

Brooke T. Paup, *Chairwoman*
Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 21, 2025

TO: All interested persons.

RE: Phhou - Benton Road 200, LLC
TPDES Permit No. WQ0016570001

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 George Memorial Library, 1001 Golfview Drive, Richmond, in Fort Bend County, Texas.

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

How to Request a Contested Case Hearing.

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

The request must include the following:

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

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

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

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

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

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

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

Deadline for Submitting Requests.

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

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

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

Processing of Requests.

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

How to Obtain Additional Information.

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

Sincerely,

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

Laurie Gharis
Chief Clerk

LG/vr

Enclosure

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for**

Phhou - Benton Road 200, LLC
TPDES Permit No. WQ0016570001

The Executive Director has made the Response to Public Comment (RTC) for the application by Phhou - Benton Road 200, LLC for TPDES Permit No. WQ0016570001 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 (WQ0016570001) 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 George Memorial Library, 1001 Golfview Drive, Richmond, in Fort Bend County, Texas.



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas reduciendo y previniendo la contaminación

21 de julio de 2025

TO: Todas las personas interesadas.

RE: Phhou - Benton Road 200, LLC
TPDES Permiso No. WQ0016570001

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 Biblioteca George Memorial, 1001 Golfview Drive, Richmond, en el condado de Fort Bend, 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/vr

Recinto

RESPUESTA DEL DIRECTOR EJECUTIVO AL COMENTARIO DEL PÚBLICO para

Phhou - Benton Road 200, LLC
TPDES Permiso No. WQ0016570001

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de Phhou - Benton Road 200, LLC del permiso de TPDES No. WQ0016570001. 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 (WQ0016570001) 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 Biblioteca George Memorial, 1001 Golfview Drive, Richmond, en el condado de Fort Bend, Texas.

MAILING LIST / LISTA DE CORREO
for / para
Phhou - Benton Road 200, LLC
TPDES Permit No. WQ0016570001 / TPDES Permiso No. WQ0016570001

FOR THE APPLICANT /
PARA EL SOLICITANTE:

Jonathan Nguyen, Permit Specialist
Quiddity Engineering
3100 Alvin Devane Boulevard, Suite 150
Austin, Texas 78741

INTERESTED PERSONS /
PERSONAS INTERESADAS:

Michael Stein
10311 Reading Road
Richmond, Texas 77469

Lili Wang
1110 Nautical Lane
Richmond, Texas 77469

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

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

Sujata Sinha, 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

TPDES Permit No. WQ0016570001

APPLICATION BY	§	BEFORE THE
PHHOU - BENTON ROAD 200, LLC	§	TEXAS COMMISSION
FOR TPDES PERMIT NO.	§	ON ENVIRONMENTAL
WQ0016570001	§	QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response or RTC) on the application by Phhou - Benton Road 200, LLC (Applicant) for a new permit, Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016570001, and the Executive Director's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code (30 TAC) Section (§) 55.156, before a permit is issued, the Executive Director prepares a response to all timely, significant or relevant and material comments. The Office of the Chief Clerk received timely comments from **Lili Wan and Michael H. Stein**. This response addresses all timely public comments received, whether or not withdrawn.

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

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

I. BACKGROUND

A. *Description of Facility*

The Phhou - Benton Road 200, LLC (Applicant) submitted an application to TCEQ for a new permit, TPDES Permit No. WQ0016570001, to authorize discharge of treated domestic wastewater at a daily average flow not to exceed 200,000 gallons per day.

The Big Creek Wastewater Treatment Facility will be an activated sludge process plant operated in the single-stage nitrification mode. Treatment units in the Interim phase will include an aeration basin, a clarifier, a sludge digester, and a chlorine contact chamber. Treatment units in the Final phase will include an aeration basin, a final clarifier, a sludge digester, and a chlorine contact chamber. The facility has not been constructed.

If the permit is issued, the treated effluent will be discharged via pipe to Gapps Slough, thence to House Bayou, thence to Rabbs Bayou, thence to Big Creek, thence to Brazos River Below Navasota River in Segment No. 1202 of the Brazos River Basin. The designated uses for Segment No. 1202 are primary contact recreation, public water supply, and high aquatic life use. The effluent limits in the draft permit will maintain and protect the existing instream uses. All determinations are preliminary and subject to additional review and revisions.

Geographic coordinates of the outfall location in decimal degrees are provided in Table 1. If the permit is issued, the proposed facility will be located approximately 0.55 miles northwest of the intersection of A. Myers Road and Laurabee Drive, near the City of Rosenberg, in Fort Bend County, Texas 77469.

Table 1. Outfall Coordinate Location

Outfall Number	Latitude	Longitude
001	29.519649 N	95.720777 W

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

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

Table 2. Interim I Phase Effluent Limitations: Outfall 001

Parameter/Pollutant	Daily Average		7-day Average	Daily Maximum	Single Grab
	lbs/day	mg/L	mg/L	mg/L	mg/L
Flow	0.1 MGD and 278 gpm				
Carbonaceous Biochemical Oxygen Demand, 5-day (CBOD ₅)	8.3	10	15	25	35
Total Suspended Solids (TSS)	13	15	25	40	60
Ammonia Nitrogen (NH ₃ -N)	2.5	3	6	10	15
<i>E. coli</i> (CFU or MPN/100 mL)	126		N/A	N/A	399
pH	6.0-9.0 SU				

Table 3. Final Phase Effluent Limitations: Outfall 001

Parameter/Pollutant	Daily Average		7-day Average	Daily Maximum	Single Grab
	lbs/day	mg/L	mg/L	mg/L	mg/L
Flow	0.2 MGD and 556 gpm				
Carbonaceous Biochemical Oxygen Demand, 5-day (CBOD ₅)	17	10	15	25	35
Total Suspended Solids (TSS)	25	15	25	40	60
Ammonia Nitrogen (NH ₃ -N)	5.0	3	6	10	15
<i>E. coli</i> (CFU or MPN/100 mL)	126		N/A	N/A	399
pH	6.0-9.0 SU				

B. Procedural Background

The permit application was received on July 10, 2024, and declared administratively complete on August 16, 2024. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on August 28, 2024, in the *Sugar Land Sun* and the Spanish NORI was published on August 22, 2024, in *El Perico News*. The Notice of Application and Preliminary Decision (NAPD) was published on March 12, 2025, in the *Sugar Land Sun* and the Spanish NAPD was published on March 6, 2025, in *El Perico News*.

The public comment period ended on April 11, 2025. This application was filed on or after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill (HB) 801, 76th Legislature (1999), and Senate Bill (SB) 709, 84th Legislature (2015), both implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55. The Texas Legislature enacted SB 709, effective September 1, 2015, amending the requirements for comments and contested case hearings. This application is subject to those changes in the law.

C. Access to Rules, Laws, and Records

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

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

Commission records for this application are available for viewing and copying and are located at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk). The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at the following location: George Memorial Library, 1001 Golfview Drive, Richmond, in Fort Bend County, Texas.

II. Comments and Responses

COMMENT 1:

Lili Wang expressed concern over water quality degradation along the discharge route caused by the proposed discharge, including a potential increase in the nutrient load of Gapps Slough and the Brazos River. Specifically, Ms. Wang commented that an

increase in nutrients such as phosphorous and nitrogen could contribute to algae blooms, which might negatively impact the water quality.

RESPONSE 1:

The draft permit was developed to be protective of human health and the environment in accordance with all requirements governing the TPDES permitting process. In particular, a review was performed to ensure the proposed discharge would not degrade water quality of the surrounding water bodies and that their uses would be protected and maintained. The antidegradation review evaluated the potential for the discharge to impact water quality through the introduction of pollutants such as nutrients, oxygen-demanding constituents, and toxic materials. Requirements were added to the draft permit for any pollutants that were determined to have the potential to adversely affect water quality. The antidegradation review involves a series of rigorous technical reviews by various subject matter experts to ensure the effluent limits in the draft permit are set to maintain and protect the existing instream uses and not cause degradation of the receiving waters.

The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary determination that this permit, if issued, meets all statutory and regulatory requirements for the protection of the environment.

Executive Director staff reviewed the potential for a discharge to create instream eutrophic conditions using the methodology outlined in the Procedures to Implement the Texas Surface Water Quality Standards (IPs) (RG-194). The IPs define the factors considered when determining nutrient limits. For this application, a typical nutrient screening was conducted during the review. The variables considered were flow, water clarity, instream dilution, substrate type, stream geomorphology, stream flow, consistency with permits in the area, vegetation, and listings on the Texas 303(d) list. Based on the nutrient screening conducted, total phosphorus effluent limits were not warranted for this permit action. As written, the draft permit will sufficiently control nutrient levels in the discharge.

COMMENT 2:

Lili Wang expressed concern about the potential impact of the proposed discharge on fish, other aquatic life, agriculture, and wildlife along the discharge route.

RESPONSE 2:

The Texas Surface Water Quality Standards (TSWQS) in 30 TAC Chapter 307 require that discharges may not degrade the receiving waters and may not result in situations that impair existing, attainable or designated uses, and that surface waters not be toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals. A review was performed to ensure the proposed discharge would not degrade water quality of the surrounding water bodies and that their uses would be protected and maintained. The antidegradation review evaluated the potential for the discharge to impact water quality through the introduction of pollutants such as nutrients, oxygen-demanding constituents, and toxic materials. Requirements were added to the draft permit for any pollutants that were determined to have the potential to adversely affect water quality. The antidegradation review involves a series of rigorous technical reviews by various subject matter experts to ensure the effluent limits in the draft permit are set to maintain and protect the existing instream uses and not cause degradation of the receiving waters. The ED has made a preliminary determination that the permit, if issued, meets all statutory and regulatory requirements.

In this case, the designated uses for Segment No. 1202 of the Brazos River Basin are primary contact recreation, public water supply, and high aquatic life use. The Executive Director determined that these uses should be protected if the facility is operated and maintained as required by the proposed permit and applicable regulations. Additionally, the treated effluent will be disinfected prior to discharge to protect human and animal health.

The Texas Parks and Wildlife Department (TPWD) is the state agency that oversees and protects wildlife and wildlife habitat. It can be contacted by calling 1-800-792-1112 or by mail at 4200 Smith School Road, Austin, Texas 78744. TPWD received notice of Applicant's permit application.

COMMENT 3:

Lili Wang expressed concern about the public health impacts of the proposed discharge. Specifically, Ms. Wang expressed concern about potential contamination of water used for recreation along Gapps Slough and water used as a drinking water source along the Brazos River.

RESPONSE 3:

TCEQ is responsible for the protection of water quality with federal regulatory authority over discharges of pollutants to Texas surface water. TCEQ has a legislative responsibility to protect water quality in the State of Texas and to authorize wastewater discharge TPDES permits under TWC Chapter 26, and 30 TAC Chapters 305, 307 and 309, including specific rules regarding wastewater treatment systems under 30 TAC Chapters 217 and 309.

The proposed draft permit was developed in accordance with the statutes and rules listed above and the TSWQS to be protective of water quality, provided that the Applicant operates and maintains the proposed facility according to TCEQ rules and the proposed permit's requirements. The methodology outlined in the IPs is designed to ensure compliance with the TSWQS (30 TAC Chapter 307).

Specifically, the methodology is designed to ensure that no source will be allowed to discharge any wastewater that: 1) results in instream aquatic toxicity; 2) causes a violation of an applicable narrative or numerical state water quality standard; 3) results in the endangerment of a drinking water supply; or 4) results in aquatic bioaccumulation that threatens human health.

As part of the application process, TCEQ staff determined the uses of the receiving waters and set effluent limits that are protective of those uses. In order to achieve the goal of maintaining a level of water quality sufficient to protect existing water body uses, the proposed permit contains several water quality specific parameter requirements that limit the potential impact of the discharge on the receiving waters.

In accordance with 30 TAC § 307.5 and the IPs, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily

determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained.

A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Gapps Slough. Existing uses will be maintained and protected. Additionally, the designated uses for Segment No. 1202 of the Brazos River Basin (primary contact recreation, public water supply, and high aquatic life use) should be protected if the facility is operated and maintained as required by the proposed permit and applicable regulations.

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

COMMENT 4:

Lili Wang expressed concern regarding nuisance odors from the proposed facility.

RESPONSE 4:

All wastewater treatment facilities (WWTF) have the potential to generate odors. To control and abate odors 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 three options for applicants to satisfy the nuisance odor abatement and control requirements. The Applicant can comply with the rule by: 1) ownership of the buffer zone area; 2) restrictive easement from the adjacent property owners for any part of the buffer zone not owned by the Applicant; or 3) providing nuisance odor control.

According to its application, the Applicant intends to comply with the requirement to abate and control nuisance odor by ownership of the buffer zone area, which means any wastewater treatment plant units will not be located closer than 150 feet to the nearest property line. This requirement is incorporated in the draft permit. Therefore, nuisance odor is not expected to occur as a result of the permitted activities

at the facility, if the permittee operates the facility in compliance with TCEQ's rules and the terms and conditions of the draft permit.

If anyone experiences nuisance odor conditions or any other suspected incidents of noncompliance with the permit or TCEQ rules, they may be reported to TCEQ by calling the TCEQ Environmental Complaint Line at 1-888-777-3186. Calls will be routed automatically to the closest TCEQ regional office. Complaints may also be filed online at tceq.texas.gov/compliance/complaints.

Moreover, the permit does not limit the ability of an individual to seek legal remedies against the Applicant regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

COMMENT 5:

Lili Wang expressed concern about potential economic impacts of the proposed facility and the proposed discharge. Specifically, Ms. Wang expressed concern about the potential impact on property value and on future investment and growth in her community.

RESPONSE 5:

TCEQ does not have the authority to address these types of issues as part of the wastewater permitting process. TWC Chapter 26 and applicable wastewater regulations do not authorize TCEQ to consider economic issues such as property values and future investment.

However, the permit does not limit the ability of an individual to seek legal remedies against the Applicant regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to property or that may interfere with the normal use and enjoyment of property.

COMMENT 6:

Lili Wang and Michael H. Stein commented expressing concern regarding the potential of flooding in nearby areas due to location and additional discharge of wastewater from this proposed facility.

RESPONSE 6:

TCEQ does not have jurisdiction to regulate flooding in the context of a wastewater discharge permit. The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes and coastal waters. However, to the extent that an issue related to flooding also involves water quality, the Applicant is required to comply with all the numeric and narrative effluent limitations and other conditions in the proposed permit at all times, including during flooding conditions.

TCEQ does not prohibit the location of a wastewater treatment facility in a floodplain, as long as the facility design adheres to TCEQ rules. The proposed Big Creek WWTP will be located in a floodplain area and shall be subject to plans and specifications review prior to construction. Part of this review will include adherence to 30 TAC § 217.35, relating to "One Hundred-Year Flood Plain Requirements." The draft permit requires that the facility design must provide protection from inundation during a 100-year flood event.

For flooding concerns, please contact the local floodplain administrator for this area. (Search County's website for possible info on flood management. For Fort Bend County Floodplain Management call 281-342-2863.

COMMENT 7:

Lili Wang commented to request that TCEQ consider alternative wastewater management solutions, such as land application or additional treatment measures.

RESPONSE 7:

TWC § 26.027 authorizes TCEQ to issue permits for discharges into water in the state. However, TCEQ does not have the authority to mandate the method of disposal of treated effluent, provided the Applicant adheres to the rules and provisions under Chapter 26 of the TWC.

The Executive Director evaluates TPDES applications based on the information provided by applicants in the application. The Executive Director can recommend issuance or denial of an application based on whether the application complies with the TWC and TCEQ regulations.

In this case, the Executive Director has made a preliminary determination that the draft permit, if issued, meets all statutory and regulatory requirements.

COMMENT 8:

Lili Wang expressed concern about environmental impacts of the proposed facility and discharge and requested that TCEQ conduct an environmental impact study.

RESPONSE 8:

The National Environmental Policy Act (NEPA) requires federal agencies to integrate environmental values into their decision-making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. To meet this requirement, federal agencies must prepare detailed statements which include an Environmental Assessment and either a Finding of No Significant Impact or Environmental Impact Statement. However, these requirements pertain to a proposed federal action. An environmental impact statement and compliance with NEPA are not required as part of the TPDES wastewater permitting process. For additional information about NEPA and Environmental Impact Statements, EPA's website has a page about NEPA and how to request information at: www.epa.gov/nepa.

The draft permit was developed to be protective of human health and the environment in accordance with all requirements governing the TPDES permitting process. In particular, a review was performed to ensure the proposed discharge would not degrade water quality of the surrounding water bodies and that their uses would be protected and maintained. The antidegradation review evaluated the potential for the discharge to impact water quality through the introduction of pollutants such as nutrients, oxygen-demanding constituents, and toxic materials. Requirements were added to the draft permit for any pollutants that were determined to have the potential to adversely affect water quality. The antidegradation review involves a series of rigorous technical reviews by various subject matter experts to ensure the effluent limits in the draft permit are set to maintain and protect the existing instream uses and not cause degradation of the receiving waters.

The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary determination that this permit, if issued, meets all statutory and regulatory requirements for the protection of the environment.

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

IN RESPONSE TO PUBLIC COMMENTS, THE EXECUTIVE DIRECTOR HAS MADE NO CHANGES TO THE DRAFT PERMIT.

Respectfully submitted,
Texas Commission on Environmental Quality

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