

## TCEQ DOCKET NO. 2025-0828-MWD

APPLICATION BY CITY OF MANOR  
FOR A MAJOR AMENDMENT TO  
TPDES PERMIT NO. WQ0014129002

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BEFORE THE TEXAS  
COMMISSION ON  
ENVIRONMENTAL QUALITY

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### EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

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#### I. INTRODUCTION

The Executive Director ("ED") of the Texas Commission on Environmental Quality ("the Commission/TCEQ") files this Response to requests for a Contested Case Hearing ("Requests") filed on the application ("the Application") by the City of Manor ("Applicant") for a major amendment to Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014129002, otherwise known as the "Draft Permit," which authorizes the expanded operation of the Cottonwood Creek Wastewater Treatment Facility ("CWC facility"). The TCEQ's Office of the Chief Clerk ("OCC") received Requests from Jonathan Beall, Anne Brockenbrough, Pamela Fowler, Thomas Graham, and Marilyn Kelinske, individually and collectively as Members of Wilbarger Creek Conservation Alliance's (WCCA) Board of Directors.

#### II. ATTACHMENTS FOR COMMISSION CONSIDERATION

- Attachment A - ED's GIS Map and its Appendix<sup>1</sup>

#### III. BACKGROUND

##### ***A. Application Request***

The Applicant applied for a major amendment to TPDES Permit No. WQ0014129002 to authorize expansion of the CWC facility and an increase in flow of the discharge of treated domestic wastewater (effluent) from 500,000 gallons per day (GPD) or 0.5 Million gallons per day (MGD) to a daily average flow limit not to exceed 0.60 MGD in the Interim III phase, and a daily average flow limit not to exceed 0.80 MGD in the Final phase. This expanded discharge is referred to as the "proposed discharge," and it is subject to the effluent limitations (limits) in the draft permit.

##### ***B. Description of the existing CWC Facility and Discharge Route***

The CWC facility, located approximately 0.4 miles east of the intersection of Farm-to-Market Road 1100 and U.S. Highway 290, in Travis County, Texas, is operating in the Interim Phase and when its expansion is complete, the CWC facility will serve a new development in the eastern portion of Manor, Manor Heights, Manor Heights South, and a future 62-acre development.

The CWC facility is an activated sludge process plant operated in the conventional single-stage nitrification mode. Treatment units in the Interim I phase include a bar screen, two aeration basins, a sludge digester, a final clarifier, a tertiary filter, and a chlorine contact chamber. Treatment units in the Interim II phase include two bar

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<sup>1</sup> The requesters' locations on the ED's GIS Map are the locations of the physical addresses provided by the requesters in their applicable hearing requests.

screens, four aeration basins, two sludge digesters, two final clarifiers, two tertiary filters, and two chlorine contact chambers. Treatment units in the Interim III phase will include two bar screens, eight aeration basins, four sludge digesters, four final clarifiers, four tertiary filters, four chlorine contact chambers, and dechlorination chamber. Treatment units in the Final phase will include three bar screens, sixteen aeration basins, eight sludge digesters, eight final clarifiers, seven tertiary filters, eight chlorine contact chambers, and a dechlorination chamber.

The route of the existing discharge is first to Cottonwood Creek, thence to Wilbarger Creek, thence to the Colorado River Above La Grange in Segment No. 1434 of the Colorado River Basin. The designated uses for Segment No. 1434 are primary contact recreation, public water supply and “exceptional” aquatic life use.

### ***C. Proposed Effluent Limitations***

Table Nos. 1-4 below lists the proposed limits and monitoring requirements of the draft permit. All flows, except the two-hour peak flow, are expressed in Million Gallons Per Day (MGD) or Gallons Per Day (GPD). The two-hour (2-hr) peak flow is expressed in Gallons Per Minute (GPM), and the word “minimum” is abbreviated with “min.” 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). The permit limits for Five-Day Carbonaceous Biochemical Oxygen Demand, is abbreviated as “CBOD<sub>5</sub>”, Total Suspended Solids as “TSS,” and Ammonia Nitrogen as “NH<sub>3</sub>-N.”

**Table No. 2 Interim Phase I Effluent Limitations**

| Parameter/<br>Pollutant | Daily Average |         | 7-day<br>Average | Daily<br>Maximum | Single<br>Grab | Monitoring<br>Requirements |
|-------------------------|---------------|---------|------------------|------------------|----------------|----------------------------|
|                         | mg/L          | lbs/day | mg/L             | mg/L             | mg/L           |                            |
| Flow                    | 0.20          |         | N/A              | N/A              | N/A            | Continuous                 |
| CBOD                    | 5.0           | 8.3     | 10               | 20               | 30             | One/week                   |
| TSS                     | 5.0           | 8.3     | 10               | 20               | 30             | One/week                   |
| NH <sub>3</sub> -N      | 2.0           | 3.3     | 5.0              | 10               | 15             | One/week                   |
| Total<br>Phosphorus     | 1.0           | 1.7     | 2.0              | 4.0              | 6.0            | One/week                   |
| <i>E. coli</i>          | 126           |         | N/A              | N/A              | 399            | One/month                  |
| pH                      | 6.0 SU        |         | N/A              | 9.0 SU           | N/A            | One/month                  |

During Interim Phase I, the daily average effluent flow must not exceed 0.20 MGD, nor must the average discharge during any two-hour peak period exceed 550 GPM.

**Table No. 3 Interim Phase II Effluent Limitations**

| Parameter/<br>Pollutant | Daily Average |         | 7-day<br>Average | Daily<br>Maximum | Single<br>Grab | Monitoring<br>Requirements |
|-------------------------|---------------|---------|------------------|------------------|----------------|----------------------------|
|                         | mg/L          | lbs/day | mg/L             | mg/L             | mg/L           |                            |
| Flow                    | 0.40          |         | N/A              | N/A              | N/A            | Continuous                 |
| CBOD                    | 5.0           | 17.0    | 10               | 20               | 30             | One/week                   |
| TSS                     | 5.0           | 17.0    | 10               | 20               | 30             | One/week                   |
| NH <sub>3</sub> -N      | 2.0           | 6.7     | 5.0              | 10               | 15             | One/week                   |
| Total Phosphorus        | 1.0           | 3.3     | 2.0              | 4.0              | 6.0            | One/week                   |
| <i>E. coli</i>          | 126           |         | N/A              | N/A              | 399            | One/month                  |
| pH                      | 6.0 SU        |         | N/A              | 9.0 SU           | N/A            | One/month                  |

During Interim Phase II, the daily average effluent flow must not exceed 0.40 MGD, nor must the average discharge during any two-hour peak period exceed 1,110 GPM.

**Table No. 4 Interim Phase III Effluent Limitations**

| Parameter/<br>Pollutant | Daily Average |         | 7-day<br>Average | Daily<br>Maximum | Single<br>Grab | Monitoring<br>Requirements |
|-------------------------|---------------|---------|------------------|------------------|----------------|----------------------------|
|                         | mg/L          | lbs/day | mg/L             | mg/L             | mg/L           |                            |
| Flow                    | 0.60          |         | N/A              | N/A              | N/A            | Continuous                 |
| CBOD                    | 5.0           | 25      | 10               | 20               | 30             | One/week                   |
| TSS                     | 5.0           | 25      | 10               | 20               | 30             | One/week                   |
| NH <sub>3</sub> -N      | 2.0           | 10      | 5.0              | 10               | 15             | One/week                   |
| Total Phosphorus        | 1.0           | 5.3     | 2.0              | 4.0              | 6.0            | One/week                   |
| <i>E. coli</i>          | 126           |         | N/A              | N/A              | 399            | One/month                  |
| pH                      | 6.0 SU        |         | N/A              | 9.0 SU           | N/A            | One/month                  |

During Interim Phase III, the daily average effluent flow must not exceed 0.60 MGD, nor must the average discharge during any two-hour peak period exceed 1,667 GPM.

**Table No. 5 Final Phase Effluent Limitations**

| Parameter/<br>Pollutant | Daily Average |         | 7-day<br>Average | Daily<br>Maximum | Single<br>Grab | Monitoring<br>Requirements |
|-------------------------|---------------|---------|------------------|------------------|----------------|----------------------------|
|                         | mg/L          | lbs/day | mg/L             | mg/L             | mg/L           |                            |
| Flow                    | 0.80          |         | N/A              | N/A              | N/A            | Continuous                 |
| CBOD                    | 5.0           | 33      | 10               | 20               | 30             | One/week                   |
| TSS                     | 5.0           | 33      | 10               | 20               | 30             | One/week                   |
| NH <sub>3</sub> -N      | 2.0           | 13      | 5.0              | 10               | 15             | One/week                   |
| Total Phosphorus        | 1.0           | 6.7     | 2.0              | 4.0              | 6.0            | One/week                   |
| <i>E. coli</i>          | 126           |         | N/A              | N/A              | 399            | One/month                  |
| pH                      | 6.0 SU        |         | N/A              | 9.0 SU           | N/A            | One/month                  |

During the Final Phase, the daily average effluent flow must not exceed 0.60 MGD, nor must the average discharge during any two-hour peak period exceed 2,222 GPM.

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 (HB-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 (SB-709), 84<sup>th</sup> Legislature, 2015.

#### IV. ACCESS TO INFORMATION, LAWS, RULES & TCEQ RECORDS, REQUIRED NOTICES PUBLISHED IN SPANISH & ENGLISH, AND COMPLAINTS

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

➤ [www.tceq.texas.gov/agency/decisions/participation/permitting-participation](http://www.tceq.texas.gov/agency/decisions/participation/permitting-participation)

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

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

Commission records for the CWC 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 OCC, for the current application until final action is taken). Some documents at the OCC may also be found in the TCEQ Commissioners' Integrated Database.

➤ [www.tceq.texas.gov/goto/cid](http://www.tceq.texas.gov/goto/cid)

➤ <https://www.tceq.texas.gov/compliance/complaints>

➤ [complaint@TCEO.Texas.gov](mailto:complaint@TCEO.Texas.gov)

#### V. APPLICABLE LAW FOR EVALUATION OF HEARING REQUESTS

HB-801 established statutory procedures for public participation in certain environmental permitting proceedings, specifically regarding public notice and public comment and the Commission's consideration of hearing requests (Requests). The Commission implemented HB 801 by adopting procedural rules in 30 TAC chapters 39, 50, and 55. SB-709 revised the requirements for submitting public comments and the commission's consideration of hearing requests. This application was declared administratively complete on August 1, 2023; therefore, it is subject to the procedural requirements adopted pursuant to both HB-801 and SB-709. Because all hearing requests filed on this application were from an individual and a group or association, there are two different analyses, each with their own set of rules for the ED to employ when analyzing the hearing requests.

##### ***A. Legal Authority to Respond to Hearing Requests***

The ED may submit written responses to hearing requests. Responses to hearing requests must specifically address:

1. whether the requestor is an affected person;
2. whether issues raised in the hearing request are disputed;

3. whether the dispute involves questions of fact or law;
4. whether the issues were raised during the public comment period;
5. whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter by filing a written withdrawal letter with the chief clerk prior to the filing of the ED's Response to Comment;
6. whether the issues are relevant or material to the decision on the application; and
7. a maximum expected duration for the contested case hearing.

**B. *Hearing Request Requirements***

To consider a hearing request, the Commission must first conclude that the requirements in 30 TAC §§ 55.201 and 55.203, are met as follows.

A hearing request by an affected person must be in writing, filed with the chief clerk within the time provided . . . , based only on the requester's timely comments, and not based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the ED's RTC.

A hearing request must substantially comply with the following:

- (1) give the name, address, telephone number, and where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and where possible, fax number, who is responsible for receiving all official communications and documents for the group;
- (2) identify the person's justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
- (4) for applications filed;
  - (B) on or after September 1, 2015, list all relevant and material disputed issues of fact that were raised by the requestor during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the ED's responses to the requestor's comments that the requestor disputes, the factual basis of the dispute, list any disputed issues of law; and
- (5) provide any other information specified in the public notice of application.

**C. *Requirement that Requestor be an Affected Person***

To grant a hearing request, the commission must determine, pursuant to 30 TAC § 55.203, that a requestor is an affected person.

- (a) For any application, 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. An interest common to members of the public does not qualify as a personal justiciable interest.

- (b) Governmental entities, including local governments and public agencies with authority under state law over issues raised by the application may be considered affected persons.
- (c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
  - (1) whether the interest claimed is one protected by the law under which the application will be considered;
  - (2) distance restrictions or other limitations imposed by law on the affected interest;
  - (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
  - (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
  - (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
  - (6) whether the requester timely submitted comments on the application which were not withdrawn; and
  - (7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.
- (d) In making this determination, the commission may also consider, to the extent consistent with case law:
  - (1) the merits of the underlying application and supporting documentation in the commission's administrative record, including whether the application meets the requirements for permit issuance;
  - (2) the analysis and opinions of the ED; and
  - (3) any other expert reports, affidavits, opinions, or data submitted by the ED, the applicant, or hearing requestor.

#### ***D. Request by a Group or Association***

To grant a hearing request from a group or association, the commission must determine, pursuant to 30 TAC § 55.205(b)(1)-(4), that the group or association has complied with all the requirements of 30 TAC § 55.205(b)(1)-(4).

- (b) For applications filed on or after September 1, 2015, a request by a group or association for a contested case may not be granted unless all of the following requirements are met:
  - (1) comments on the application are submitted timely by the group or association;
  - (2) the request identifies, by name and physical address, one or more members of the group or association that would otherwise have stood to request a hearing in their own right;

- (3) the interests the group or association seeks to protect are germane to the organization's purpose; and
- (4) neither the claim asserted, nor the relief requested requires the participation of the individual members in the case.

#### ***E. Referral to the State Office of Administrative Hearings***

“When the commission grants a request for a contested case hearing, the commission shall issue an order specifying the number and scope of the issues to be referred to State Office of Administrative Hearing (SOAH) for a hearing.” “The commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue:

- (1) involves a disputed question of fact or a mixed question of law and fact;
- (2) was raised during the public comment period by an affected person; and
- (3) is relevant and material to the decision on the application.”

### **VI. EVALUATION OF THE HEARING REQUESTS**

For this application the period for the public to file comments on the application ended on June 6, 2024, and the period for filing a hearing request or an RFR ended on January 02, 2025. The ED’s analyses below determined whether the hearing requests conformed with TCEQ rules, if the requestor qualified as an affected person, if the group or association met all applicable requirements for affectedness or “associational standing,” the issues to be referred for a hearing, and the length of that hearing.

#### ***A. Whether the hearing requests complied with the requirements of 30 TAC §§ 55.201(c) & (d).***

1. **Jonathan Beall** – Mr. Beall filed a timely, written Request that provided the proper contact information, raised relevant and material issues forming the basis of his Request in timely comments not withdrawn before the RTC was filed, and requested a hearing. His Request complied with the requirements of 30 TAC § 55.201(c), as his Request stated he owns property 2.0 miles downstream of the CWC facility, and raised issues such as regionalization, impacts to water quality, terrestrial life, fauna, recreational uses and the requesters themselves and their families’ property and farming rights.

However, the address supplied by Mr. Beall is not in proximity to any relevant feature from the application, meaning his Request did not comply with 30 TAC § 55.201(d), as it failed to identify a personal justiciable interest affected by the application. Mr. Beall’s Request also lacked a statement of how and why he believes he will be adversely affected by the expanded CWC facility or discharge in a manner not common to members of the public, as required by 30 TAC § 55.201(d)(2).

The ED recommends a finding that Jonathan Beall’s Request failed to substantially comply with 30 TAC §§ 55.201(c) and 55.201(d).

2. **Anne Brockenbrough** – Ms. Brockenbrough filed a timely, written Request that provided the proper contact information, raised relevant and material issues forming the basis of her Request in timely comments not withdrawn before the RTC was filed, and requested a hearing. Her Request complied with the requirements of 30 TAC § 55.201(c), as her Request stated she lives along the

discharge route and raised issues such as regionalization, impacts to water quality, terrestrial life, fauna, recreational uses and the requesters themselves and their families' property and farming rights.

However, the address supplied by Ms. Brockenbrough is not in proximity to any relevant feature from the application, meaning her Request did not comply with 30 TAC § 55.201(d), as it failed to identify a personal justiciable interest affected by the application.

The ED recommends a finding that Anne Brockenbrough's Request failed to substantially comply with 30 TAC §§ 55.201(c) and 55.201(d).

3. **Pamela Fowler** – Ms. Fowler filed a timely, written Request that provided the proper contact information, raised relevant and material issues forming the basis of her Request in timely comments not withdrawn before the RTC was filed, and requested a hearing. Her Request complied with the requirements of 30 TAC § 55.201(c), as her Request stated she owns property 1.5 miles downstream of the CWC facility and raised issues such as regionalization, impacts to water quality, terrestrial life, fauna, recreational uses, and the requesters themselves and their families' property and farming rights.

However, the address supplied by Ms. Fowler is not in proximity to any relevant feature from the application, meaning her Request did not comply with 30 TAC § 55.201(d), as it failed to identify a personal justiciable interest affected by the application. Ms. Fowler's Request also lacked a statement of how and why she believes she will be adversely affected by the expanded CWC facility or discharge in a manner not common to members of the public, as required by 30 TAC § 55.201(d)(2).

The ED recommends a finding that Pamela Fowler's Request failed to substantially comply with 30 TAC §§ 55.201(c) and 55.201(d).

4. **Thomas Graham** – Mr. Graham filed a timely, written Request that provided the proper contact information and requested a hearing. His Request complied with the requirements of 30 TAC § 55.201(c), as his Request stated he owns property approximately 1.0 mile south of the CWC facility.

Mr. Graham's Request failed to raise issues that formed the basis of his Request in timely comments not withdrawn before the RTC was filed, because he did not make any relevant or material comments on the application to base his Request on, as required by 30 TAC § 55.201(d)(4)(B), nor did Mr. Graham's Request raise any relevant or material issues of disputed fact that were based on his timely comments also required by § 55.201(d)(4)(B). Mr. Graham's Request also lacked a statement of how and why he believes he will be adversely affected by the CWC facility or discharge in a manner not common to members of the public, as required by 30 TAC § 55.201(d)(2).

The ED recommends a finding that Thomas Graham's Request failed to substantially comply with 30 TAC §§ 55.201(c) and 55.201(d).

5. **Marilyn Kelinske** – Ms. Kelinske filed a timely, written Request that provided the proper contact information, raised relevant and material issues forming the basis of her Request in timely comments not withdrawn before the RTC was filed, and requested a hearing. Her Request complied with the requirements of 30 TAC § 55.201(c), as her Request stated she lives along the discharge route and raised issues such as regionalization, impacts to water quality, terrestrial life, fauna,



recreational uses, and the requesters themselves and their families' property and farming rights.

However, the address supplied by Ms. Kelinske is not in proximity to any relevant feature from the application, meaning her Request did not comply with 30 TAC § 55.201(d), as it failed to identify a personal justiciable interest affected by the application.

The ED recommends a finding that Marilyn Kelinske's Request failed to substantially comply with 30 TAC §§ 55.201(c) and 55.201(d).

***B. Whether the Requesters are Affected Persons under 30 TAC § 55.203.***

- 1. Jonathan Beall** – filed a Request that failed to identify a personal, justiciable interest affected by the application, describing in plain language in a brief, written statement of how and why Mr. Beall believes he will be adversely affected by the CWC facility in a manner not common to members of the public.

Mr. Beall's Request provided an address that, according to the GIS map and its accompanying appendix prepared by the ED's staff, is located 2.19 linear miles away and not in proximity to the CWC facility or its outfall, which is 2.40 linear miles away from Mr. Beall's property. Mr. Beall's Request also failed to explain why he believes he will be adversely affected by this application in a manner not common to members of the public. Lacking that necessary explanation and not being in proximity to any relevant feature from the application, Mr. Beall's Request failed to demonstrate a reasonable relationship between the interests claimed and the activity regulated, which decreases the likelihood that Mr. Beall may be affected in a way not common to the public.

The ED recommends that the Commission find that Jonathan Beall is not an Affected Person under 30 TAC § 55.203.

- 2. Anne Brockenbrough** – filed a Request that failed to identify a personal, justiciable interest affected by the application, describing in plain language in a brief, written statement of how and why she believes she will be adversely affected by the CWC facility in a manner not common to members of the public.

Ms. Brockenbrough's Request provided an address that, according to the GIS map and its accompanying appendix prepared by the ED's staff, is located 2.37 linear miles away and not in proximity to the CWC facility or its outfall, which is 2.49 linear miles away from Ms. Brockenbrough's property. The distances Ms. Brockenbrough's property is from the relevant features from the application means that Ms. Brockenbrough's Request failed to demonstrate a reasonable relationship between the interests claimed and the activity regulated, which decreases the likelihood that Ms. Brockenbrough may be affected in a way not common to the public.

The ED recommends that the Commission find that Anne Brockenbrough is not an Affected Person under 30 TAC § 55.203.

- 3. Pamela Fowler** – filed a Request that failed to identify a personal, justiciable interest affected by the application, describing in plain language in a brief, written statement of how and why she believes she will be adversely affected by the CWC facility in a manner not common to members of the public.

Ms. Fowler's Request provided an address that, according to the GIS map and its accompanying appendix prepared by the ED's staff, is located 1.10 linear miles away and not in proximity to the CWC facility or its outfall, which is 1.33 linear miles away from Ms. Fowler's property. Lacking that necessary explanation and not being in proximity to any relevant feature from the application, Ms. Fowler's Request failed to demonstrate a reasonable relationship between the interests claimed and the activity regulated, which decreases the likelihood that Ms. Fowler may be affected in a way not common to the public.

The ED recommends that the Commission find that Pamela Fowler is not an Affected Person under 30 TAC § 55.203.

4. **Thomas Graham** – filed a Request that failed to identify a personal, justiciable interest affected by the application, describing in plain language in a brief, written statement of how and why he believes he will be adversely affected by the CWC facility in a manner not common to members of the public.

Mr. Graham's Request provided two addresses that, according to the GIS map and its accompanying appendix prepared by the ED's staff, are located 1.33 and 1.39 linear miles away and not in proximity to the CWC facility or its outfall, which is 1.47 and 1.54 linear miles away from both of Mr. Graham's addresses. Mr. Graham's Request did not raise relevant or material issues that were raised during the comment period and failed to explain why he believes he will be adversely affected by this application in a manner not common to members of the public. Lacking the necessary comments on the application, the necessary explanation of affectedness, and not being in proximity to any relevant feature from the application, Mr. Graham's Request failed to demonstrate a reasonable relationship between the interests claimed and the activity regulated, which decreases the likelihood that Mr. Graham may be affected in a way not common to the public.

The ED recommends that the Commission find that Thomas Graham is not an Affected Person under 30 TAC § 55.203.

5. **Marilyn Kelinske** – filed a Request that failed to identify a personal, justiciable interest affected by the application, describing in plain language in a brief, written statement of how and why Ms. Kelinske believes she will be adversely affected by the CWC facility in a manner not common to members of the public.

Ms. Kelinske's Request provided an address that, according to the GIS map and its accompanying appendix prepared by the ED's staff, is located 1.57 linear miles away and not in proximity to the CWC facility or its outfall, which is 1.65 linear miles away from Ms. Kelinske's property. Lacking that necessary explanation and not being in proximity to any relevant feature from the application, Ms. Kelinske's Request failed to demonstrate a reasonable relationship between the interests claimed and the activity regulated, which decreases the likelihood that Ms. Kelinske may be affected in a way not common to the public.

The ED recommends that the Commission find that Marilyn Kelinske is not an Affected Person under 30 TAC § 55.203.

***C. Whether the Wilbarger Creek Conservation Alliance (WCCA), is eligible for associational standing.***

For WCCA to be granted standing it must (1) have timely commented on the application, (2) identified by name and physical address, one or more members of the

group or association that would otherwise have standing to request a hearing in their own right, show that the interests that WCCA seeks to protect are germane to the organization's purpose; and show that neither the claim asserted nor the relief requested requires the participation of the individual members in the case.

While WCCA complied with three of the four requirements, (numbers 1, 3, and 4) of 55.205(b), none of the members WCCA identified in WCCA's request have standing in their own right to request a hearing, therefore, WCCA failed to demonstrate a reasonable relationship between the interests claimed and the activity regulated.

The ED recommends that the Commission find that WCCA is not an Affected Group or Association under 30 TAC § 55.205(b).

## **VII. ISSUES RAISED IN HEARING REQUESTS:**

If the Commission decides to grant any hearing requests the ED recommends referring the following issues.

### **1. Whether the draft permit is protective of water quality, in accordance with Texas Surface Water Quality Standards in 30 TAC Chapter 307.**

(RTC Response Nos. 6) This is an issue of fact. If it can be shown that this issue is factually accurate or relevant, that information would be significant and material to a decision on the application.

### **2. Whether the draft permit is protective of human health and wildlife, in accordance with Texas Surface Water Quality Standards in 30 TAC Chapter 307.**

(RTC Response Nos. 1 & 6) This is an issue of fact. If it can be shown that this issue is factually accurate or relevant, that information would be significant and material to a decision on the application.

### **3. Whether the Commission should deny or alter the terms of the draft permit based on consideration of need under Texas Water Code § 26.0282 and the general policy to promote regional or area-wide systems under § 26.081.**

(RTC Response No. 7) This is an issue of fact. If it can be shown that this issue is factually accurate or relevant, that information would be significant and material to a decision on the application.

The ED concludes these issues are relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer these issues.

## **VIII. CONTESTED CASE HEARING DURATION**

If the Commission grants a hearing on this application, the ED recommends that the duration of the hearing be 180 days from the preliminary hearing to the presentation of a proposal for decision to the Commission.

## **IX. REQUESTS FOR RECONSIDERATION**

Any person may file a request for reconsideration (RFR) of the ED's decision under 30 TAC § 55.201(e). The RFR must be in writing, filed with the Chief Clerk's Office (CCO) no later than 30 days after the CCO mails the ED's decision and Response to Comment, and must expressly state that the person is requesting reconsideration of the ED's decision and give reasons why the decision should be reconsidered.

However, the CCO did not receive any RFRs on this application.

**X. EXECUTIVE DIRECTOR'S RECOMMENDATION**

The ED recommends the following actions by the Commission:

1. Find that Jonathan, Beall, Anne Brockenbrough, Pamela Fowler, Thomas Graham, and Marilyn Kelinske are not Affected Persons under 30 TAC § 55.203 and deny their Hearing Requests.
2. Find that the Wilbarger Creek Conservation Alliance is not an affected group or association under 30 TAC § 55.205(b) and deny its hearing request.
3. Should the Commission decide to refer this case to SOAH:
  - a. refer the case to Alternative Dispute Resolution for a reasonable time; and
  - b. refer the identified issues above in section VIII. 1.- 3. to the State Office of Administrative Hearings (SOAH) for a contested case hearing lasting no more than 180 days from the preliminary hearing to the presentation to the Commission of a Proposal for Decision issued by SOAH.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, *Executive Director*

Phillip Ledbetter, *Director*  
Office of Legal Services

Charmaine Backens, *Deputy Director*  
Environmental Law Division



---

Michael T. Parr II, Staff Attorney  
Environmental Law Division  
State Bar No. 24062936  
P.O. Box 13087, MC 173  
Austin, Texas 78711 3087  
Telephone No. 512-239 0611  
Facsimile No. 512-239-0626

REPRESENTING THE EXECUTIVE DIRECTOR  
OF THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## XI. CERTIFICATE OF SERVICE

I certify that on June 30, 2025, the Executive Director's Response to Hearing Requests for TPDES Permit No. WQ0014129002 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.

A handwritten signature in black ink, appearing to read "Michael T. Parr II". The signature is fluid and cursive, with a long horizontal stroke at the end.

---

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

MAILING LIST  
City of Manor  
TCEQ Docket No./TCEQ Expediente N.º 2025-0828-MWD;  
TPDES Permit No./TPDES Permiso N.º WQ0014129002

FOR THE APPLICANT/PARA EL SOLICITANTE

Scott Moore  
City of Manor  
P.O. Box 387  
Manor, Texas 78653

Ashley Chester  
GBA  
10212 F Street  
Omaha, Nebraska 68127

FOR THE EXECUTIVE DIRECTOR/PARA LA DIRECTOR EJECUTIVA

via electronic mail/vía correo electrónico:

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

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

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

FOR PUBLIC INTEREST COUNSEL/PARA ABOGADOS DE INTERÉS PÚBLICO

via electronic mail/vía correo electrónico:

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

FOR ALTERNATIVE DISPUTE RESOLUTION/PARA LA RESOLUCIÓN ALTERNATIVA DE DISPUTAS

via electronic mail/vía correo electrónico:

Kyle Lucas  
Texas Commission on  
Environmental Quality  
Alternative Dispute Resolution, MC-222  
P.O. Box 13087  
Austin, Texas 78711

FOR THE CHIEF CLERK/PARA EL SECRETARIO OFICIAL

via eFilings:

Docket Clerk  
Texas Commission on  
Environmental Quality  
Office of Chief Clerk, MC-105  
P.O. Box 13087  
Austin, Texas 78711  
<https://www.tceq.texas.gov/goto/efilings>

REQUESTER(S)/INTERESTED PERSON(S)/ SOLICITANTE(S)/ PERSONA(S) INTERESADA(S)

See attached list/Ver listado adjunto.

REQUESTER(S)/SOLICITANTE(S)

Beall, Jonathan M  
3 Creeks Farm  
2503 Flora Cv  
Austin Tx 78746-6902

Brockenbrough, Anne  
Wilbarger Creek Conservation Alliance  
11310 Jones Rd  
Manor Tx 78653-5205

Fowler, Pamela  
Wilbarger Creek Conservation Alliance  
12406 Ballerstedt Rd  
Elgin Tx 78621-4157

Kelinske, Marilyn  
Wilbarger Creek Conservation Alliance  
1561 Littig Rd  
Manor Tx 78652

Smith, Christopher D  
Smith Jolin LLP  
Bldg 1 Ste 300  
901 S Mopac Expy  
Austin Tx 78746-5776

INTERESTED PERSON(S)/ PERSONA(S)  
INTERESADA(S)

Lof, Denise & Eric  
15515 Voelker Ln  
Elgin Tx 78621-9622

McMordie, Michael  
12701 Quarterhorse Dr  
Elgin Tx 78621-4104

# Attachment A



# City of Manor (WQ0014129002)

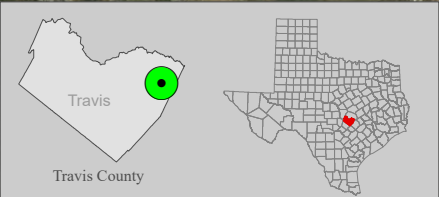


Protecting Texas by  
Reducing and  
Preventing Pollution

Texas Commission on Environmental Quality  
GIS Team (Mail Code 197)  
P.O. Box 13087  
Austin, Texas 78711-3087  
Date: 6/27/2025  
CRF 0124143  
Cartographer: mattoh



- Facility Point
- Outfall
- ▲ Requestors
- 0.5-Mile Radius From Facility Point
- - 1.0-Mile Radius From Facility Point
- - - 1.5-Mile Radius From Facility Point
- ▭ Travis County
- Stream/River
- Littig Rd
- 1.0-Mile Discharge Route



The facility is located in Travis County. The Circle (green) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of Travis County (red) in the state of Texas.

Source: This map was requested by the Office of Legal Services (OLS) and is based on information provided in the application and hearing requests. The applicant provided site location information, and the hearing requestors provided physical addresses. The map is a visual representation and approximation.

This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.

# Appendix A for City Of Manor GIS Map

| <b>Name</b>                   | <b>Long</b>       | <b>Lat</b>       | <b>State</b> | <b>Distance to Outfall</b> | <b>Distance to WTP</b> |
|-------------------------------|-------------------|------------------|--------------|----------------------------|------------------------|
| <b>1 - Jonathan Beall</b>     | <b>-97.458084</b> | <b>30.324588</b> | TX           | 2.40-Miles                 | 2.19-Miles             |
| <b>2 - Anne Brockenbrough</b> | <b>-97.483991</b> | <b>30.313428</b> | TX           | 2.49-Miles                 | 2.37-Miles             |
| <b>3 - Pamela Fowler</b>      | <b>-97.468091</b> | <b>30.33836</b>  | TX           | 1.33-Miles                 | 1.10-Miles             |
| <b>4 - Thomas Graham</b>      | <b>-97.482334</b> | <b>30.328504</b> | TX           | 1.47-Miles                 | 1.33-Miles             |
| <b>5 - Marilyn Kelinske</b>   | <b>-97.49048</b>  | <b>30.325854</b> | TX           | 1.65-Miles                 | 1.57-Miles             |
| <b>6 - Thomas Graham (2)</b>  | <b>-97.481577</b> | <b>30.327578</b> | TX           | 1.54-Miles                 | 1.39-Miles             |