PFOS), published by EPA in May 2022, focused on acute and chronic criteria for freshwaters for protecting aquatic life with chronic criteria expressed as tissue-based concentrations to protect aquatic life from PFOA and PFOS bioaccumulation.

Currently, PFAS criteria for wastewater discharges has not been finalized by the EPA. However, for Clean Water Act purposes, when the PFAS criteria are established, adopted, and incorporated into the TSWQS by the TCEQ, the criteria can be implemented through the applicable wastewater permits issued by TCEQ.

COMMENT 9:

William Ely, Diego Villegas, Jessica Hawley, Whitney Wiener, Kathy Shores, Charlene Jones, Russell Faulk, Jaime Gibson, Kristin Gabino, Lisa Toledanes, Kelly Thibert, Nikole Cales, Dawn Fore, Lloyd White, Phillip Pappano, Cory Lehmann, John McClure, Laura Ashford, Karen Gaudet, Matt Abegglen, Brandon Reardon, Keren Grissom, Diana Gee, Sandra & Charles Melcher, Cadence, Jules & Jay Morris, Carol & Brian Rose, Jennifer & Gaston Soto, Kimberly & Darrin Whatley, Shree & Danny Wood and Nancy & Patrick Wong commented about property values, noise, light pollution, traffic and aesthetics.

Michael Browne expressed concerns regarding flooding caused by the discharge.

RESPONSE 9:

The ED acknowledges the significance of these comments; however, there are certain concerns of citizens that the TCEQ cannot address as part of the review for TPDES permit application. TPDES permits establish terms and conditions that are intended to provide water quality pollution control. Similarly, the ED encourages the participation of all citizens in the environmental permitting process; however, the scope of the TCEQ's jurisdiction in a TPDES application is limited to the issues set out by statute.

While the Texas Legislature has given the TCEQ the responsibility to protect Water Quality (WQ), and TWC § 26.027 authorizes the TCEQ to issue permits to control the disposal of wastes or pollutants adjacent to state waters and to protect the WQ of the state's rivers, lakes and coastal waters; and while the proposed permit establishes terms and conditions that are intended to provide WQ pollution control, which focuses on controlling the disposal of pollutants adjacent to water in the state, the ED through the WQD has no jurisdiction in its determination of whether to issue a water quality permit, to address property values, visual aesthetics, light pollution, and flooding or erosion, if water quality is maintained. The TCEQ also does not have authority to require or enforce any noise abatement measures, as they are normally enacted by cities or counties and enforced by local law enforcement authorities. Rather, the ED is limited to controlling the disposal of pollutants into WITS and protecting the WQ of WITS.

Although the TCEQ does not have jurisdiction to regulate flooding in the context of a TPDES permit, to the extent that a concern over flooding also involves WQ, applicants are always required to comply with all the numeric and narrative effluent limitations and other conditions in draft permits, including during flooding conditions. Likewise, draft permits include effluent limits and other requirements that applicants must meet even during rainfall events and periods of flooding. According to the application, the proposed facility will be located above the 100-year flood plain. For additional protection, the draft permit includes Other Requirement No. 4, which requires MUD531 to provide protection for the facility against a 100-year flood event.

For flooding concerns, members of the public may contact the Harris County Floodplain Administrator's office by calling (713) 274-3842 8:00 a.m. - 5:00 p.m., Monday through Friday, sending an email to:

- darrell.hahn@hcpid.org, permitsinfo@hcpid.org, or through visiting the following:
- <https://www.eng.hctx.net/permits/Floodplain-Management>

Additionally, the TCEQ Resource Protection Team can be contacted for aid in identifying and contacting the appropriate county officials or offices, by calling (512) 239-4600 8:00 a.m. - 5:00 p.m., Monday through Friday, or by sending an email to:

- wcp@tceq.texas.gov.

Additionally, the Federal Emergency Management Agency has programs designed to mitigate damage caused by flooding, that can be found at the following website:

- www.fema.gov/floodplain-management

Additionally, the TCEQ's issuance of a permit does not authorize injuries to other persons, their property, or an invasion of their property rights. Similarly, the proposed permit's provisions do not, nor does the scope of TCEQ's regulatory jurisdiction, limit

nearby landowners' ability to use a court of law's remedies if anyone experiences nuisance conditions or any other suspected incidents of noncompliance with the permit or TCEQ rules. A draft permit does not limit an affected individual's ability to seek legal remedies against applicants for 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.

Members of the public may contact local authorities to inquire if there are any applicable, local (e.g., city or county), light pollution ordinances around the proposed facility. For noise pollution and personal safety or security concerns, the public may contact local law enforcement or the Harris County Sheriff's Office at 713-221-6000.

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

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

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, Executive Director

Phillip Ledbetter, Director
Office of Legal Services

Charmaine Backens, Deputy Director
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REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

VIII. CERTIFICATE OF SERVICE

I certify that on November 21, 2024, the Executive Director's Response to Public Comment for TPDES Permit No. WQ0016334001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.

A handwritten signature in black ink, reading "Michael T. Parr II". The signature is written in a cursive style with a horizontal line underneath the name.

Michael T. Parr II, Staff Attorney
State Bar No. 24062936