

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

May 1, 2025

TO: All interested persons.

RE: South Central Water Company
TPDES Permit No. WQ0016533001

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 Huntsville Public Library, reference desk, 1219 13th Street, Huntsville, Texas.

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

How to Request a Contested Case Hearing.

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

The request must include the following:

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

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

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

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

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

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

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

Deadline for Submitting Requests.

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

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

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

Processing of Requests.

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

How to Obtain Additional Information.

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

Sincerely,

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

Laurie Gharis
Chief Clerk

LG/cb

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
South Central Water Company
TPDES Permit No. WQ0016533001

The Executive Director has made the Response to Public Comment (RTC) for the application by South Central Water Company for TPDES Permit No. WQ0016533001 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 (WQ0016533001) 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 the Huntsville Public Library, reference desk, 1219 13th Street, Huntsville, Texas.



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas reduciendo y previniendo la contaminación

1 de mayo de 2025

TO: Todas las personas interesadas.

RE: South Central Water Company
TPDES Permiso No. WQ0016533001

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 Pública de Huntsville, mostrador de referencia, 1219 13th Street, Huntsville, 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/cb

Recinto

RESPUESTA DEL DIRECTOR EJECUTIVO AL COMENTARIO DEL PÚBLICO
para
South Central Water Company
TPDES Permiso No. WQ0016533001

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de South Central Water Company del permiso de TPDES Permiso No. WQ0016533001. 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 (WQ0016533001) 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 Pública de Huntsville, mostrador de referencia, 1219 13th Street, Huntsville, Texas.

MAILING LIST / LISTA DE CORREO
for / para
South Central Water Company
TPDES Permit No. WQ0016533001 / TPDES Permiso No. WQ0016533001

FOR THE APPLICANT /
PARA EL SOLICITANTE:

Doug Bailey, President
South Central Water Company
P.O. Box 570177
Houston, Texas 77257

Evan Chatman, Designer
Ward, Getz & Associates, PLLC
2500 Tanglewilde Street, Suite 120
Houston, Texas 77063

Jerry G. Ince, P.E., Senior Project Manager
Ward, Getz & Associates, PLLC
2500 Tanglewilde Street, Suite 120
Houston, Texas 77063

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

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

Sujata Sinha, M.S., 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

BARNETT , FRITZ
46 MIKE SLOTT RD
NEW WAVERLY TX 77358-3739

CATES , RANDAL
48 FALK RD
NEW WAVERLY TX 77358-3703

MOLK , BART K
18664 MOLK RD
WILLIS TX 77378-7330

RUSH , BENNIE D
LAW OFFICES OF BENNIE D RUSH PC
STE 300
1130 11TH ST
HUNTSVILLE TX 77340-3966

TPDES Permit No. WQ0016533001

APPLICATION BY	§	BEFORE THE
SOUTH CENTRAL WATER	§	TEXAS COMMISSION
COMPANY FOR TPDES	§	ON ENVIRONMENTAL
PERMIT NO. WQ0016533001	§	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 South Central Water Company (Applicant) for a new permit, Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016533001, 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 Fritz Barnett, Randal Cates, Bart K. Molk, and Bennie D. Rush (on behalf of Bryan Cates, Gerald Slott and AG Assets LLC). 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 South Central Water Company (Applicant) submitted an application to the TCEQ for a new permit, TPDES Permit No. WQ0016533001, to authorize the discharge

of treated domestic wastewater at a daily average flow not to exceed 700,000 gallons per day in the final phase. The Applicant proposes to operate the New Waverly 150 wastewater treatment plant, an activated sludge process plant operated in the complete mix mode.

Treatment units in the Interim I phase will include a bar screen, a sludge digester, an aeration basin, a clarifier, and a chlorine contact chamber. Treatment units in the Interim II phase will include a bar screen, three sludge digesters, three aeration basins, a clarifier, and a chlorine contact chamber. Treatment units in the Final phase will include a bar screen, four sludge digesters, four aeration basins, two clarifiers, a chlorine contact chamber, and a dechlorination chamber. The facility has not been constructed.

If the draft permit is issued, the treated effluent will be discharged to an unnamed tributary, thence to Caney Creek in Segment No. 1010 of the San Jacinto River Basin. The designated uses for Segment No. 1010 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 this permit is issued, the proposed facility will be located approximately 0.39 miles from the intersection of Falk Road and State Highway 150, in Walker County, Texas 77358.

Table 1. Outfall Coordinate Location

Outfall Number	Latitude	Longitude
001	30.519686 N	95.421572 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	0.075		N/A	Report	N/A
Carbonaceous Biochemical Oxygen Demand, 5-day (CBOD ₅)	6.3	10	15	25	35
Total Suspended Solids (TSS)	9.4	15	25	40	60
Ammonia Nitrogen (NH ₃ -N)	1.3	2	5	10	15
<i>E. coli</i> (CFU or MPN/100 mL)	63		N/A	N/A	200
pH	Between 6.0 and 9.0				

Table 3. Interim II 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	0.35		N/A	Report	N/A
Carbonaceous Biochemical Oxygen Demand, 5-day (CBOD ₅)	29	10	15	25	35
Total Suspended Solids (TSS)	44	15	25	40	60
Ammonia Nitrogen (NH ₃ -N)	5.9	2	5	10	15
<i>E. coli</i> (CFU or MPN/100 mL)	63		N/A	N/A	200
pH	Between 6.0 and 9.0				

Table 4. 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	0.70		N/A	Report	N/A
Carbonaceous Biochemical Oxygen Demand, 5-day (CBOD ₅)	58	10	15	25	35
Total Suspended Solids (TSS)	88	15	25	40	60
Ammonia Nitrogen (NH ₃ -N)	12	2	5	10	15
<i>E. coli</i> (CFU or MPN/100 mL)	63		N/A	N/A	200
pH	Between 6.0 and 9.0				

B. Procedural Background

The permit application was received on May 1, 2024 and declared administratively complete on May 31, 2024. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on Thursday June 6, 2024 in the *Walker County Press* and the *El Perico Spanish Newspaper*. The Combined Notice of Intent to

Obtain Water Quality Permit (NORI) and Notice of Application and Preliminary Decision (NAPD) for TPDES Permit For Municipal Wastewater was published on November 21, 2024 in the *Walker County Press* and the *El Perico Spanish Newspaper*.

The public comment period ended on December 23, 2024. This application was filed on or after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill (HB) 801, 76th Legislature (1999), and Senate Bill (SB) 709, 84th Legislature (2015), both implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55. The Texas Legislature enacted 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.ecfr.gov/current/title-40>; 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: Huntsville Public Library, reference desk, 1219 13th Street, Huntsville, Texas.

II. COMMENTS AND RESPONSES

COMMENT 1:

Fritz Barnett and Bart Molk expressed general opposition to the draft permit.

RESPONSE 1:

The Executive Director acknowledges the comments.

COMMENT 2:

Fritz Barnett and Bart K. Molk expressed concern about their property rights.

RESPONSE 2:

TCEQ has authority to issue TPDES permits for the discharge of waste or pollutant into or adjacent to water in the state. If the permit is issued, it does not grant the permittee the right to use private or public property for the conveyance of wastewater along the discharge route. Also, the permit does not authorize any invasion of personal rights or any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire all property rights necessary to use the discharge route. Additionally, the draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

COMMENT 3:

Fritz Barnett and Bart K. Molk expressed concern that the discharge would be to Caney Creek.

RESPONSE 3:

The State is authorized to use the bed and banks to transport water, and TCEQ has the authority to authorize a discharge of treated domestic wastewater into water in the state through a TPDES permit. An applicant for a TPDES permit does not need permission from downstream landowners to use a watercourse.

COMMENT 4:

Fritz Barnett and Bart K. Molk expressed concerned that the discharge will be to stream beds.

RESPONSE 4:

The Texas Water Code provides that the TCEQ may issue permits for the discharge of waste or pollutants into or adjacent to water in the state.¹ Water in the state includes “rivers, streams, creeks and estuaries.”²

COMMENT 5:

Fritz Barnett stated that during flood events untreated wastewater will cause the water downstream of the WWTP to become unsafe.

RESPONSE 5:

The TCEQ does not have jurisdiction to address runoff, flooding, or erosion issues in the wastewater permitting process. 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 permit at all times, including during flooding conditions. According to the application, the proposed facility is located above the 100-year flood plain. For additional protection, the proposed permit includes Other Requirement No. 4, which requires the permittee to provide protection for the facility from a 100-year flood.³

For any flooding concerns, members of the public may wish to contact the applicable floodplain management office. The TCEQ Resource Protection Team can aid in identifying and contacting the local floodplain administrator and can be contacted by calling 512-239-4691. Additionally, FEMA has programs designed to mitigate damage caused by flooding.

COMMENT 6:

Bart K. Molk expressed concern regarding the negative impacts on the health of many private landowners.

¹ Texas Water Code (TWC) § 26.027.

² TWC § 26.001(5).

³ South Central Water Company Draft Permit, Other Requirements, Item No. 4, page 34.

RESPONSE 6:

As specified in the Texas Surface Water Quality Standards (TSWQS), water in the state must be maintained to preclude adverse toxic effects on aquatic life, terrestrial life, livestock, and domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. Water in the state must also be maintained to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three. The draft permit includes provisions to ensure that these surface water quality standards will be maintained. Based on WQD's review and analysis, the draft permit contains effluent limits and conditions designed to maintain the receiving water body's designated uses and protect human health and aquatic life.

COMMENT 7:

Bart K. Molk expressed concerns that the proposed discharge will affect the property values.

RESPONSE 7:

The TCEQ does not have the authority to address property values as part of the wastewater permitting process. However, the permit does not limit the ability of an individual to seek legal remedies against South Central Water Company (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 8:

Fritz Barnett expressed concern that he was not notified about the proposed facility. Similarly, Bart K. Molk commented that, while he received the notice regarding South Central Water Company's application, he did not realize that the wastewater treatment facility would serve a residential development.

RESPONSE 8:

TCEQ's rules require notice by both mail and newspaper publication. There are two public notices regarding this permit action, the Notice of Receipt of Application and Intent to Obtain a Wastewater Permit (NORI) and the Notice of Application and Preliminary Decision (NAPD).

The TCEQ's notice rules in 30 TAC Chapter 39 require applicants to provide public notices for wastewater permits by publishing the NORI in a "newspaper of largest circulation in the county in which the facility is located or proposed to be located ... if the facility is located or proposed to be located in a municipality, the applicant must publish notice in any newspaper of general circulation in the municipality." After the Office of the Chief Clerk has mailed the preliminary decision and the NAPD to the applicant, they are required to publish the NAPD "at least once in a newspaper regularly published or circulated within each county where the proposed facility or discharge is located and in each county affected by the discharge."

The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on Thursday June 6, 2024 in the *Walker County Press* and the *El Perico Spanish Newspaper*. The Combined Notice of Intent to Obtain Water Quality Permit (NORI) and Notice of Application and Preliminary Decision (NAPD) for TPDES Permit For Municipal Wastewater was published on November 21, 2024 in the *Walker County Press* and the *El Perico Spanish Newspaper*.

Additionally, TCEQ's notice rules for a new permit require mailed notice of the NORI and NAPD to landowners named on the application map and persons on the mailing list maintained by the Office of the Chief Clerk. The applicant is required to submit a landowner map as part of the application materials. The landowner map must include the property boundaries of landowners surrounding the applicant's property and the property boundaries of all landowners surrounding the discharge point and on both sides of the discharge route for one full stream mile downstream of the discharge point.

The landowner map provided by the Applicant did not indicate Fritz Barnett as an adjacent landowner, therefore, he was not included on the mailing list. All persons

who submit a comment or contested case hearing request prior to the end of the public comment period are added to the mailing list for that permit action. For additional information regarding participating in the permitting process please see: <https://www.tceq.texas.gov/downloads/publications/gi/public-participation-in-permitting-gi-445.pdf>

COMMENT 9:

Fritz Barnett and Bennie D. Rush requested contested case hearings on this application.

RESPONSE 9:

The Executive Director acknowledges the request for a contested case hearing. The Executive Director considered all timely comments and prepared this response to all relevant, material, or significant public comment. This Response to Comments will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. The mailing also provides instructions for requesting a contested case hearing or reconsideration of the Executive Director's decision. Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn. If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law relating to relevant material water quality concerns submitted during the comment period. If the application does go to hearing, the final decision regarding this application will be made by the TCEQ's Commissioners.

COMMENT 10:

Bart K. Molk expressed concern about the effect of the proposed discharge on Lake Houston, a major drinking water source.

RESPONSE 10:

Lake Houston is located approximately 37 miles from the outfall, additionally, TCEQ's rules do not require that domestic wastewater be treated to potable standards before it is discharged to water in the state, however, state and federal regulations require that treated effluent maintain the existing uses of the receiving waters as designated within the Texas Surface Water Quality Standards at 30 TAC Chapter 307. Additionally, as noted in the Executive Director's Statement of Basis and Technical Summary:

The Executive Director's review of the application determined that the unclassified receiving water use is limited aquatic life use for the unnamed tributary. The designated uses for Segment No. 1010 are primary contact recreation, public water supply, and high aquatic life use. The effluent limitations in the draft permit will maintain and protect the existing instream uses. In accordance with 30 Texas Administrative Code §307.5 and the TCEQ *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Caney Creek, which has been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

COMMENT 11:

Bart K. Molk commented that the applicant should consider an alternative method to handle the water.

RESPONSE 11:

TCEQ does not have the authority to mandate the method of treatment or disposal of treated effluent, provided the applicant complies with the rules and provisions of TWC Chapter 26 and 30 TAC Chapters 217, 305, 307, and 309.

COMMENT 12:

Fritz Barnett expressed concern about the capacity and sustainability of the applicant to operate such an ambitious and large project. According to Mr. Barnett,

there have been issues with other developers in the area leaving the customers in distress.

RESPONSE 12:

The draft permit requires that the permittee employ or contract with one or more licensed wastewater treatment facility operators or wastewater 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.

Additionally, the draft permit provides that the facility must be operated by a chief operator or an operator holding a Class C license or higher. The facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher. The licensed chief operator or operator holding the required level of license or higher must be available by telephone or pager seven days per week. Where shift operation of the wastewater treatment facility is necessary, each shift that does not have the on-site supervision of the licensed chief operator must be supervised by an operator in charge who is licensed not less than one level below the category for the facility.

COMMENT 13:

Fritz Barnett expressed concern that applicant's engineer has not been responsive. According to Mr. Barnett, he contacted the applicant, however the applicant refused to provide information regarding the project.

RESPONSE 13:

The application for this facility has been available for viewing and copying at the Huntsville Public Library, reference desk, 1219 13th Street, Huntsville, Texas since publication of the NORI. The draft permit, the Statement of Basis/Technical Summary, and the Executive Director's preliminary decision have been available for viewing and copying at the same location since publication of the NAPD.

Additionally, during regular business hours, the public may review or copy the public file for this application, which includes the application, its attachments, the comment letters, this Response to Public Comment, the Hearing Requests, the Responses to Hearing Requests, and any other communications made during the review of this application, at TCEQ's Office of the Chief Clerk located in Building F, 12100 Park 35 Circle, Austin, Texas. The Executive Director has no control over the responsiveness of the applicant's representative.

COMMENT 14:

Randal Cates asked if an assessment of the potential impact of the discharge on wildlife has been performed.

RESPONSE 14:

The 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.

The draft permit was developed in accordance with the TSWQS to be protective of water quality, provided that the Applicants operate and maintain the proposed WWTF according to TCEQ rules and the draft permit's requirements. The methodology outlined in the *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010) is designed to ensure compliance with the TSWQS.

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

Finally, TPWD is the state agency that oversees and protects wildlife and their habitat. TPWD can be contacted by phone at 1-800-792-1112 or by mail at 4200 Smith School Road, Austin, Texas 78744.

COMMENT 15:

Randal Cates asked if an environmental impact study has been performed.

RESPONSE 15:

Environmental impact studies, which are required for federal actions pursuant to the National Environmental Policy Act are not required for municipal wastewater permit applications.

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

The Executive Director did not make any changes to the draft permit in response to public comments.

Respectfully submitted,
Texas Commission on Environmental Quality

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REPRESENTING THE EXECUTIVE DIRECTOR OF
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