

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

September 7, 2022

TO: All interested persons.

RE: R040062, LP
TPDES Permit No. WQ0016008001

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 is a copy of the Executive Director's Response to Public Comments. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central Office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at Georgetown Public Library, 402 West 8th Street, Georgetown, 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.
- (2) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.

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

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

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

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

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

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

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be **received by** the Chief Clerk's office no later than **30 calendar days** after the date of this letter. You may submit your request electronically at www.tceq.texas.gov/agency/decisions/cc/comments.html or by mail to the following address:

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

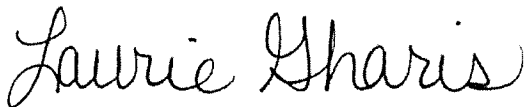
Processing of Requests.

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

How to Obtain Additional Information.

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

Sincerely,



Laurie Gharis
Chief Clerk

LG/erg

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENTS
for
R040062, LP
TPDES Permit No. WQ0016008001

The Executive Director has made the Response to Public Comment (RTC) for the application by R040062, LP for TPDES Permit No. WQ0016008001 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 (WQ0016008001) 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.

You may also view a copy of the RTC, the complete application, the draft permit, and related documents, including comments, 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 Georgetown Public Library, 402 West 8th Street, Georgetown, Texas.

MAILING LIST
for
Ro40062, LP
TPDES Permit No. WQ0016008001

FOR THE APPLICANT:

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Ro40062, LP
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Houston, Texas 77056

Janet Sims, Senior Project Manager
Perkins Engineering Consulting, Inc.
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Austin, Texas 78750

INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

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FOR THE CHIEF CLERK
via electronic mail:

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TCEQ PERMIT NO. WQ0016008001

APPLICATION BY	§	BEFORE THE
R040062 LP	§	TEXAS COMMISSION
FOR TPDES PERMIT NO.	§	ON
WQ0016008001	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on the Indigo Water Resources Recovery Facility by R040062 LP for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016008001 and the ED's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section (§) 55.156, before a permit is issued, the ED prepares a response to all timely, relevant, and material, or significant comments. The Office of the Chief Clerk received timely comment letters from Shawn D. Bichsel, John J. Carlton on behalf of Jonah Water Special Utility District (Jonah), and Patricia Erlinger Carls and William Faulk on behalf of the City of Georgetown (City). This Response addresses all such timely public comments received, whether or not withdrawn.

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 our website at www.tceq.texas.gov.

BACKGROUND

(A) Description of Facility

R040062, LP has applied for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016008001, to authorize the discharge of

treated domestic wastewater at a daily average flow not to exceed 200,000 gallons per day. The plant site will be located off the west end of Madison Drive, approximately 1,500 feet northwest of the intersection of County Road 105 and Jacobs Way, in Williamson County, Texas 78626.

The treated effluent will be discharged to an unnamed tributary of Mankins Branch, thence to Mankins Branch, thence to the San Gabriel/North Fork San Gabriel River in Segment No. 1248 of the Brazos River Basin. The unclassified receiving water uses are limited aquatic life use for the unnamed tributary and Mankins Branch (intermittent with perennial pools), and high aquatic life use for Mankins Branch (perennial). The designated uses for Segment No. 1248 are primary contact recreation, public water supply, aquifer protection, and high aquatic life use. The aquifer protection use applies to the contributing, recharge, and transition zones of the Edwards Aquifer. Portions of the discharge route are within the transition zone.

In accordance with 30 Texas Administrative Code Section 307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), for the Texas Surface Water Quality Standards, 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 Mankins Branch, 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.

Outfall Location:

Outfall Number	Latitude	Longitude
001	30.60811 N	97.6196 W

The draft permit authorizes a discharge of treated domestic wastewater at an Interim volume not to exceed a daily average flow of 0.075 MGD and a Final volume not to exceed a daily average flow of 0.2 MGD.

The effluent limitations in both phases of the draft permit, based on a 30-day average, are 10 mg/l five-day carbonaceous biochemical oxygen demand (CBOD₅), 15 mg/l total suspended solids (TSS), 3.0 mg/l ammonia-nitrogen (NH₃-N), 0.5 mg/l total phosphorus (TP), 126 CFU or MPN of *E. coli* per 100 ml, and 4.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a total chlorine residual of at least 1.0 mg/l and shall not exceed a total chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

(B) Procedural Background

TCEQ received this application for a new TPDES permit on June 11, 2021, and declared it administratively complete on August 24, 2021. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in English on August 29, 2021, in the *Williamson County Sun* and in Spanish on September 2, 2021, in *El Mundo*. The application was determined to be technically complete on November 16, 2021. The Applicant published the Notice of Application and Preliminary Decision (NAPD) in English on May 18, 2022, in *Williamson County Sun*, and in Spanish on May 19, 2022, in *El Mundo*. The public comment period ended on June 20, 2022. The application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

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 Chapter 39, 50, and 55. The Texas Legislature enacted Senate Bill 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, statutes, and records

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

- for the Secretary of State website: www.sos.state.tx.us;
- for TCEQ rules in Title 30 of the Texas Administrative Code (TAC): www.sos.state.tx.us/tac/ (select “View the current Texas Administrative Code” on the right, then “Title 30 Environmental Quality”);
- for Texas statutes: www.statutes.capitol.texas.gov/
- to access the TCEQ website: www.tceq.texas.gov (for downloadable rules in Adobe PDF format, select “Rules” then “Download TCEQ Rules”);
- for Federal rules in Title 40 of the Code of Federal Regulations: www.ecfr.gov; and
- for Federal environmental laws: <https://www.epa.gov/laws-regulations>

Commission records for this facility are available for viewing and copying at the TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk). The application, draft permit, statement of basis/technical summary, and ED's preliminary decision for this facility are available for viewing and copying at Georgetown Public Library, 402 West 8th Street, Georgetown, Texas.

COMMENTS AND RESPONSES

COMMENT 1

The City of Georgetown and Jonah Water Special Utility District request to be added to the mailing list.

RESPONSE 1

The Executive Director acknowledges these requests.

COMMENT 2

Shawn Bichsel is concerned about the impact from the proposed facility on his already existing flood problems, given that that the property is in the 100-Year Flood Plain and experiences flooding issues. The City comments that the Application fails to demonstrate that the Applicant's proposed facilities satisfy TCEQ's requirements for unsuitable site characteristics in regard to the 100-Year Floodplain and nearby wetlands.

RESPONSE 2

The 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.

The 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 Indigo Water Resource Recovery Facility WWTP 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 the “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 the area where the proposed facility will be located.

COMMENT 3

Shawn Bichsel states that he went to the City of Georgetown public library to view the draft permit on September 22, 2021; however, the library had no record of the draft permit being on file.

RESPONSE 3

TCEQ records indicate that the TCEQ Office of the Chief Clerk received a public notice verification form (dated August 28, 2021) on September 22, 2021, verifying that the application had been placed in a public location (Georgetown Public Library, 402 W. 8th Street) for viewing and copying by the public for the NORI notice process. TCEQ Office of the Chief Clerk received the verification form for the NAPD notice process on May 26, 2022. TCEQ also contacted the Applicant and requested any additional information that verifies the timely placement of the application for TPDES Permit No. WQ0016008001. The Applicant provided a copy of an Excel document that indicates that the application was originally placed at Georgetown Public Library on September 1, 2021, for the NORI notice process, and the draft permit and any supporting documentation used to draft the permit was placed at Georgetown Public Library on May 17, 2022.

COMMENT 4

Jonah Water Special Utility District (Jonah) commented that the proposed facility does not comply with TCEQ's regionalization policy. Further, Jonah does not believe that the Applicant has demonstrated that obtaining wastewater services from Jonah would be cost prohibitive. The City comments that the Applicant fails to demonstrate a need for the facility in the context of regionalization, given that the City has existing wastewater collection systems located within a 3-mile radius of the proposed service area. They further point out that the City is capable of providing services to the Applicant, that the proposed facility is within the City's updated wastewater master plan which generally describes how wastewater services will be provided to the region, that there are faster and less costly alternatives for connecting to the City's existing facility, and that TCEQ fails to consider that there is a plant approximately one mile away.

RESPONSE 4

The Applicant provided documentation in Attachment K of the application that verifies that the City of Georgetown offered wastewater services to the applicant. However, the applicant indicates that connection to the City of Georgetown wastewater services would ultimately cost more than the applicant constructing its own wastewater treatment plant, and connection to services with the City of Georgetown is contingent on annexation of the proposed development into the City of Georgetown.

The ED considers annexation as a requirement for receiving wastewater services from a City tantamount to a denial of requested service. Therefore, the requirement for annexation coupled with the cost of connecting versus

construction of a separate wastewater treatment system indicate that the Applicant meets the requirements for regionalization.

COMMENT 5

Jonah comments that the Applicant falsely states that the proposed service area is not located inside another utility's CCN area.

RESPONSE 5

TCEQ provides a link to the Public Utility Commission of Texas Water and Sewer CCN viewer for applicants and other members of the public to use to see where a CCN for water or sewer services is located. The Applicant indicates in item B.2 of Domestic Technical Report 1.1 that no portion of the proposed sewer service area lies within another utility's sewer service. The CCN viewer that TCEQ has available for Applicants to use on its website indicates that the proposed facility is within the CCN for water services for Jonah Water SUD, but not within any CCN for sewer services.

COMMENT 6

The City comments that the application is not substantially complete and accurate because the Applicant fails to provide information required to be included in its topographic map, including schools and playgrounds near the proposed discharge point, as well as not including information about the receiving water, which should have been included in Domestic Worksheet 2.1.

RESPONSE 6

The topographic map included in the application and referred to by the City is included in the administrative review performed by the Water Quality Division Application Review and Processing (ARP) Team. The application was declared administratively complete by the ARP Team on June 11, 2021. A review

of the topographic map confirms that no schools or playgrounds were indicated on the map within the one-mile radius that the application requires this map to indicate. Domestic Worksheet 2.1 is not required to be completed and submitted by the Applicant, because the discharge is to an intermittent stream. The instructions at the top of Worksheet 2.1, located at the top of the worksheet to qualify the need to complete the worksheet, indicates that the worksheet is not required for discharges to intermittent streams. The discharge from the proposed facility to an intermittent stream is confirmed by the information provided by the TCEQ Water Quality Standards review of the receiving waterbodies. This review indicates that the discharge will be to an unnamed tributary of Mankins Branch and lists it as an intermittent stream with perennial pools.

COMMENT 7

The City comments that the draft permit is not protective of water quality of the receiving streams in accordance with Texas Surface Water Quality Standards.

REPOSNE 7

The proposed permit was developed in accordance with the TSWQS to be protective of human health, water quality, and the environment, provided the Applicant operates and maintains the proposed facility according to TCEQ rules and the proposed permit's requirements. The designated uses for Segment No. 1248 are primary contact recreation, public water supply, aquifer protection, and high aquatic life use. The ED's staff developed the effluent limitations in the draft permit to maintain and protect the existing in-stream uses. The Tier I antidegradation review, which was performed in accordance with 30 TAC

§ 307.5 and the IPs, preliminarily determined that existing water quality uses will not be impaired by this permit action and that the numerical and narrative criteria, to protect existing uses, will be maintained. The Tier II antidegradation review preliminarily determined that no lowering of water quality by more than a de minimis extent is expected in Brazos River Basin. The effluent limitations in both phases of the draft permit, based on a 30-day average, are 10 mg/l five-day carbonaceous biochemical oxygen demand (CBOD₅), 15 mg/l total suspended solids (TSS), 3.0 mg/l ammonia-nitrogen (NH₃-N), 0.5 mg/l total phosphorus (TP), 126 CFU or MPN of *E. coli* per 100 ml, and 4.0 mg/l minimum dissolved oxygen (DO). These limits are predicted to maintain water quality along the discharge route.

Additionally, Operational Requirement No. 1 requires the Applicant to ensure that the proposed facility and all its systems of collection, treatment, and disposal are properly operated and maintained at all times. Operational Requirement No. 4 makes the Applicant “responsible for installing, prior to plant start-up, and subsequently maintaining, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.” As required by Operational Requirement No. 8(b), “the plans and specifications for domestic sewage collection and treatment works associated with [this facility] must be approved by the Commission and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and each day is an additional violation until approval has been secured.”

Likewise, the proposed facility must be designed in accordance with 30 TAC

Chapter 217 (Design Criteria for Domestic Wastewater Systems). Permit Condition 2(g) prohibits unauthorized discharge of wastewater or any other waste.

COMMENT 8

The City comments that the draft permit is not protective of the existing uses of the stream.

RESPONSE 8

The Texas Surface Water Quality Standards (TSWQS) in 30 TAC Chapter 307 require that discharges not degrade the receiving waters and 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 effluent limits in the draft permit are set to maintain and protect the existing instream uses.

In this case, the designated uses for San Gabriel/North Fork San Gabriel River Segment No. 1248 are primary contact recreation, public water supply, aquifer protection, and high aquatic life use. The aquifer protection use applies to the contributing, recharge, and transition zones of the Edwards Aquifer. Portions of the discharge route are within the transition zone. The Executive Director determined that these uses should be protected if the facility is operated and maintained as required by the proposed permit and regulations. Additionally, the treated effluent is required to be disinfected prior to discharge to protect human health.

In accordance with 30 Texas Administrative Code Section 307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards*

(June 2010), for the Texas Surface Water Quality Standards, 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 for Mankins Branch, which has been identified as having high aquatic life use. Existing uses will be maintained and protected.

The ED has made a preliminary determination that the draft permit, if issued, meets all statutory and regulatory requirements. The TCEQ also submitted the draft permit to the U.S. Environmental Protection Agency (EPA) Region 6 for review. The EPA reviewed the draft permit and did not have any objections to the issuance of the draft permit.

COMMENT 9

The City comments that the draft permit is not protective of public health and safety of nearby residents.

RESPONSE 9

The TCEQ has a legislative responsibility to protect water quality in the State of Texas and to authorize TPDES permits under Texas Water Code (TWC) Chapter 26, and 30 TAC Chapters 305, 307 and 309, including specific sections regarding wastewater treatment systems under 30 TAC Chapters 217 and 309. The proposed draft permit was developed in accordance with the Texas Surface Water Quality Standards 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 ED has determined that the draft permit is protective of public health and safety within the authority the TCEQ has. This is evidenced in the implementation of applicable rules and laws, the development and enforcement of numerical and narrative limits and requirements in the permit, which also include the requirements for disinfection of effluent into water in the state.

If the facility is found to be out of compliance with the terms or conditions of the permit, the Applicant may be subject to enforcement. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may report these to the TCEQ by calling the toll-free number, **1-888-777-3186**, or the TCEQ Region 11 Office in Austin at **512-339-2929**. Citizen complaints may also be filed on-line at <https://www.tceq.texas.gov/compliance/complaints>.

COMMENT 10

The City comments that the draft permit is not protective of aquatic and terrestrial life, or the livestock of nearby landowners.

RESPONSE 10

The Texas Surface Water Quality Standards, in specific Chapter 307.6, Item 4, requires that all water in the state must be maintained to preclude adverse toxic effects to aquatic life, terrestrial life, livestock, or domestic animals resulting from contact, consumption of aquatic organisms, consumption of water or any combination of the three. The Standards Implementation reviewed this application in accordance with the TSWQS and applied uses and permit limits to ensure compliance with this requirement.

COMMENT 11

The City comments that the draft permit is not protective of the habitats of endangered species.

RESPONSE 11

The Standards Implementation Team reviews the permits and identifies whether the discharge will affect endangered species within the discharge route. If an endangered species is identified, a memo is written to request further review from the Environmental Protection Agency and US Fish and Wildlife Service. The discharge flows to Mankins Branch, thence to the San Gabriel River in Segment 1248. Segment 1248 is not known to have any endangered species. Within the Brazos River Basin, which encompasses Williamson County, there is a basin wide species known as the Coffin Cave Mold Beetle that is listed, however this beetle is only affected by Municipal Separate Storm Sewer System (MS4) and general permits for stormwater; therefore the discharge in question is not likely to affect this species. Further, notice of the application was provided to TPWD and they did not offer any comments.

COMMENT 12

The City comments that the application fails to show the proposed discharge satisfied TCEQ's antidegradation policy.

RESPONSE 12

In accordance with 30 Texas Administrative Code Section 307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), for the Texas Surface Water Quality Standards, 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 Mankins Branch, which has been identified as having high aquatic life use. Existing uses will be maintained and protected.

Effluent limitations in the draft permit for the conventional effluent parameters (i.e. BOD₅, TSS, 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 13

The City states that the draft permit does not contain sufficient operational requirements to ensure water quality is protected. Specifically, the draft permit does not require a sufficiently licensed and experienced operator.

RESPONSE 13

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.

The permit goes on to state that this Category C 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.

TCEQ believes that individuals holding a Class C (or higher) license are capable of properly operating the facility that will meet the requirements of the permit.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

No changes to the draft permit have been made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Toby Baker, Executive Director

Erin E. Chancellor, Director
Environmental Law Division

Charmaine Backens, Acting Deputy Director
Environmental Law Division



Aubrey Pawelka, Staff Attorney
Environmental Law Division

State Bar No. 24121770

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Phone: (512) 239 - 0622

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REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS COMMISSION
ON ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on August 30, 2022, the Executive Director's Response to Public Comment for Permit No. WQ0016008001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



Aubrey Pawelka, Staff Attorney
Environmental Law Division

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WQ
124974

Debbie Zachary

From: PUBCOMMENT-OCC
Sent: Monday, October 10, 2022 10:44 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0016008001
Attachments: 2022.10.07 Request for Contested Case Hearing - FINAL.pdf

H

From: katy@carltonlawaustin.com <katy@carltonlawaustin.com>
Sent: Friday, October 7, 2022 4:34 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016008001

REGULATED ENTY NAME INDIGO WATER RESOURCES RECOVERY FACILITY

RN NUMBER: RN111287538

PERMIT NUMBER: WQ0016008001

DOCKET NUMBER:

COUNTY: WILLIAMSON

PRINCIPAL NAME: R040062 LP

CN NUMBER: CN605905942

FROM

NAME: John J. Carlton

EMAIL: katy@carltonlawaustin.com

COMPANY: The Carlton Law Firm, P.L.L.C.

ADDRESS: 4301 WESTBANK DR Suite B-130
AUSTIN TX 78746-6568

PHONE: 5126140901

FAX: 5129002855

COMMENTS: I am counsel for Jonah Water Special Utility District and am writing on its behalf to request a contested case hearing on the proposed permit.

The Carlton Law Firm, P.L.L.C.

4301 Westbank Drive, Suite B-130
Austin, Texas 78746

Phone: (512) 614-0901
Facsimile: (512) 900-2855

John J. Carlton
john@carltonlawaustin.com

October 7, 2022

Via Electronic Submission: www14.tceq.texas.gov/epic/eComment/

Ms. Laurie Gharis, Chief Clerk (MC 105)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Re: Jonah Water Special Utility District's Request for Contested Case Hearing on R040062 LP's Application for a proposed Texas Pollutant Discharge Elimination System Permit No. WQ0016008001 to Authorize a Domestic Wastewater Treatment Facility and the Discharge of Treated Domestic Wastewater in Williamson County, Texas ("Proposed Permit").

Dear Ms. Gharis:

On behalf of Jonah Water Special Utility District ("Jonah"), please accept this letter as Jonah's request for a contested case hearing on the Proposed Permit.

Jonah is a political subdivision of the State of Texas operating under Texas Water Code Chapter 65 and the holder of Certificates of Convenience and Necessity ("CCNs") for water and sewer, numbers 10970 and 21053, in Williamson County, Texas. Jonah provides service for approximately 9,000 customers and 30,000 people in its service area. The proposed facility is located within Jonah's certificated territory and will have a negative impact on the local community within Jonah. Jonah has an interest in maintaining its service areas and protecting its investments in its infrastructure, and the quality of water sources used to serve its customers, that may be adversely affected by the outcome of this Application. Finally, Jonah has not consented to R040062, LP's ("Applicant's") provision of sewer service within Jonah.

Jonah believes the Proposed Permit does not comply with TCEQ's regionalization policy and disputes that Applicant has demonstrated that obtaining wastewater service from Jonah would be cost prohibitive. The TCEQ has adopted a policy of regionalization as a means to safeguard water quality in the state. Texas Water Code ("TWC") § 26.081 provides that the Commission should "encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of water in the state."¹ Similarly, TWC § 26.0282 allows the Commission, when considering the issuance of a wastewater permit, to deny a proposed permit based on consideration of need, including "the availability of existing or proposed areawide or

¹ TWC § 26.081.

regional waste collection, treatment, and disposal systems”² In its permit application, Applicant acknowledged that there are domestic permitted wastewater treatment facilities or collection systems located within a three-mile radius of the proposed facility. Applicant also falsely stated that the proposed service area is not located inside another utility’s CCN area.

The Proposed Permit is for a development located within Jonah’s CCN, and Applicant has already negotiated with Jonah to provide retail water service to its property. Applicant’s proposed facility is planned to service the development – a manufactured home community located on an approximately 64.3-acre tract of land immediately west and south of the proposed facility. On November 11, 2021, Jonah approved Resolution 1112021-02, authorizing a Non-Standard Service Agreement with R040062, LP.

Applicant’s permit application indicated that it intends to discharge its wastewater into a tributary to Mankins Branch, then ultimately to the San Gabriel/North Fork San Gabriel River. Jonah provides to its customers water obtained from both surface water and wells, including water from the San Gabriel River. Jonah is concerned about increases in algal growth and blooms, and other unsanitary or unsafe water quality conditions in these creek beds, tributaries, Mankins Branch, and the San Gabriel River.

Jonah is willing and able to provide wastewater service to Applicant for future residential customers within the proposed service area and pursuant to Jonah’s tariff. Nothing in the Application indicates that Applicant requested wastewater service from Jonah, nor that Jonah is unable or unwilling to provide such service. Jonah believes the Application is insufficient for that reason.

For the reasons listed above, Jonah requests a contested case hearing on the issuance of this permit.

Thank you for your attention to this matter. Please contact me at (512) 614-0901 or john@carltonlawaustin.com if you have any questions regarding this request for a contested case hearing.

Sincerely,

THE CARLTON LAW FIRM, P.L.L.C.



John J. Carlton
Attorney for Jonah Water Special Utility
District

² TWC § 26.0282.

Debbie Zachary

From: PUBCOMMENT-OCC
Sent: Monday, October 10, 2022 10:45 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0016008001
Attachments: 2022.10.07 Request for Decision Reconsideration - FINAL.pdf

RFR

From: katy@carltonlawaustin.com <katy@carltonlawaustin.com>
Sent: Friday, October 7, 2022 4:25 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016008001

REGULATED ENTY NAME INDIGO WATER RESOURCES RECOVERY FACILITY

RN NUMBER: RN111287538

PERMIT NUMBER: WQ0016008001

DOCKET NUMBER:

COUNTY: WILLIAMSON

PRINCIPAL NAME: R040062 LP

CN NUMBER: CN605905942

FROM

NAME: John J. Carlton

EMAIL: katy@carltonlawaustin.com

COMPANY: The Carlton Law Firm, P.L.L.C.

ADDRESS: 4301 WESTBANK DR Suite B-130
AUSTIN TX 78746-6568

PHONE: 5126140901

FAX: 5129002855

COMMENTS: I am counsel for Jonah Water Special Utility District and am writing on its behalf to request reconsideration of the decision on this permit application.

The Carlton Law Firm, P.L.L.C.

4301 Westbank Drive, Suite B-130
Austin, Texas 78746

Phone: (512) 614-0901
Facsimile: (512) 900-2855

John J. Carlton
john@carltonlawaustin.com

October 7, 2022

Via Electronic Submission: www14.tceq.texas.gov/epic/eComment/

Ms. Laurie Gharis, Chief Clerk (MC 105)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Re: Jonah Water Special Utility District's Request for Reconsideration of the Executive Director's Decision regarding R040062 LP's Application for a proposed Texas Pollutant Discharge Elimination System Permit No. WQ0016008001 to Authorize a Domestic Wastewater Treatment Facility and the Discharge of Treated Domestic Wastewater in Williamson County, Texas.

Dear Ms. Gharis:

On behalf of Jonah Water Special Utility District ("Jonah"), please accept this letter as Jonah's Request for Reconsideration ("Request") of the Executive Director's Decision ("Decision") finding that the above-referenced permit application ("Application") meets the requirements of applicable law.

The Decision must be reconsidered due to fatal flaws in the Application. The Texas Commission on Environmental Quality's ("TCEQ's") Domestic Wastewater Permit Application states that the information requested on the Application is required for *all* new applications. "Section 1. Justification for Permit" of the Application requires applicants to state if any portion of the proposed service area is located inside another utility's CCN area. If any portion of the proposed service area is located inside another utility's CCN area, an applicant must additionally attach a justification for the proposed facility and cost analysis to its application. In the Application, Applicant falsely stated that the proposed service area is not located inside another utility's CCN area, and further did not include the required justification or cost analysis.

Jonah does not consent to the provision of wastewater service by R040062 LP ("Applicant") within its CCN area. Jonah is willing and able to provide wastewater service to Applicant for future residential customers within the proposed service area and pursuant to Jonah's tariff. Nothing in the Application indicates that Applicant requested wastewater service from Jonah, nor that Jonah is unable or unwilling to provide such service.

Due to the foregoing deficiencies, the District hereby requests that the Executive Director grant Jonah's request for reconsideration.

Sincerely,

THE CARLTON LAW FIRM, P.L.L.C.



John J. Carlton
Attorney for Jonah Water Special Utility District

WQ
124974

Debbie Zachary

From: PUBCOMMENT-OCC
Sent: Monday, June 6, 2022 9:13 AM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0016008001
Attachments: 2022.06.06 [FINAL] Public Comment2.pdf

From: kelsey@carltonlawaustin.com <kelsey@carltonlawaustin.com>
Sent: Monday, June 6, 2022 9:10 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016008001

REGULATED ENTY NAME INDIGO WATER RESOURCES RECOVERY FACILITY

RN NUMBER: RN111287538

PERMIT NUMBER: WQ0016008001

DOCKET NUMBER:

COUNTY: WILLIAMSON

PRINCIPAL NAME: R040062 LP

CN NUMBER: CN605905942

FROM

NAME: John J. Carlton

EMAIL: kelsey@carltonlawaustin.com

COMPANY: The Carlton Law Firm, P.L.L.C.

ADDRESS: 4301 WESTBANK DR Suite B-130
AUSTIN TX 78746-6568

PHONE: 5126140901

FAX: 5129002855

COMMENTS: I am general counsel for Jonah Water Special Utility District (Jonah) and am writing on their behalf to protest the issuance of the permit referenced above.

The Carlton Law Firm, P.L.L.C.

4301 Westbank Drive, Suite B-130
Austin, Texas 78746

Phone: (512) 614-0901
Facsimile: (512) 900-2855

John J. Carlton
john@carltonlawaustin.com

June 6, 2022

VIA e-file to: www14.tceq.texas.gov/epic/eComment/

Ms. Laurie Gharis, Chief Clerk (MC 105)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Re: Jonah Water Special Utility District's Comments on R040062 LP's Application for a proposed Texas Pollutant Discharge Elimination System Permit No. WQ0016008001 to Authorize a Domestic Wastewater Treatment Facility and the Discharge of Treated Domestic Wastewater in Williamson County, Texas.

Dear Ms. Gharis:

On behalf of Jonah Water Special Utility District ("Jonah"), please accept this letter as Jonah's comments in opposition to the above-referenced permit application submitted by R040062, LP. Jonah further requests to be placed on the permanent mailing list to receive all future public notices on this application.

Jonah is a political subdivision of the State of Texas operating under Texas Water Code Chapter 65 and the holder of Certificates of Convenience and Necessity (CCNs) for water and sewer, numbers 10970 and 21053, in Williamson County, Texas. Jonah provides both water and sewer service for approximately 9,000 customers and 30,000 people in its service area. The proposed facility is located within Jonah's certificated territory and will have a negative impact on the local community within Jonah's CCN. Jonah has an interest in maintaining its CCN areas and protecting its investments in its infrastructure, and the quality of water sources used to serve its customers, that may be adversely affected by the outcome of this Application. Finally, Jonah has not consented to R040062, LP's ("Applicant's") provision of sewer service within Jonah's CCN area.

Jonah believes the proposed facility does not comply with TCEQ's regionalization policy and disputes that Applicant has demonstrated that obtaining wastewater service from Jonah would be cost prohibitive. The TCEQ has adopted a policy of regionalization as a means to safeguard water quality in the state. Texas Water Code ("TWC") § 26.081 provides that the Commission should "encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of water in the state."¹ Similarly, TWC § 26.0282 allows the Commission, when considering the issuance of a wastewater permit, to deny a proposed permit based on consideration of need, including "the availability of

¹ TWC § 26.081.

existing or proposed areawide or regional waste collection, treatment, and disposal systems”²
In its permit application, Applicant acknowledged that there are domestic permitted wastewater treatment facilities or collection systems located within a three-mile radius of the proposed facility. Applicant also falsely stated that the proposed service area is not located inside another utility’s CCN area.

Applicant’s permit application is for a development located within Jonah’s CCN, that Applicant has already negotiated with Jonah to provide water service for. Applicant’s proposed facility is planned to service the development – a manufactured home community located on an approximately 64.3-acre tract of land immediately west and south of the proposed facility. On November 11, 2021, Jonah approved Resolution 1112021-02, authorizing a Non-Standard Service Agreement with R040062, LP.

Applicant’s permit application indicated that it intends to discharge its wastewater into a tributary to Mankins Branch, then ultimately to the San Gabriel/North Fork San Gabriel River. Jonah provides to its customers water obtained from both surface water and wells, including water from the San Gabriel River. Jonah is concerned about increases in algal growth and blooms, and other unsanitary or unsafe water quality conditions in these creek beds, tributaries, Mankins Branch, and the San Gabriel River.

Jonah is willing and able to provide wastewater service to Applicant for future residential customers within the proposed service area and pursuant to Jonah’s tariff. Nothing in the Application indicates that Applicant requested wastewater service from Jonah, nor that Jonah is unable or unwilling to provide such service. Jonah believes the Application is insufficient for that reason.

Thank you for your attention to this matter. Please contact me at (512) 614-0901 or john@carltonlawaustin.com if you have any questions regarding these comments.

Sincerely,

THE CARLTON LAW FIRM, P.L.L.C.



John J. Carlton
Attorney for Jonah Water Special Utility District

² TWC § 26.0282.

Debbie Zachary

From: PUBCOMMENT-OCC
Sent: Friday, October 7, 2022 11:42 AM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0016008001
Attachments: Part 1 - 2022.10.07 City of Georgetown's Request for Contested Case Hearing.pdf

H
RFR

From: hcampbell@spencerfane.com <hcampbell@spencerfane.com>
Sent: Friday, October 7, 2022 10:52 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016008001

REGULATED ENTY NAME INDIGO WATER RESOURCES RECOVERY FACILITY

RN NUMBER: RN111287538

PERMIT NUMBER: WQ0016008001

DOCKET NUMBER:

COUNTY: WILLIAMSON

PRINCIPAL NAME: R040062 LP

CN NUMBER: CN605905942

FROM

NAME: MR William A Faulk, III

EMAIL: hcampbell@spencerfane.com

COMPANY: Spencer Fane LLP

ADDRESS: 9442 N CAPITAL OF TEXAS HWY Plaza I - Suite 500
AUSTIN TX 78759-7262

PHONE: 5128404557

FAX:

COMMENTS: Part 1 of 4: The City of Georgetown, Texas' Request for Contested Case Hearing

October 7, 2022

Via e-File to: www.tceq.texas.gov/agency/decisions/cc/comments.html

Ms. Laurie Gharis, Chief Clerk (MC 105)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Re: The City of Georgetown, Texas' Request for Contested Case Hearing

Applicant Name: R040062 LP (CN605905942)
Regulated Entity Name: Indigo Water Resources Recovery Facility (RN11287538)
Application: TPDES Permit No. WQ0016008001
Location: Williamson County, Texas
EPA I.D.: TX0141437

Dear Ms. Gharis:

On behalf of the City of Georgetown (the “**City**”), please accept this request (“**Request**”) for a contested case hearing and/or reconsideration of the Executive Director’s decision regarding the application by R040062, LP (the “**Applicant**”) for proposed new Texas Pollutant Discharge Elimination System (“**TPDES**”) Permit No. WQ0016008001, to authorize a domestic wastewater treatment facility in Williamson County, Texas (the “**Application**”). The City’s contact persons for this matter are below:

Cody Faulk, Partner
Carlota Hopinks-Baul, Attorney
Maris Chambers, Attorney
Spencer Fane LLP
9442 North Capital of Texas Highway
Plaza I Suite 500
Austin, TX 78759
(512) 840-4555
cfaulk@spencerfane.com
chbaul@spencerfane.com
mchambers@spencerfane.com

Patricia Erlinger Carls
Law Offices of Patricia Erlinger Carls
3100 Glenview Avenue
Austin, Texas 78703
(512) 567-0125
tcaryl@tcarylslaw.com

I. INTRODUCTION

A. Description of the Proposed Package Plant

If approved, draft TPDES Permit No. WQ0016008001 (the “**Draft Permit**”) would authorize the discharge of effluent from a pre-fabricated domestic wastewater treatment facility (the “**Proposed Package Plant**”) at a daily average flow not to exceed 0.075 million gallons per day (“**MGD**”) in the Interim Phase and a daily average flow not to exceed 0.2 MGD in the Final Phase. The Proposed Package Plant would be located within the City’s extraterritorial jurisdiction (“**ETJ**”), off the west end of Madison Drive, approximately 1,500 feet northwest of the intersection of County Road 105 and Jacobs Way, in Williamson County, Texas 78626. If the Draft Permit is issued, the Proposed Package Plant will be a decentralized activated sludge process plant operated in the extended aeration mode.

The proposed discharge route for the effluent is to an unnamed tributary of Mankins Branch, thence to Mankins Branch, thence to the San Gabriel/North Fork San Gabriel River in Segment No. 1248 of the Brazos River Basin. The presumed aquatic life uses are limited aquatic life use for the unnamed tributary and Mankins Branch, and high aquatic life use for Mankins Branch. Other existing uses of the unnamed tributary of Mankins Branch and Mankins Branch itself are primary contact recreation and agricultural uses, including livestock watering and irrigation, as well as terrestrial wildlife uses. The designated uses for Segment No. 1248 are primary contact recreation, public water supply, aquifer protection, and high aquatic life use. The aquifer protection use applies to the contributing, recharge, and transition zones of the Edwards Aquifer, and portions of the discharge route are within the transition zone. Mankins Branch, identified as Classified Segment No. 1248C, is currently listed on the 2022 Texas Integrated Report—Texas 303(d) List (Category 5) of impaired and threatened waters (the “**303(d) List**”) for bacteria in the water.

B. Procedural History

The Application was received by the Texas Commission on Environmental Quality (the “**TCEQ**”) on June 11, 2021, and the Executive Director (“**ED**”) declared it administratively complete on August 24, 2021. The Notice of Application and Preliminary Decision—that the ED had completed technical review of the Application and prepared the Draft Permit—was issued on May 5, 2022, and published on May 18, 2022. The public comment period on the Application and Draft Permit ended on June 20, 2022, on which date the City filed timely public comments, none of which have been withdrawn. The ED filed its Response to Public Comments (“**RTC**”) on August 30, 2022. In the RTC, the ED identifies a total of 13 public comments, recommending that no changes to the Draft Permit be made in response thereto. Notice of the ED’s final decision that the Application meets the requirements of applicable law was provided via letter dated September 7, 2022, which indicated that the deadline for submitting a request for a contested case hearing and/or reconsideration of the ED’s decision on the Application and Draft Permit is October 7, 2022. Therefore, this Request is timely filed.

II. REQUEST FOR A CONTESTED CASE HEARING

Given the significant City interests affected by the Application and Draft Permit, the City hereby respectfully requests a contested case hearing based on the relevant and material disputed issues raised herein, all of which were originally raised by the City during the public comment period, which have not been withdrawn. In support thereof, the City's June 20, 2022 comment letter, addressing 10 primary issues of concern and several sub-issues, is attached hereto as **EXHIBIT 1** and incorporated into this Request in full by this reference (the "**City Comment Letter**").¹

In brief, the City is requesting a contested case hearing based on its Legislatively-mandated interest in promoting and protecting the general health, safety, and welfare of persons residing inside its city limits and ETJ from the deleterious effects of a new source of potential contamination: the Proposed Package Plant. Among other things, that unique and justiciable interest is affected by the Application and Draft Permit because the Proposed Package Plant, outfall, and service area are all within the City's ETJ—though very proximate to the City's corporate limits—and the proposed discharge route is within both the City's ETJ and city limits. Under such circumstances, the TCEQ's rules in 30 Texas Administrative Code ("**TAC**") § 55.203(b) expressly deem local governmental entities in the City's position to be "affected persons" with standing to request a contested case hearing on the Application at issue.

A. Legal Standards and Requirements for Hearing Requests

In order to be granted, a contested case hearing request must: (1) comply with the applicable form and filing requirements set forth in the Texas Water Code ("**TWC**") and TAC; and (2) be filed by an affected person. Specifically, a contested case hearing request must satisfy the conditions prescribed by TCEQ rules set forth in Title 30 TAC, Chapter 55,² and the TCEQ "may not grant a request for a contested case hearing unless [it] determines that the request was filed by an affected person as defined by Section 5.115" of the TWC.³

1. This Request fully satisfies the form and filing requirements for hearing requests.

The TCEQ's procedural requirements for contested case hearing requests are set forth in 30 TAC § 55.201. Pursuant to that rule, a contested case hearing request must be: (1) submitted in writing; (2) timely filed "no later than 30 days after the chief clerk mails (or otherwise transmits) the [ED]'s decision and [RTC];" and (3) based on an issue or issues raised in the requestor's own timely filed, and not later withdrawn, public comments. A procedurally sufficient hearing request must also do the following:

¹ Letter dated June 20, 2022 from Patricia Erlinger Carls, William ("Cody") Faulk, and Carlotta Hopinks-Baul on behalf of the City of Georgetown to TCEQ Chief Clerk [hereinafter *City Comment Letter*].

² 30 TAC §§ 55.101, .201.

³ TWC § 5.556.

- (1) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request;
- (2) identify the person's personal 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 proposed 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 proposed facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
- (4) 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, specifying, to the extent possible, any of the ED's responses to the requestor's comments that the requestor disputes, the factual basis of the dispute, and any disputed issues of law; and
- (5) provide any other information specified in the public notice of application.⁴

As demonstrated in Section I.B, above, this request is timely filed. Further, this Request is based on the City's timely-filed and not later withdrawn City Comment Letter. The required contact information for the City is provided on the first page of this Request. The introduction to this Section II, identifies the City's personal justiciable interest affected by the Application, and specifically explains, both the City's proximity to the Proposed Package Plant and discharge route, and how and why the City will be adversely affected by the Proposed Package Plant in a manner not common to members of the general public. An explicit request for a contested case hearing is contained, among other places, in the introductory paragraph of this Section II. Finally, Section III, below, lists the relevant and material disputed issues of fact raised by the City during the public comment period and specifies those of the ED's responses to public comment that the City disputes. Thus, the City has satisfied all of the procedural requirements for a contested case hearing request.

2. The City is an "affected person" with unique justiciable interests in and authority over matters affected by the Application and Draft Permit.

For the purpose of an administrative hearing involving a contested matter, TWC § 5.115 defines an "affected person" as one "who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the administrative hearing."⁵ Section 5.115 further clarifies that "[a]n interest common to members of the general public does not qualify

⁴ 30 TAC § 55.201.

⁵ TWC § 5.115; *accord* 30 TAC § 55.203.

as a personal justiciable interest.”⁶ Further, as directed by the TWC, TCEQ has adopted rules specifying factors to be considered in determining whether a person is an affected person entitled to standing in a contested case hearing.⁷ Specifically, in determining who is an “affected person,” the relevant TCEQ rule provides as follows:

RULE § 55.203 Determination of 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 general public does not qualify as a personal justiciable interest.
- (b) Except as provided by § 55.103 of this title (relating to Definitions)⁸, 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;*
 - (6) *for a hearing request on an application filed on or after September 1, 2015, whether the requestor timely submitted comments on the application that were not withdrawn; and*
 - (7) *for governmental entities, their statutory authority over or interest in the issues relevant to the application.*
- (d) In determining whether a person is an affected person for the purpose of granting a hearing request for an application filed on or after September 1, 2015, *the commission may also consider the following:*
 - (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 executive director; and*
 - (3) *any other expert reports, affidavits, opinions, or data submitted by the executive director, the applicant, or hearing requestor.*
- (e) *In determining whether a person is an affected person for the purpose of granting a hearing request for an application filed before September 1, 2015, the commission may also consider the factors in subsection (d) of this section to the extent consistent with case law.*⁹

As discussed in more detail below, the City not only has interests related to legal rights, duties, privileges, powers, or economic interests affected by the Application that are not common to the general public, as required under 30 TAC § 55.203(a), but also has “statutory authority over”

⁶ *Id.*

⁷ TWC § 5.115; 30 TAC § 55.203.

⁸ Barring participation by non-river authority state agencies in contested case hearings unless the state agency is the applicant. See 30 TAC § 55.103.

⁹ 30 TAC § 55.203 (emphasis added).

and “interest in” the issues relevant to the Application within the meaning of 30 TAC §§ 55.203(b) and (c)(7). In addition, this Request (and the City Comment Letter) provide information relevant to the “affected person” considerations enumerated in 30 TAC § 55.203(d). Simply put, as a governmental entity providing wastewater treatment services to areas both inside and outside of its corporate limits, and because wastewater from the Proposed Package Plant will be discharged into waterways within the City’s corporate limits and ETJ, the City has a unique interest in the effects the Proposed Package Plant will have on the environment and on public health, safety, and welfare within its jurisdiction. Therefore, considering the factors enumerated above, and as addressed in more detail below, the City is an “affected person” entitled to a contested case hearing on the issues raised in its timely-filed City Comment Letter and reiterated herein.

- a. **As a home-rule municipality operating its own regional wastewater treatment and collection system, the City’s Legislatively-mandated interest in and statutory authority over the general health, safety, and welfare of persons residing within its corporate limits and ETJ is affected by the Application and Draft Permit.**

According to the Application, the Proposed Package Plant, an activated sludge process plant operated in the extended aeration mode, would service 600 manufactured homes, each having an estimated three persons per unit, located on approximately 64.345 acres of land (the “**Proposed Service Area.**”) The Proposed Package Plant, proposed outfall, and Proposed Service Area are all within the City’s ETJ, only approximately 1,850 feet from the closest City limit line. The proposed discharge route flows not only through the City’s ETJ, but also within its city limits.

The City is a home-rule municipality, having the full powers of self-governance, and is authorized to exercise all authority incident to local self-government.¹⁰ In addition to having the powers granted to it as a home-rule city via the Texas Constitution, the Legislature has also expressly granted home-rule cities regulatory authority within the ETJ over issues raised by or relevant to the Application. The Legislature created municipal ETJ areas for all cities in order “to promote and protect the general health, safety, and welfare of persons residing in and adjacent to the municipalities.”¹¹ Thus, the City has a Legislatively-mandated interest in promoting and

¹⁰ See Tex. Const. art. XI, § 5; Tex. Loc. Gov’t Code § 51.072(a) and (b) (“(a) The [home-rule] municipality has full power of local self-government. (b) The grant of powers to the municipality by this code does not prevent, by implication or otherwise, the municipality from exercising the authority incident to local self-government.”); *Lower Colo. Riv. Auth. v. City of San Marcos*, 523 S.W.2d 641, 643 (Tex. 1975), *Quick v. City of Austin*, 7 S.W.3d 109, 122 (Tex. 1999), *Dallas Merch. & Concessionaires Ass’n v. City of Dallas*, 852 S.W.2d 489, 490-91 (Tex. 1993) (Home-rule cities do not depend on the Legislature for specific grants of authority but, instead, have a constitutional right of self-government and, look to the Legislature only for specific limitations on their power). See also, *In re Sanchez*, 81 S.W.3d 794, 796 (Tex. 2002); *Proctor v. Andrews*, 972 S.W.2d 729, 733 (Tex. 1998) (For the Legislature to divest home-rule cities of their Constitutional authority, the Legislature’s intent to do so must be expressed with “unmistakable clarity.”)

¹¹ Tex. Loc. Gov’t Code § 42.001 (“PURPOSE OF EXTRATERRITORIAL JURISDICTION. The legislature declares it the policy of the state to designate certain areas as the extraterritorial jurisdiction of municipalities to promote and protect the general health, safety, and welfare of persons residing in and adjacent to the municipalities.”).

protecting the general health, safety, and welfare of persons residing inside its city limits and ETJ. In the context of the Application, the City's interests are to promote and protect the general health, safety, and welfare of persons residing both in the ETJ and inside the city limits from the potentially harmful effects of an unnecessary package plant.

The Legislature has also granted cities statutory authority over or interest in issues relative to the Application via specific statutes, including, among others, the following:

- TWC Ch. 26, Subchapter E (relating to disposal system rules and water pollution control duties of cities);¹²
- TWC Ch. 7, Subchapter H (relating to water quality enforcement);¹³
- Tex. Health and Safety Code § 121.003(a) (“The governing body of a municipality . . . may enforce any law that is reasonably necessary to protect the public health.”);
- Tex. Loc. Gov’t Code § 551.002 (“A home-rule municipality may prohibit the pollution or degradation of and may police a stream, drain, recharge feature, recharge area, or tributary that may constitute or recharge the source of water supply of any municipality” and “may provide for the protection of and may police any watersheds . . . inside the municipality’s boundaries or inside the municipality’s [ETJ].”);
- Tex. Loc. Gov’t Code § 212.003(a) (relating to the ability of a municipality to adopt rules governing plats and subdivisions of land within its corporate boundaries and ETJ, including rules related to the provision of water and sewer service to platted areas, in order to promote the healthful development of the city and public health, safety, and general welfare);¹⁴
- Tex. Loc. Gov’t Code § 217.042 (A home-rule municipality, like the City, “may define and prohibit any nuisance within the limits of the municipality and within 5,000 feet outside the limits” and “enforce all ordinances necessary to prevent and summarily abate and remove a nuisance.”);

¹² See e.g., TWC § 26.177 (“A city may establish a water pollution control and abatement program for the city,” which “shall encompass the entire city and . . . may include areas within its [ETJ] which in the judgment of the city should be included to enable the city to achieve the objectives of the city for the area within its territorial jurisdiction. The city shall include in the program the services and functions which, in the judgment of the city . . . will provide effective water pollution control and abatement for the city.”).

¹³ The enforcement authority and rights granted to cities via TWC § 7.351(a) are different from those of the general public, and having been granted special statutory enforcement rights over water quality matters, the City has authority under state law over issues raised by the Application and Draft Permit. TWC § 7.351(a) authorizes local governments to bring an action against a person for a violation or threatened violation of Chapter 26 of the TWC occurring in the jurisdiction of that local government in the same manner as the TCEQ may do so—that is, for injunctive relief, a civil penalty, or both.

¹⁴ Accord Tex. Loc. Gov’t Code § 214.013 (“A municipality may . . . require property owners to connect to [its] sewer system.”).

- Tex. Loc. Gov't Code § 552.001 (“A municipality may [(1)]purchase, construct, or operate a utility system,” including a sewer system, “inside or outside the municipal boundaries;” (2) “regulate the system in a manner that protects the interests of the municipality;” (3) “extend the lines of its utility systems outside the municipal boundaries;” (4) “sell water [or] sewer . . . service to any person outside its boundaries;” (5) “prescribe the kind of water . . . mains [and] sewer pipes . . . that may be used inside or outside the municipality;” and (6) “inspect those facilities and appliances, require that they be kept in good condition at all times, and prescribe the necessary rules, which may include penalties, concerning them.”);
- Tex. Loc. Gov't Code Ch. 552, Subchapter C (relating to municipal drainage systems); and
- Tex. Loc. Gov't Code § 552.002(b) (“A home-rule municipality may buy, own, construct inside or outside the municipal limits, and maintain and operate a . . . sewage plant.”).

In addition to the statutory interests enumerated above, regionalization and need in wastewater permitting cases are issues on which cities that operate wastewater collection and treatment systems, like the City, are uniquely poised to offer evidence. This is recognized by TWC § 26.003, which states that:

“It is the policy of this state and the purpose of this subchapter to . . . encourage and promote the development and use of regional and areawide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of this state; and to require the use of all reasonable methods to implement this policy.”

This guiding principle of regionalization and need is enshrined in the introductory provisions of Chapter 26, listed second only to the recognition of private ownership rights of groundwater. Two other pieces of legislation were adopted to underscore this policy—TWC §§ 26.081¹⁵ and 26.0282¹⁶—both relating to the TCEQ’s consideration of the regionalization policy, need, and the availability of existing or proposed areawide or regional wastewater collection, treatment, and disposal systems in the issuance of TPDES permits.

The state regionalization policy articulated three times in the TWC is entirely consistent with the Legislature’s creation of ETJs via the Texas Local Government Code. The issues of

¹⁵ TWC § 26.081(a) (“The legislature finds and declares that it is necessary to the health, safety, and welfare of the people of this state to implement the state policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.”).

¹⁶ TWC § 26.0282 (“In considering the issuance, amendment, or renewal of a permit to discharge waste, the commission may deny or alter the terms and conditions of the proposed permit, amendment, or renewal based on consideration of need, including the expected volume and quality of the influent and the availability of existing or proposed areawide or regional waste collection, treatment, and disposal systems not designated as such by commission order pursuant to provisions of this subchapter. This section is expressly directed to the control and treatment of conventional pollutants normally found in domestic wastewater.”).

wastewater treatment regionalization and need cannot be evaluated or implemented without the ability to look “regionally” and “areawide”—i.e., beyond a city’s corporate boundaries. The Legislature has adopted statutes that underscore a city’s status as an affected person in cases such as the one at hand by creating ETJs; acknowledging cities’ interest in the environment, and issues affecting the health, safety, and welfare in those areas; granting cities authority over issues such as those raised in wastewater permitting applications; and adopting policies relating to regionalization and need in wastewater permitting cases. As recognized by 30 TAC §§ 55.203(b) and 55.203(c)(7)—which establish “affected person” status for governmental entities that have authority under state law over issues raised in an application—this statutory framework means that it is entirely consistent with state law to allow a city’s participation in wastewater permitting cases such as this, in which the proposed facility, outfall, and discharge route are all within such city’s corporate boundaries and/or ETJ.

Further, decentralized, pre-manufactured treatment facilities, like the Proposed Package Plant, are designed to serve areas that could not be easily connected to an existing sewage treatment plant, which is not the case here. On the contrary, the City owns and operates—again, under legislative mandate—an extensive wastewater treatment and collection system that eliminates the need for package plants such as one described in the Application. The City owns and operates five existing wastewater treatment plants and has a permit for a sixth to be constructed in the near future.¹⁷ The City employs approximately 15 licensed wastewater treatment plant operators and 38 licensed wastewater collection system operators. The City currently provides wastewater service to approximately 35,891 customers. One of the City’s wastewater treatment plants, the Dove Springs Wastewater Treatment Facility (“WWTF”), is located within three miles of the Proposed Package Plant (*see* **EXHIBIT 1** (City Comment Letter, **Attachment 1**)). Moreover, the Dove Springs WWTF is interconnected with the two largest City owned wastewater treatment plants, the Pecan Branch WWTF and the San Gabriel WWTF. Collectively, just these three City owned wastewater treatment facilities can treat up to 8.0 MGD of wastewater, giving the City capacity to meet the service needs of approximately 80,000 people (at 100 gallons per day (“GPD”) per person). The City’s two other wastewater treatment facilities—the Cimarron Hills WWTF and the Berry Creek WWTF—can treat up to 0.2 MGD and 0.3 MGD, respectively, providing the capacity for the City to serve approximately 5,000 more people (at 100 GPD/person). All in all, the City’s five existing wastewater treatment facilities have the capacity to provide service to about 85,000 customers. Based on information from the US Census Bureau, the City population as of the April 1, 2020 census was 67,176.¹⁸ So, the City clearly has more than enough capacity to provide wastewater treatment service to customers within its city limits and ETJ, including those within the Proposed Service Area.

¹⁷ The City owns and operates the following wastewater treatment facilities: (1) the Cimarron Hills WWTF (TPDES Permit No. WQ0014232001); (2) the San Gabriel WWTF (TPDES Permit No. WQ0010489002); (3) the Dove Springs Plant (TPDES Permit No. WQ0010489003); (4) the Pecan Branch WWTF (TPDES Permit No. WQ0010489005); and (5) the Berry Creek WWTF (TPDES Permit No. WQ0010489006). In addition, the City holds TPDES Permit No. WQ0010489007 for the Northlands WWTF, which is not yet under construction. The City also owns a site in the subject drainage basin on which a seventh WWTF is planned.

¹⁸ U.S. Census Bureau, *Quick Facts, Georgetown [C]ity, Texas*, <https://www.census.gov/quickfacts/fact/table/georgetowncitytexas/PST045221>.

In addition to its treatment facilities, the City has existing wastewater collection systems located within three miles of the Proposed Service Area. The City also has additional collection system infrastructure under construction that would be even closer to the Proposed Service Area. The existing collection system is located approximately 0.75 mile from the western boundary of the Proposed Service Area, and a lift station and associated wastewater collection system is currently under construction at a subdivision located less than 1,000 feet from the western boundary of the Proposed Service Area (*see* EXHIBIT 1 (City Comment Letter, Attachment 1)).

In summary, the City is an “affected person,” with significant interests in issues relevant to the Application, because the Proposed Package Plant, Proposed Service Area, and proposed outfall would all be located within the City’s ETJ, and the planned discharge route flows through both the City’s corporate limits and its ETJ. That proximity directly affects the people and environment the City has a Legislative mandate to protect. Moreover, because the City owns and operates an extensive wastewater treatment and collection system that can serve the Proposed Service Area, there is absolutely no need for the Proposed Package Plant and the associated risk of water quality degradation, nuisance odors, and other threats to public and environmental health that are typical of such plants. Therefore, the City should be granted a contested case hearing so that it may represent and protect its interests in and uphold its statutory duties related to regionalization and need, environmental protection, and public health, safety and welfare.

III. THE CITY’S DISPUTED ISSUES

While the City does not dispute RTC No. 1, RTC No. 3, and RTC No. 5, it does dispute the ten other RTCs provided by the ED. The City further disputes that the ED provided responses to all of the public comments submitted in its June 20, 2022 City Comment Letter. As such, the City hereby reiterates its request for a contested case hearing and/or reconsideration of the ED’s decision on the relevant and material disputed issues raised in the City Comment Letter and identified below.

A. RTC No. 2 (City Comment B)—Flooding, Floodplain, and Wetland Issues

While not identifying the City as providing such comment, the ED’s RTC No. 2 appears intended to respond to Comment B from the City regarding the TCEQ’s wastewater treatment facility location standards pertaining to 100-year floodplains and wetlands.¹⁹ The City disputes the ED’s RTC No.2.

The City’s Comment B addressed two TCEQ facility siting rules—30 TAC §§ 309.13(a) and (b). Section 309.13(a) states that a wastewater treatment plant cannot be located in the 100-year floodplain unless the plant unit is protected from inundation and damage that may occur during such a flood event. Section 309.13(b) states that a wastewater treatment plant may not be located in wetlands.

¹⁹ City Comment Letter at 9–10.

With regard to the 100-year floodplain issue, the City commented that the FEMA Map cited by the Application to support its contention that the Proposed Package Plant would not be in the 100-year floodplain was not reliable if the study from which that map was produced did not include the subject area.²⁰ The ED responded by stating that it does not really matter whether the Proposed Package Plant site is in the 100-year floodplain because if it is, the TCEQ's construction plan review team will require compliance with the TCEQ's design criteria for facilities in the 100-year floodplain during the construction plan approval stage—a stage that occurs outside of public scrutiny, and after permit issuance. But the point of the City's comment is that no such review will occur if, in reliance on a FEMA Map that does not include the site of the Proposed Package Plant in its study area, the Application on which the permit would be based states that the Proposed Package Plant will not be in the 100-year floodplain. As such, the City disputes the ED's RTC No. 2 as it relates to the 100-year floodplain. The ED should have responded by remanding the Application to its staff or the Applicant to determine whether the FEMA Map cited in the Application included the site of the Proposed Package Plant in its study area. If it did not, the map cannot be relied upon to determine whether the Proposed Package Plant would be in the 100-year floodplain and a more detailed floodplain analysis should be required. Without reliable floodplain information, the Application is not complete.

The City also commented that the Proposed Package Plant is near a wetland identified as such on the U.S. Fish & Wildlife Service National Wetlands Inventory.²¹ The ED did not respond to this comment. The RTC is totally silent as to wetlands.

The ED's RTC No. 2 also purports to address a comment from Shawn and Ena Bichsel regarding concerns about the proposed discharge of effluent onto and flooding of their property. Shawn and Ena Bichsel's property is shown on the Affected Landowner Map as Tract 21.²² The Bichsels commented that their property is located along the proposed discharge route, approximately 600 feet from the proposed outfall. Theirs is the first tract that would receive the effluent. The Bichsels explain that the proposed discharge route, as it exists on their property, is less than 3 feet wide and usually dry, only becoming wet after the point at which it receives wet weather flow from a different tributary that enters their property from the west. They also explain that the western portion of their land already floods during wet weather because of the flow from the western tributary and the effect of their northern neighbor's dam. They are concerned that their land will flood more often when the portion of the proposed discharge route on their property that is usually dry carries effluent year-round. The ED responds by stating that it has no jurisdiction over flooding in the context of a wastewater discharge permit, thereby overlooking critical aspects of the comment. The Bichsel's comment that the first part of the discharge route is over dry land that does not carry water even during wet weather periods is confirmed by the photos in the Application showing a solid area of vegetation unbroken by any indication of a bed or banks.²³ The ED should have responded to this comment by investigating whether the entirety

²⁰ City Comment Letter at 9–10.

²¹ City Comment Letter at 10.

²² Application, Attachment C, Affected Landowner Information, Technical Report 1.1, Section 1.

²³ Application, Attachment D, Original Photographs, Administrative Report 1.1, Section 2.1.

of the proposed discharge route is to a state owned watercourse or to private land to which the Applicant has no right to discharge without an easement or other deed-recorded right. And, if the proposed discharge is over dry land, the ED should also have evaluated the quantitative and qualitative standards applicable to such an area, including whether a Texas Land Application Permit, not a TPDES permit, is required.

In summary, the City disputes the ED's RTC No. 2 as it relates to facility siting requirements and design criteria pertaining to 100-year floodplains and wetlands, and requests that the issue of whether the Application is complete and accurate with regard to facility siting criteria and evaluation of same, and whether the Draft Permit contains terms and conditions to ensure the Proposed Package Plant will comply with the TCEQ's rules and regulations pertaining to facility siting, be referred to the State Office of Administrative Hearings ("SOAH"). In addition, the City disputes the ED's RTC No.2 as it relates to whether the proposed discharge route, as it exists on the Bichsels' land, is a watercourse, and even if so, whether the Draft Permit is adequately protective of water quality, livestock, terrestrial and aquatic wildlife, existing and known "future"²⁴ uses. At a minimum, the ED was required to review "the characteristics of the affected water body" and "determine which aquatic life uses are appropriate." 30 TAC § 307.4(l). Nothing in the ED's statement of basis for the Draft Permit or its memoranda for the Application review process evidences that the ED analyzed the *actual* characteristics of the affected water body and determined the appropriate aquatic life uses for the same.

B. RTC No. 4 (City Comment C)—Regionalization

The City disputes the ED's RTC No. 4 as it: (1) does not fully address the Commission's past interpretations and implementation of the Legislature's policy directives regarding wastewater regionalization in Texas; and (2) fails to respond to any of City's very specific comments regarding whether the Application and Draft Permit are consistent with those Legislative policy directives.

The City provided approximately six pages of detailed comments on Regionalization, and four detailed engineering attachments prepared by CDM-Smith.²⁵ The ED's RTC No. 4 does not address any of the City's comments on this topic. Instead, it states, "[t]he ED considers annexation as a requirement for receiving wastewater services from a [c]ity tantamount to denial of requested service." The ED may take that position, but the Commissioners do not. The Commissioners are actually divided on this issue, having issued two orders with exact opposite findings of fact and conclusions of law relating to a City of San Marcos ordinance with annexation provisions similar

²⁴ The TPDES application instructions require that future residential and other developments be identified on a topographic map for the proposed project. Such known developments (referred to above as known "future" uses) may constitute existing uses by the time the Proposed Package Plant is developed and may, in turn, result in the support of higher aquatic life uses that must be protected where they are attainable. *See, e.g.*, 30 TAC § 307.4(h)(4).

²⁵ City Comment Letter at 8–9, 10–13, and Attachments 1–4.

to the City's.²⁶ Both cases are on appeal.²⁷ More recently, a SOAH Proposal for Decision, specifically addressing the City's ordinance, reached no conclusion on the question.²⁸ Further, in response to a petition for rulemaking on the topic and to demonstrate to the Sunset Commission that the Commissioners are honoring the Legislature's policy directives set forth in the TWC, the Commissioners have ordered the ED to work with stakeholders to update its wastewater regionalization guidance and permit application documents and provide a report (or actual draft guidance and draft revised permit application forms) to the Commissioners by the end of 2022.²⁹ The ED's RTC No. 4 fails to mention this critical regulatory context. Of course, the Commissioners are aware of their past orders and directions to the ED, but the ED's superficial consideration of the City's regionalization comments and complete failure to acknowledge either past Commission orders or its own Commission-mandated effort to devise a comprehensive and comprehensible wastewater regionalization guidance document is, at the very least, surprising. Therefore, the City reasserts the comments it made in the City Comment Letter on the issues of need and regionalization, and requests that the issue of whether the Application and Draft Permit are consistent with the Legislature's statutory directives regarding wastewater need and regionalization codified in TWC §§ 26.003 and 26.081-26.086.

C. RTC No. 6 (City Comment D)—Application Accuracy and Completeness

The City disputes the ED's RTC No. 6. As noted in the RTC, City Comment D indicates that the Application is materially incomplete in that it fails to provide relevant information that is necessary for the TCEQ to conduct a full analysis of the possible effects of the Proposed Package Plant on water quality and surrounding existing uses. As noted in City Comment D, this includes,

²⁶ *An Order Granting the Application by Crystal Clear Special Utility District and MCLB Land, LLC for TPDES Permit No. WQ001526602 in Hays County, Texas*, TCEQ Docket No. 2020-0411-MWD; SOAH Docket No. 582-20-4141 (Jun. 14, 2021) (Finding of Fact (“FOF”) No. 47. “San Marcos’s response requiring annexation of the Subdivision was properly considered a denial of service by the Applicants and the ED’s staff.”). *An Order Granting the Application by Regal, LLC for TPDES Permit No. WQ001581701 in Guadalupe County, Texas*; SOAH Docket No. 582-21-0576; TCEQ Docket No. 2020-0973-MWD) (Nov. 29, 2021) (“Regal”) (FOF No. 38 “The City [of San Marcos’s] ordinance requiring annexation for wastewater service is not tantamount to a denial of service because the requirement may be waived by City Council.”).

²⁷ *City of San Marcos, Texas v. TCEQ*, in the 459th Judicial District Court of Travis County, Texas, Cause No. D-1-GN-21-003110 (Jul. 2, 2021); *City of Can Marcos, Texas v. TCEQ*, in the 200th Judicial District Court of Travis County, Texas, Cause No. D-1-GN-21-007272 (Dec. 16, 2021).

²⁸ SOAH Docket No. 582-22-1016; TCEQ Docket No. 2021-1214-MWD; *Application by AIR-W 2017-7 L.P. for TPDES Permit No. WQ0015878001* (Aug. 23, 2022).

²⁹ <https://www.youtube.com/watch?v=qa2PnSovmul>, Commission Agenda, May 18, 2022, Item 23, TCEQ Docket No. 2022-0382-PET, 1:27:06–2:06:54 (Motion by Commissioner Lindley, approved 3-0, to deny the rulemaking petition filed by Cities of San Marcos, McAllen, and Jarrell requesting adoption of their proposed wastewater regionalization rule, but simultaneously directing the ED to work with interested persons to present a proposal to the Commissioners at a future work session or an agenda, preferably in the third quarter of 2022, for a regionalization guidance document and necessary changes to the permit application form, expressly acknowledging attention of Sunset Commission on the regionalization issue.) The Commission’s Water Quality Advisory Group (WQAG) prepared a draft TCEQ Regulatory Guidance Document for Evaluation Regionalization for Potential New Wastewater Systems, and is accepting comments on the draft guidance document until October 23, 2022. https://www.tceq.texas.gov/permitting/wastewater/WQ_advisory_group.html.

but is not limited to: (1) the Applicant failing to provide the information required to be included in its topographic map, including schools and playgrounds near the proposed discharge point; as well as (2) not including information about the receiving water, which should have been included as Domestic Worksheet 2.1.

First, the insufficiency of the topographic map provided with the Application is expressly confirmed by the ED's RTC No. 6, which states that "no schools or playgrounds were indicated on the map within the one-mile radius that the application requires this map to indicate." While that statement is factually correct, the ED fails to grasp that the lack of schools or playgrounds on the map is, in and of itself, the issue. Specifically, the Applicant's topographic map should depict Everette L. Williams Elementary School ("**Williams Elementary School**"), which is located less than one mile from the site of the Proposed Package Plant, at 4101 Southwestern Blvd., Georgetown, Texas 78626. In support thereof, please see **EXHIBIT 2**, containing a screenshot from the online property tax parcel mapping tool provided by the Williamson Central Appraisal District ("**Williamson CAD**"), which demonstrates that the outermost boundaries of Tax Parcel No. R040062, the planned location for the Proposed Package Plant, and Tax Parcel No. R584127, where Williams Elementary School is located, are separated by little more than one half mile. Also included in **EXHIBIT 2** is documentation confirming that the parcels depicted in the screenshot are those described above.

Second, the City disputes the ED's contention in RTC No.6 that "Domestic Worksheet 2.1 is not required to be completed and submitted by the Applicant." On the contrary, according to Page 69 of TCEQ-10053ins (05/07/2021) Instructions for Completing the Domestic Wastewater Permit Application ("**Instructions**"), the Instructions in affect at the time the Application was submitted on June 11, 2021, applicants should complete and submit Domestic Worksheet 2.1 "if the application is for a new permit," as is the case here. The ED's RTC No. 6, however, is not based on the Instructions themselves, but rather "[t]he instructions at the top of Worksheet 2.1." While the ED correctly points out that Page 32 of TCEQ-10054 (06/01/2017) Domestic Wastewater Permit Application, Technical Reports ("**Domestic Worksheet 2.1**"), the form in affect at the time the Application was submitted, did state that "Worksheet 2.1 is not required for discharges to intermittent streams," RTC No. 6 does not address the apparent inconsistency between Domestic Worksheet 2.1 and the Instructions for completing it. As such, a factual dispute exists as to whether the Applicant should have completed Domestic Worksheet 2.1. The issue of whether the Applicant was required to complete Domestic Worksheet 2.1 is further exacerbated by the potential mischaracterization of the receiving water in the Application, as described in more detail in Section III.A, above. Simply put, given the contradictory instructions and uncertainty as to the actual character of the receiving water, it is clear that the ED lacked the information necessary to make an informed decision as to whether the Applicant should have completed and submitted Domestic Worksheet 2.1 with the Application.

The City disputes the ED's RTC No. 6, and requests that the issue of whether the Application is substantially complete and accurate be referred to SOAH.

D. RTC No. 7 (City Comment E)—Protection of Water Quality in Receiving Streams

The City disputes the ED's contention in RTC No. 7 that the effluent limitations in the Draft Permit will maintain water quality along the proposed discharge route. On the contrary, the City is concerned that the proposed discharge of treated effluent will adversely affect the already-impaired receiving waters, which are within the City's ETJ and corporate limits, and, therefore, subject to protection by the City pursuant to numerous mandates of the Texas Legislature (*see* Section II.A.2.a, above).

As indicated above, the Draft Permit authorizes the discharge of treated domestic wastewater from the Proposed Package Plant to an unnamed tributary of Mankins Branch, thence to Mankins Branch, which is identified as Classified Segment No. 1248C on TCEQ's 303(d) List of impaired and threatened waters for bacteria in the water, thence to the San Gabriel/North Fork San Gabriel River in Segment No. 1248 of the Brazos River Basin. That segment is already subject to discharges from four of the City's existing wastewater treatment facilities.³⁰ Because the City is willing and able to treat and discharge the wastewater from the Proposed Service Area using its existing wastewater treatment and collection system, there is no need to authorize the discharge of said effluent from a redundant, decentralized, pre-fabricated, and likely less efficacious package plant rather than from the City's superior and already-permitted regional facilities. Doing so would not only contravene the state's express policy to encourage and promote the development and use of such regional and area-wide systems, but would also needlessly risk unsanitary or unsafe water quality conditions in the already-impaired receiving waters and threaten the health and safety of the City's citizens.

In addition, the ED's RTC fails to address all of the water quality concerns raised in the City Comment Letter. Specifically, although the TCEQ's review included an evaluation of aquatic life use, the City is concerned that such review was based on the accuracy of general assumptions that have not been confirmed as appropriate in this specific circumstance given that the intermittent stream flowing through the Proposed Service Area appears to be fed by one or more springs or groundwater baseflow. The RTC so grossly overlooks this concern that it does not even contain the word groundwater, let alone address whether the receiving stream contains aquatic life that might be dependent on the water quality of such spring water or groundwater and, therefore, particularly sensitive to changes in water quality resulting from the proposed discharge. In the absence of an investigation into and evaluation of the potential interconnection of the receiving waters with shallow groundwater, the City fears that the ED lacked the information necessary to

³⁰ Just like that from the Proposed Package Plant, the discharge route from the City's existing Dove Springs WWTF (TPDES Permit No. WQ0010489003) is to an unnamed tributary of Mankins Branch, thence to Mankins Branch, thence to the San Gabriel/North Fork San Gabriel River in Segment No. 1248 of the Brazos River Basin. The discharge route from the City's existing Pecan Branch WWTF (TPDES Permit No. WQ0010489005) is to Berry Creek, thence to San Gabriel/North Fork San Gabriel River in Segment No. 1248 of the Brazos River Basin. The discharge route from the City's San Gabriel WWTF (TPDES Permit No. WQ0010489002) is directly to San Gabriel/North Fork San Gabriel River in Segment No. 1248 of the Brazos River Basin. The discharge route from the City's existing Berry Creek WWTF (TPDES Permit No. WQ0010489006) is to Berry Creek; thence to the San Gabriel/North Fork San Gabriel River in Segment No. 1248 of the Brazos River Basin.

make an informed decision as to whether the Draft Permit will be sufficiently protective of water quality under Texas law.

Finally, the ED's RTC fails to satisfactorily address the City's concern that the Draft Permit does not contain adequate measures to protect against discharges of untreated or partially untreated effluent. According to the RTC, it does not really matter whether the Draft Permit contains such measures because the TCEQ's construction plan review team will require compliance with the TCEQ's design criteria during the construction plan approval stage and "Operational Requirement No. 4 makes the Applicant 'responsible for installing, prior to plant start-up, and subsequently maintaining, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes.'" As noted in Section III.A, above, however, the construction plan approval stage occurs outside of public scrutiny, and after permit issuance. Therefore, RTC No. 7 fails to confirm that the Draft Permit is adequately protective against discharges of untreated or partially untreated effluent. Because this creates an unnecessary risk of contamination of the unnamed tributary to Mankins Branch, the already-impaired downstream Mankins Branch segments, and groundwater, the Draft Permit should be denied.

E. RTC No. 8 (City Comment E)—Protection of Existing Uses

The City disputes the ED's contention in RTC No. 8 that existing uses will be protected "if the [Proposed Package Plant] is operated and maintained as required by the [Draft Permit] and regulations." To the contrary, the City is concerned that the proposed discharge of treated effluent will adversely affect existing uses of the receiving waters, which are within the City's ETJ and corporate limits, and, therefore, subject to regulation by the City pursuant to numerous mandates of the Texas Legislature (*see* Sections II.A.2.a and III.D, above).

The Draft Permit authorizes the discharge of treated domestic wastewater from the Proposed Package Plant to an unnamed tributary of Mankins Branch, thence to Mankins Branch, thence to the San Gabriel/North Fork San Gabriel River in Segment No. 1248 of the Brazos River Basin. The unclassified receiving water uses are limited aquatic life use for the unnamed tributary and Mankins Branch, and high aquatic life use for Mankins Branch. The designated uses for Segment No. 1248 are primary contact recreation, public water supply, aquifer protection, and high aquatic life use. The aquifer protection use applies to the contributing, recharge, and transition zones of the Edwards Aquifer, and portions of the discharge route are within the transition zone. TCEQ's own rules express a policy to protect such higher uses when it is possible to do so.³¹ In this circumstance, these higher uses could be maintained simply by denying the Application and upholding the state's regionalization policy. Failing to do so by issuing the Draft Permit for an unnecessary package plant risks the creation of unsanitary or unsafe water quality conditions in the receiving waters that would threaten the health and safety of any wildlife, livestock, or people using them. This is especially true given that such risks could be avoided, or at least substantially diminished, if wastewater from the Proposed Service Area was collected, treated, and discharged by the City in accordance with the state's regionalization policy.

³¹ *See* 30 TAC § 307.4(h).

F. RTC No. 9 (City Comment F)—Protection of Health and Safety of Nearby Residents

For the numerous reasons outlined above and in the City Comment Letter, the City disputes the ED's contention in RTC No. 9 that "the [D]raft [P]ermit is protective of public health and safety," and hereby reiterates its concern that issuance of the Draft Permit would threaten the City's ability to comply with its legislative mandate to protect the health, safety, and welfare of the people, animals, and environment within its territorial jurisdiction.

G. RTC No. 10 (City Comment G)—Protection of Aquatic, Terrestrial, and Livestock

As addressed in more detail above and in the City Comment Letter, the City disputes the ED's contention in RTC No.10 that limitations in the Draft Permit will "ensure compliance" with the Texas Surface Water Quality Standards requiring that all water in the state be maintained to preclude adverse toxic effects to aquatic life, terrestrial life, livestock, or domestic animals resulting from contact, consumption of aquatic organisms, consumption of water or any combination of the three. To the contrary, the City reiterates that because the area surrounding the Proposed Package Plant and discharge route is agricultural in nature and home to large numbers of livestock, issuing a Draft Permit based on a potentially incomplete and inaccurate Application would expose these animals to adverse effects from growth of algae, high nitrogen content, and bacterial contamination from the proposed discharge.

H. RTC No. 11 (City Comment G)—Protection of Endangered Species

The ED's RTC No. 11 confirms the City's concerns that the Application was approved without the proper authorities having conducted the requisite endangered species review.

As noted in the City Comment Letter, because the area surrounding the Proposed Package Plant, including the San Gabriel River, is home to several endangered species—including the Texas Shiner and Guadalupe Bass as well as several endangered salamanders—issuing the Draft Permit would expose these animals to adverse effects from growth of algae, high nitrogen content, and bacterial contamination from the proposed discharge. These concerns are compounded by the fact that portions of the receiving water for the proposed discharge are already listed on TCEQ's 303(d) List of waters impaired by high levels of bacteria.

In response to such comment, the ED's RTC No. 11 first describes the process used by the TCEQ to investigate the presence of endangered species prior to issuing a TPDES permit. According to the RTC, "[i]f an endangered species is identified, a memo is written to request further review from the Environmental Protection Agency ["EPA"] and US Fish and Wildlife Service ["USFWS"]." Here, there are a number of endangered species affected by the proposed discharge, the Texas Shiner, Guadalupe Bass, several salamander species, and—as identified by the ED—the Coffin Cave Mold Beetle. Despite acknowledging the existence of at least one endangered species in the area of the Proposed Package Plant, outfall, and discharge route, the RTC makes absolutely no mention of the TCEQ having written the requisite memo to the EPA or USFWS. Instead, the ED's RTC No. 11 provides only the conclusory statement that the Coffin

Cave Mold Beetle “is only affected by Municipal Separate Storm Sewer System (MS4) and general permits for stormwater; therefore the discharge in question is not likely to affect this species.” The RTC makes no mention whatsoever of the other endangered species identified in the City Comment Letter.

Further, the ED’s RTC No. 11 notes that “notice of the [A]pplication was provided to [the Texas Parks and Wildlife Department (“TPWD”)] and they did not offer any comments.” The City is not only troubled by the ED’s failure to acknowledge the existence of several endangered species with habitat in the area affected by the proposed discharge, but also by the admitted failure to follow TCEQ’s stated protocol for investigating the affects a potential discharge will have on endangered species. In other words, if TCEQ was aware of the existence of an endangered species, which the ED’s RTC No. 11 indicates it was, and TCEQ protocol requires requesting further review from the EPA and USFWD under such circumstances, why wasn’t that protocol followed? Why was “notice of the [A]pplication” provided to TPWD instead? Given that TCEQ protocol, as described in the RTC, doesn’t contemplate an endangered species review by TPWD, it should come as no surprise that such agency “did not offer any comments.” As confirmed by the express language of the RTC, it is apparent that TCEQ failed to complete the requisite endangered species review prior to issuing the Draft Permit.

I. RTC No. 12 (City Comment H)—Antidegradation

For the reasons described in more detail in Sections III.E and III.F, above, as well as the City Comment Letter, the City disputes the ED’s assertion in RTC No. 12 that “existing water quality uses will not be impaired by this permit action,” but “will be maintained and protected.”

J. RTC No. 13 (City Comment J)—Operational Requirements

The City disputes the ED’s contention in RTC No.13 that “individuals holding a Class C (or higher) license are capable of properly operating the [Proposed Package Plant] that will meet the requirements of the [Draft P]ermit.” As explained in greater detail in the City Comment Letter, the Draft Permit should require the chief operator of the Proposed Package Plant to hold at least a Class B wastewater license.

Further, the ED’s RTC completely fails to address the City’s comment that the Draft Permit does not require adequate sampling and monitoring to be protective of public and environmental health and safety within its territorial jurisdiction.

IV. SUMMARY OF DISPUTED ISSUES FOR REFERRAL

The City has identified critical issues that the Commission should explore through an open and public contested case hearing. At a minimum, the City requests that the following issues be referred to SOAH for a contested case hearing:

1. Whether the Application and Draft Permit are consistent with the Legislature's statutory directives regarding wastewater regionalization as expressed in TWC §§ 26.003 and 26.081–26.086, including whether issuance of the Draft Permit is contrary to the state's regionalization policy;
2. Whether there is a need for the Proposed Package Plant;
3. Whether the Draft Permit contains terms and conditions to ensure the Proposed Package Plant will comply with the TCEQ's rules and regulations pertaining to facility siting, specifically, whether the planned location for the Proposed Package Plant complies with the 100-year floodplain location standards found in 30 TAC § 309.13(a);
4. Whether the Application is substantially complete and accurate;
5. Whether the Draft Permit is adequately protective of water quality;
6. Whether the Draft Permit is adequately protective of the existing uses of the receiving waters in accordance with the Texas Surface Water Quality Standards, including applicable antidegradation review requirements;
7. Whether the Draft Permit includes adequate provisions to protect the health of nearby residents and their families and aquatic and terrestrial wildlife;
8. Whether the Draft Permit includes adequate provisions to protect the health of nearby endangered species;
9. Whether the discharge route and receiving waters have been properly characterized including whether issuance of the Draft Permit would be adequately protective of groundwater;
10. Whether the Draft Permit complies with applicable requirements to abate and control nuisances;
11. Whether the Applicant has substantially complied with all applicable notice requirements; and
12. Whether the draft permit contains adequate provisions to protect the requesters' use and enjoyment of property.

The City reserves the right to raise and pursue any and all issues that may be relevant to its interest in the event of a contested case hearing.

Ms. Laurie Gharis, Chief Clerk
Re: TPDES Permit No. WQ0016008001
October 7, 2022
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Respectfully submitted,

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**ATTORNEYS FOR CITY OF
GEORGETOWN**

EXHIBIT 1

From: [PUBCOMMENT-OCC](#)
To: [PUBCOMMENT-WQ](#); [PUBCOMMENT-ELD](#); [PUBCOMMENT-OCC2](#); [PUBCOMMENT-OPIC](#)
Subject: FW: WQ0016008001 - Public Comments
Date: Tuesday, June 21, 2022 10:28:09 AM
Attachments: [City of Georgetown Comments and Hearing Request 6.20.2022.pdf](#)

H

From: Laurie Gharis <Laurie.Gharis@tceq.texas.gov>
Sent: Monday, June 20, 2022 5:16 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: FW: WQ0016008001 - Public Comments

Laurie Gharis
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-1835
Cell Phone: 512-739-4582

How is our customer service? Fill out our online customer satisfaction survey at:
www.tceq.texas.gov/customersurvey

From: Trish Erlinger Carls <tcarls@tcarlslaw.com>
Sent: Monday, June 20, 2022 5:08 PM
To: Laurie Gharis <Laurie.Gharis@tceq.texas.gov>
Cc: Faulk, Cody <cfaulk@spencerfane.com>; Hopinks-Baul, Carlota <chbaul@spencerfane.com>
Subject: WQ0016008001 - Public Comments

Laurie –
Please see the attached document that we have trying to file as comments regarding the referenced application.

Trish Erlinger Carls
512-567-0125
tcarls@tcarlslaw.com

Law Offices of
Patricia Erlinger Carls

June 20, 2022

via e-file to: www14.tceq.texas.gov/epic/eComment/

Ms. Laurie Gharis, Chief Clerk (MC 105)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Re: The City of Georgetown, Texas' Public Comments and Request for Contested Case Hearing

Applicant Name: R040062 LP (CN605905942)
Regulated Entity Name: Indigo Water Resources Recovery Facility (RN111287538)
Application: TPDES Permit No. WQ0016008001
Location: Williamson County, Texas
EPA I.D.: TX0141437

Dear Ms. Gharis:

On behalf of the City of Georgetown (the "**City**"), please accept these public comments and request for a contested case hearing on the application by R040062, LP (the "**Applicant**") for proposed new Texas Pollutant Discharge Elimination System ("**TPDES**") Permit No. WQ0016008001, to authorize a domestic wastewater treatment facility in Williamson County, Texas (the "**Application**"). The City's contact persons for this matter are below:

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I. INTRODUCTION

The Application was received by the TCEQ on June 11, 2021 and declared administratively complete on August 24, 2021. The Executive Director completed its technical review and prepared a draft permit. The Notice of Application and Preliminary Decision was issued on May 5, 2022 and published on May 18, 2022. The public comment period on the Application ends on June 20, 2022. These public comments and request for a contested case hearing are timely and properly filed under 30 Tex. Admin. Code (“TAC”) 55.201(c) and (d).

If approved, the draft permit would authorize the discharge of effluent from a package plant (the “**Proposed Package Plant**”) at a daily average flow not to exceed 0.075 million gallons per day (“MGD”) in the Interim Phase and a daily average flow not to exceed 0.2 MGD in the Final Phase. The Proposed Package Plant would be located off the west end of Madison Drive, approximately 1,500 feet northwest of the intersection of County Road 105 and Jacobs Way, in Williamson County, Texas 78626, within the City’s extraterritorial jurisdiction (“ETJ”). The effluent will be discharged to an unnamed tributary of Mankins Branch, thence to Mankins Branch, thence to the San Gabriel/North Fork San Gabriel River in Segment No. 1248 of the Brazos River Basin.

II. REQUEST FOR A CONTESTED CASE HEARING

A. AFFECTED PERSON ANALYSIS/STANDING

(1) Applicable Rules

In determining who is an “affected person,” the TCEQ rule provides as follows:

RULE § 55.203 Determination of 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 general public does not qualify as a personal justiciable interest.

(b) Except as provided by § 55.103 of this title (relating to Definitions)¹, governmental entities, including local governments and public agencies, with authority under state law over issues raised by the application may be considered affected persons.

¹ Barring participation by non-river authority state agencies in contested case hearings unless the state agency is the applicant. See 30 TAC § 55.103.

(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;*
- (6) for a hearing request on an application filed on or after September 1, 2015, whether the requestor timely submitted comments on the application that were not withdrawn; and*
- (7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.*

(d) In determining whether a person is an affected person for the purpose of granting a hearing request for an application filed on or after September 1, 2015, the commission may also consider the following:

- (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 executive director; and*
- (3) any other expert reports, affidavits, opinions, or data submitted by the executive director, the applicant, or hearing requestor.*

(e) In determining whether a person is an affected person for the purpose of granting a hearing request for an application filed before September 1, 2015, the commission may also consider the factors in subsection (d) of this section to the extent consistent with case law.²

The City is an "affected person" entitled to a contested case hearing on issues raised in its hearing request because the City has interests related to legal rights, duties, privileges, powers, or economic interests affected by the Application that are not common to the general public and is an affected person under 30 TAC § 55.203(a). In addition, the City has "statutory authority over" and "interest in the issues relevant to the Application within the meaning of 30 TAC § 55.203(b). The City is also providing additional information to the Commission in this letter, per 30 TAC § 55.203(d)(1), (d)(3) and (e). For example, as discussed more fully below, the City provides wastewater treatment services to areas both inside and outside of its corporate limits, the City has authority over or an interest in the effects on the environment and on public health, safety, and welfare from the Proposed Package Plant, the Proposed Package Plant's wastewater discharges into

² 30 TAC § 55.203 (*emphasis added*).

waterways within the City's corporate limits and ETJ, and the City has an interest in eliminating new potential sources of contamination.

(2) The City's Wastewater Treatment System

According to the Application, the Proposed Package Plant would service 600 manufactured homes, having an estimated three persons per unit, located on approximately 64.345 acres of land (the "Proposed Service Area.") The Proposed Package Plant, proposed outfall, and Proposed Service Area are all within the City's ETJ, approximately 1,850 feet from the closest City limit line. The proposed discharge route is partially in the City's ETJ and partially inside its city limits.

The City has an interest in reducing or eliminating the number of wastewater package plants so as to reduce or eliminate additional point sources of pollution, and protect water quality and public health and safety. To that end, the City owns and operates an extensive wastewater system that eliminates the regional need for package plants such as one described in the Application. The City owns and operates five existing wastewater treatment plants, and has a permit for a sixth to be constructed in the near future.³ The City employs approximately 15 licensed wastewater treatment plant operators and 38 licensed wastewater collection system operators. The City currently provides wastewater service to approximately 35,891 customers. One of the City's wastewater treatment plants, the Dove Springs Wastewater Treatment Plant ("Dove Springs Plant"), is within a three mile radius of the Proposed Facility (*see Attachment 1*). The Dove Springs Plant is actually interconnected with the City's two other largest wastewater treatment plants, the Pecan Branch Plant and the San Gabriel Plant. Together, just the three, large, connected plants can treat 8.0 MGD, which is the equivalent of 80,000 people (at 100 gpd/ person). The two other plants – the Cimarron Hills Plant and the Berry Creek Plant – can treat 0.2 MGD and 0.3 MGD, respectively – which is the combined equivalent of 5,000 people (at 100 gpd/person). Based on information from the US Census Bureau available at <https://www.census.gov/quickfacts/fact/table/georgetowncitytexas#>, the City population as of the April 1, 2020 census was 67,176. So, the City clearly has more than enough capacity to provide wastewater treatment service to its customers within its city limits and ETJ.

³ The City owns and operates the following wastewater treatment facilities: Cimarron Hills WWTP (WQ0014232001); San Gabriel WWTP (WQ0010489002); Dove Springs WWTP (WQ0010489003); Pecan Branch WWTP (WQ0010489005); Berry Creek WWTP (WQ0010489006). Georgetown also has a permit for the Northlands WWTP (WQ WQ0010489007), which is not yet under construction. The City also owns a site in the subject drainage basin on which a seventh WWTP is planned.

The City also has existing wastewater collection systems located within a three mile radius of the Proposed Service Area, and there is additional collection system infrastructure under construction that would be even closer to the Proposed Service Area. The existing collection system is located approximately 3/4 feet/miles away from the western boundary of the Proposed Service Area, and a lift station and associated wastewater collection system is currently under construction at a subdivision located less than 1,000 feet from the western boundary of the Proposed Service Area (*see* Attachment 1).

(3) The City's Interests in the Application

The City is a home-rule municipality, having the full powers of self-governance, and is authorized to exercise all authority incident to local self-government.⁴ In addition to having the powers granted to it as a home-rule city via the Texas Constitution, the Legislature has also expressly granted home-rule cities regulatory authority within the ETJ over issues raised by or relevant to the Application. The Legislature created municipal extraterritorial jurisdiction areas for all cities for the following purposes: "to promote and protect the general health, safety, and welfare of persons residing in and adjacent to the municipalities."⁵ Thus, the City has a Legislatively-mandated interest in promoting and protecting the general health, safety, and welfare of persons residing inside its city limits and ETJ. In the context of the Application, the City's interests are to promote and protect the general health, safety, and welfare of persons residing in the ETJ AND inside the city limits from deleterious effects caused by the Proposed Package Plant.

The Legislature has also granted cities statutory authority over or interest in issues relative to the Application via specific statutes. For example:

⁴ See Tex. Const. art. XI, § 5; TEX. LOC. GOV. CODE ANN. § 51.072(a) and (b) ("(a) The [home-rule] municipality has full power of local self-government. (b) The grant of powers to the municipality by this code does not prevent, by implication or otherwise, the municipality from exercising the authority incident to local self-government."); *Lower Colo. Riv. Auth. v. City of San Marcos*, 523 S.W.2d 641, 643 (Tex. 1975), *Quick v. City of Austin*, 7 S.W.3d 109, 122 (Tex. 1999), *Dallas Merch. & Concessionaires Ass'n v. City of Dallas*, 852 S.W.2d 489, 490-91 (Tex. 1993) (Home-rule cities do not depend on the Legislature for specific grants of authority but, instead, have a constitutional right of self-government and, look to the Legislature only for specific limitations on their power). See also, *In re Sanchez*, 81 S.W.3d 794, 796 (Tex. 2002); *Proctor v. Andrews*, 972 S.W.2d 729, 733 (Tex. 1998) (For the Legislature to divest home-rule cities of their Constitutional authority, the Legislature's intent to do so must be expressed with "unmistakable clarity.")

⁵ TEX. LOCAL GOV'T CODE ANN. § 42.001 ("PURPOSE OF EXTRATERRITORIAL JURISDICTION. The legislature declares it the policy of the state to designate certain areas as the extraterritorial jurisdiction of municipalities to promote and protect the general health, safety, and welfare of persons residing in and adjacent to the municipalities.")

- TEX. WATER CODE ANN. Ch. 26, Subchapter E (disposal system rules and water pollution control and abatement)
- TEX. WATER CODE ANN. Ch. 7, Subchapter H (water quality enforcement)⁶
- TEX. HEALTH & SAFETY CODE ANN. § 121.003(a) (public health)
- TEX. LOC. GOV'T CODE ANN. § 551.002 (pollution or degradation of water supplies and watersheds)
- TEX. LOC. GOV'T CODE ANN. § 212.003(a) (subdivision and platting (including the provision of water and sewer service platted areas))
- TEX. LOC. GOV'T CODE ANN. § 217.042 (nuisances within 5,000 feet)
- TEX. LOC. GOV'T CODE ANN. § 552.001 (municipal utility systems) and Subchapter C (municipal drainage systems)
- TEX. LOC. GOV'T CODE ANN. Ch. 551.002 (protection of streams and watercourses)

In addition, regionalization and need in wastewater permitting cases are issues on which cities that operate wastewater collection and treatment systems, like the City, are uniquely poised to offer evidence. TWC § 26.003 states that:

“It is the policy of this state and the purpose of this subchapter to . . . encourage and promote the development and use of regional and areawide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of this state; and to require the use of all reasonable methods to implement this policy.”

This guiding principle of regionalization and need is enshrined in the introductory provisions of Chapter 26, listed second only to the recognition of private ownership rights of groundwater. Two other pieces of legislation were adopted to underscore this policy

⁶ The enforcement authority and rights granted to cities via TWC § 7.351(a) are different from those of the general public, and having been granted special statutory enforcement rights over water quality matters, the City has authority under state law over issues raised by the Application or statutory authority over or interests in the issues relevant to the Application. TWC § 7.351(a) authorizes local governments to bring an action against a person for a violation or threatened violation of Chapter 26 of the TWC occurring in the jurisdiction of that local government in the same manner as the Commission may do so – that is, for injunctive relief or a civil penalty or both. Although that section also gives similar powers to “a person affected” the term “person affected” as used in Section 7.351(a) does not have the same meaning as the term “affected person” under the Texas Water Code. As used in Section 7.351(a), the term “person affected” refers only to a select group of persons defined in Section 401 of the Texas Health and Safety Code and only as to violations of Chapter 401 of the Texas Health and Safety Code (relating to Radioactive Materials and Other Sources of Radiation).

Ms. Laurie Gharis, Chief Clerk
Re: TPDES Permit No. WQ0016008001
June 20, 2022
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-- TEX. WATER CODE ANN. §§ 26.081⁷ and 26.0282⁸ -- relating to the consideration of the regionalization policy, need, and the availability of existing or proposed areawide or regional wastewater collection, treatment, and disposal systems.

The state regionalization policy articulated three times in the Texas Water Code is entirely consistent with the Legislature's creation of ETJs via the Texas Local Government Code. The issues of wastewater treatment regionalization and need cannot be evaluated or implemented without the ability to look "regionally" and "areawide" – beyond a city's corporate boundaries. The Legislature has adopted statutes that underscore a city's status as an affected person in cases such as the one at hand by creating ETJs, acknowledging cities' interest in the environment, and issues affecting the health, safety, and welfare in those areas, granting cities authority over issues such as those raised in wastewater permitting applications, and adopting policies relating to regionalization and need in wastewater permitting cases. It is consistent with state law to allow a city's participation in wastewater permitting cases when the facility, outfall, and discharge route are within a city's ETJ. Therefore, the City has authority under state law over issues raised in the application as required for governmental entities under 30 TAC §§ 55.203(b) and 55.203(c)(7).

In summary, the City has interests in issues relevant to the Application because the Proposed Facility and outfall are both in the City's ETJ and the planned discharge route is located within both the City's corporate limits and ETJ. The City owns and operates a wastewater treatment plant that can serve the Proposed Service Area. As is detailed more fully below, the City should be granted a contested case hearing to represent the City's interests in regionalization and need, environmental effect, and public health, safety and welfare including pursuing a reduction of package plants and eliminating risk of water quality degradation and nuisance odors and upsets from such plants, to ensure that the health, safety, and welfare of residents in the City limits and in its ETJ will be maintained, and that the plant operator has the technical, managerial, and

⁷ TEX. WATER CODE ANN. § 26.081(a) ("The legislature finds and declares that it is necessary to the health, safety, and welfare of the people of this state to implement the state policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.")

⁸ TEX. WATER CODE ANN. § 26.0282 ("In considering the issuance, amendment, or renewal of a permit to discharge waste, the commission may deny or alter the terms and conditions of the proposed permit, amendment, or renewal based on consideration of need, including the expected volume and quality of the influent and the availability of existing or proposed areawide or regional waste collection, treatment, and disposal systems not designated as such by commission order pursuant to provisions of this subchapter. This section is expressly directed to the control and treatment of conventional pollutants normally found in domestic wastewater.")

to ensure that the Applicant and/or plant owner/operator has a good compliance history and the financial capability to construct, operate and maintain the plant. There is a reasonable relationship between Georgetown's stated concerns and the proposed activities to be regulated under the draft permit.

B. REQUEST FOR CONTESTED CASE HEARING

The Proposed Package Plant, outfall, and Proposed Service Area are all within the City's ETJ but very proximate to the City's corporate limits. The proposed discharge route is both the City's ETJ and city limits. The City has a Legislatively-mandated interest in promoting and protecting the general health, safety, and welfare of persons residing inside its city limits and ETJ. Local governments, such as the City, with authority under state law over issues contemplated by an application, are considered affected persons under 30 TAC § 55.203. For the reasons articulated above, the City has justiciable interests that will be adversely affected by this Application.

The City requests that it be granted party status. The City also requests a contested case hearing.

III. COMMENTS ON THE APPLICATION

A. The City has existing permitted wastewater treatment capacity that could meet the need expressed by the Applicant, and the Applicant fails to demonstrate the need for the facility in the context of Regionalization.

The City owns and operates an extensive wastewater system that eliminates the need for package plants such as one described in the Application. The City owns and operates five existing wastewater treatment plants, has a permit for a sixth to be constructed in the near future.⁹ The City employs approximately 15 licensed wastewater treatment plant operators and 38 licensed wastewater collection system operators. The City currently provides sewer service to approximately 35,891 wastewater customers.

⁹ The City owns and operates the following wastewater treatment facilities: Cimarron Hills WWTP (WQ0014232001); San Gabriel WWTP (WQ0010489002); Dove Springs WWTP (WQ0010489003); Pecan Branch WWTP (WQ0010489005); Berry Creek WWTP (WQ0010489006). Georgetown also has a permit for the Northlands WWTP (WQ WQ0010489007), which is not yet under construction. The City also owns a site in the subject drainage basin on which a seventh WWTP is planned.

One of the City's wastewater treatment plants, the Dove Springs Plant, is within a three mile radius of the Proposed Facility (see **Attachment 1**). The Dove Springs Plant is actually interconnected with the City's two other largest wastewater treatment plants, the Pecan Branch Plant and the San Gabriel Plant. Together, just the three, large, connected plants can treat 8.0 MGD, which is the equivalent of 80,000 people (at 100 gpd/person). The two other plants – the Cimarron Hills Plant and the Berry Creek Plant – can treat 0.2 MGD and 0.3 MGD, respectively – which is the combined equivalent of 5,000 people (at 100 gpd/person). Based on information from the US Census Bureau available at <https://www.census.gov/quickfacts/fact/table/georgetowncitytexas#>, the City population as of the April 1, 2020 census was 67,176. So, the City clearly has more than enough capacity to provide wastewater treatment service to the 600 manufactured homes proposed to be constructed in the Proposed Service Area at the Applicant's requested levels.

The City also has existing wastewater collection systems located within a three mile radius of the Proposed Service Area. The Applicant wholly failed to show the City's collection system on Attachment K.1-1 of the Application, even though information about the City's system is readily available on the internet.¹⁰ The City's existing collection system network is located about 1½ miles away from the Proposed Package Plant, and about one mile away from the western boundary of the Proposed Service Area. Additional collection system infrastructure is currently under construction that would be even closer to the Proposed Service Area. Specifically, a new lift station and associated collection system is currently under construction at a subdivision located under ¼ mile away from the western boundary of the Proposed Service Area (see **Attachment 1**). This information should have been included in the Application.

The City has planned and constructed its wastewater treatment and collection system to eliminate the need for small package plants serving single subdivisions such as the Proposed Package Plant, consistent with the State's regionalization policy.

B. The Application fails to demonstrate that the Applicant's proposed facilities satisfy TCEQ's requirements for unsuitable site characteristics.

TCEQ regulations do not allow wastewater treatment facilities to be located within a 100-year floodplain. 30 TEX.ADMIN.CODE §309.13. The Applicant represented that

¹⁰ See City of Georgetown Utility Information at this link:
<https://georgetowntx.maps.arcgis.com/apps/webappviewer/index.html?id=43e000b1e2f54464acf9ccb2a7dbe50b>

none of its proposed facilities would fall within the unnamed tributary of Mankins Branch 100-year floodplain. To support this assertion, the Applicant relied on FEMA FIRM Panel 48491C0505F. (the "FEMA Map"). That reliance was misplaced.

The absence of a floodplain on the FEMA Map in the area of the proposed discharge and related facilities does not mean that the Proposed Package Plant is not in a 100-year floodplain. The FEMA floodplain maps typically only show watersheds that are one square mile or more in size. So the fact that no floodplain is shown for the small area in question does not mean that there is not 100-year floodplain present. More thorough analysis of the floodplain extent and water surface elevation is required to accurately assess whether the site of the Proposed Package Plant is suitable. Placement of the Proposed Package Plant within a 100-year floodplain would pose a significant threat to the surface water and groundwater quality in the receiving stream and in the aquifers that the receiving stream recharge.

The site of the Proposed Package Plant is also unsuitable because it is near a potential wetland, as identified as such on the USF&W National Wetlands Inventory. TCEQ does not allow the construction of wastewater treatment facilities in a wetland. 10 TEX. ADMIN. CODE §309.13.

C. Granting the draft permit is not consistent with the Legislature's policy directive to encourage and promote the development and use of regional and areawide waste collection, treatment, and disposal systems per Tex. Water Code §§ 26.003, 26.081(a), and 26.0282, and the TCEQ's Regionalization Policy for Wastewater Treatment.

- (1) The City owns and operates a wastewater treatment facility or collection system located within three miles of the Proposed Package Plant and can provide wastewater treatment services to the Applicant at the levels requested.**

The City owns and operates a wastewater treatment plant and wastewater collection system located with three miles of the Proposed Package Plant. As detailed in above, the City actually currently owns and operates five wastewater treatment plants (one of which is within a three mile radius of the Proposed Package Plant). The City also has a permit to construct a sixth wastewater treatment plant, and owns land on which it plans to see authorization to construct a seventh wastewater treatment plant. The City's existing wastewater treatment plants together provide 8.5 MGD in treatment capacity – sufficient to provide wastewater service to 85,000 people. The City currently provides

sewer service to approximately 35,891 wastewater customers. So, the City clearly has more than enough capacity to provide wastewater treatment service to the 600 manufactured homes proposed to be constructed in the Proposed Service Area at the Applicant's requested levels of 0.085 to 0.09 MGD. As detailed elsewhere in this letter, the City also has existing wastewater collection systems for all of its plants, and such a system is currently located within a three mile radius of the Proposed Service Area. In addition, construction of a new collection is currently underway within about ¼ mile from the western boundary of the Proposed Service Area. Finally, the City employs approximately 15 licensed wastewater treatment plant operators and 38 licensed wastewater collection system operators who are fully trained and capable of operating the City's extensive wastewater treatment and collection system.

(2) The Proposed Service Area is Located Within the City's Updated Wastewater Master Plan, which Generally Describes How Wastewater Service Will Be Provided to the Studied Region

The City updated its 2018 Wastewater Master Plan in 2020, and the Proposed Service Area is located within area including in the Updated Wastewater Master Plan (see **Attachment 2**). As with all municipal master plans, the Updated Wastewater Master Plan provides a general outline for all accomplishing the City's and community's mutual goals – in this case the goal of providing wastewater services to about 10,760 acres on the east side of the City.

With regard to the City's provision of wastewater service to the Proposed Service Area, the Applicant asked, and the City provided, information pertaining to the type and cost of connecting infrastructure, reiterating what is set forth in the Updated Wastewater Master Plan. The City's responses to the Applicant assumed that there would be no other development in the area and no cost-sharing or economies of scale that would mitigate the cost to the Applicant or relieve it of the burden of bearing the entire cost of new regional infrastructure. However, as is discussed below, there is other development occurring in the area and there are alternatives to the connecting infrastructure described in the City's Updated Wastewater Master Plan that could be considered and approved by the City Council.

(3) Other Faster and Less Costly Alternatives for Connecting to the City's Wastewater Exist

The Updated Wastewater Master Plan covers a 10,760 acre area, so it is a given that some portions of the will develop faster or differently than planned. Therefore, the City has several processes or mechanisms to provide more nimble and nuanced evaluations of how wastewater service might be provided in a specific instance. Those alternatives have not been discussed by the City and the Applicant since the Applicant chose instead to file the Application. But, as the Application reveals, the City alerted the Applicant to the fact that a path forward for its project may be available via a development agreement.¹¹

There is significant other development in the area (including significant new wastewater system infrastructure), which is either ahead of the Applicant's schedule or generally in line with the Applicant's schedule. Some of this new infrastructure may be able to be utilized by the Applicant either as is, or with some upsizing, and may significantly reduce Applicant's cost to connect to the City's wastewater system compared to the costs of the regional infrastructure described in the Updated Wastewater Master Plan. In other words, there are service alternatives available to the Applicant that are not presented in the Application that make connection to the City's wastewater system both timely and cost-effective. These service alternatives are generally described in **Attachment 3**. On approval by the City Council, those alternatives are available to the Applicant.

(4) The TCEQ Fails to Consider Another Proposed Stand-Alone Package Plant Service One Subdivision Approximately One Mile Away

Another standalone package plant is proposed to be located approximately one mile away from the Proposed Package Plant. The Applicant and the TCEQ should have considered the pending *Application of AIRW2017-7, LP for TPDES Permit No. WQ0015878001*, SOAH Docket No. 582-22-106; TCEQ Docket No. 2021-1214-MWD (the "AIRW2017-7, LP Package Plant"). The locations of both proposed package plants are shown on **Attachment 4**.

Nothing in the Application or the TCEQ's memorandums reference the AIRW2017-7, LP Package Plant, even though the same firm prepared both applications and both applicants are represented by the same lawyer. The Executive Director is supporting the AIRW2017-7, LP Package Plant in a pending contested case hearing, so is clearly aware of it. Failure to disclose the AIRW2017-7, LP Application, coupled with the

¹¹ Application, Exhibit K.2, Pre-Application Meeting – Planning Notes dated 5/20/2021.

Executive Director's apparent failure to consider it in its analysis of the Application, signals disregard of any meaningful effort to implement the State's regionalization policy. As a result, the City is left playing wack-a-mole trying to single-handedly implement the State's wastewater regionalization policy. Allowing two stand-alone package plants within one mile of each other in an ETJ of a city having five, soon to be six, wastewater treatment plants wholly thwarts regionalization, encouraging balkanization rather than regionalization per the Legislature's directive to the TCEQ in the Texas Water Code.

D. The Application is not substantially complete and accurate.

The Application is materially incomplete in that it fails to provide relevant information that is necessary for the TCEQ to conduct a full analysis of the possible effects of the Proposed Facility on water quality and surrounding existing uses. This includes, but is not limited to, the Applicant failing to provide the information required to be included in its topographic map, including schools and playgrounds near the proposed discharge point; as well as not including information about the receiving water, which should have been included as Domestic Worksheet 2.1.

E. The draft permit is not protective of water quality and existing uses of the receiving waters in accordance with Texas Surface Water Quality Standards, including protection of public health and enjoyment of waters in the state and aquatic and terrestrial life.

The City is concerned that the proposed discharge of treated effluent will adversely affect the receiving water, which is within the City's extraterritorial jurisdiction and its City limits, and existing and future uses thereof. The Statement of Basis for the draft permit indicates that the TCEQ's evaluation of the Application did not investigate or duly consider all existing uses (for example, agricultural uses like livestock watering and irrigation) or water quality standards protective of all existing uses (for example, aesthetic parameters related to recreational uses that are implicated in public health and enjoyment of waters in the state, criteria protective of livestock and other terrestrial and aquatic life). And although the TCEQ's review included an evaluation of the aquatic life use, this review was based on general assumptions whose accuracy has not been confirmed as appropriate in this specific circumstance. For example, the intermittent stream coursing through the future residential development that is to be served by the Proposed Package Plant appears to be fed by one or more springs or groundwater baseflow. However, the TCEQ did not evaluate whether the receiving stream contains

aquatic life that is dependent on the water quality of such spring water or groundwater and would be particularly sensitive to changes in water quality resulting from the proposed discharge. In the absence of an investigation into and evaluation of existing uses and relevant water quality standards, the City is concerned that the draft permit does not contain conditions that will be protective of water quality and all existing uses in accordance with Texas law.

Given that the slightest plant upset would adversely affect the water quality in the receiving streams and rivers, the City is concerned that the proposed discharge poses risks to the receiving water quality and may create unsanitary or unsafe water quality conditions in the receiving waters and the health and safety of its citizens.

The draft permit for the Proposed Package Plant is concerning as it is inconsistent with Texas' regionalization policy, which includes the promotion of use of existing area-wide waste collection, treatment, and disposal systems to prevent pollution. The Proposed Package Plant will discharge treated effluent to a receiving stream in an area of shallow groundwater, yet the Statement of Basis for this draft permit does not indicate that the TCEQ considered the potential interconnection of the receiving waters with shallow groundwater. The failure to consider shallow groundwater and how it may be contaminated by the proposed discharge is troubling.

In addition, the draft permit does not contain measures to protect against discharges of untreated or partially untreated effluent. Because this creates an unnecessary risk of contamination of the unnamed tributary to Mankins Branch, the downstream Mankins Branch segments, and groundwater, the draft permit should be denied.

E. The Draft Permit is not protective of the public health and safety of nearby residents.

The City is also concerned about the public health risk posed by the Proposed Package Plant to nearby residents. . The City is concerned that the very close distance of the Proposed Package Plant to adjacent residences poses health risks, including the potential exposure of residents to harmful pathogens via vectors (e.g., flies), aerosols (e.g., bacteria containing mists), and the receiving water (e.g., bacteria and viruses in the treated wastewater).

G. The Draft Permit does not protect the health and safety of landowners' livestock and the habitats of endangered species.

The area surrounding the plant and discharge route is agricultural in nature and contains many livestock as noted by the Application. Also, the surrounding area as well as the San Gabriel River is home to several endangered species including the Texas Shiner and Guadalupe Bass as well as several endangered salamanders.¹² Granting the Permit would expose these animals to adverse effects from growth of algae, high nitrogen content, and bacterial contamination from the proposed discharge.

H. The Application failed to show the proposed discharge satisfied TCEQ's antidegradation policy.

As noted above, the Statement of Basis for this draft permit indicates that the TCEQ did not consider all existing uses and water quality protective thereof. Without this information, it is not clear how the TCEQ could have conducted its Tier 1 and Tier 2 antidegradation review consistent with the Texas antidegradation policy and procedures implementing the same.

The standard Implementation Team's Interoffice Memorandum related to the Application classifies unnamed tributary of Mankins Branch as limited aquatic life use and Mankins Branch as presumed high aquatic life use. Nothing in TCEQ's materials indicate that TCEQ conducted a site visit to the unnamed tributary of Mankins Branch to determine whether the unnamed tributary of Mankins Branch has been appropriately classified. Also, no information from TCEQ shows a site visit to unnamed tributary of Mankins Branch or Mankins Branch to confirm the actual conditions, such as the hydraulics, of these receiving waters to determine what the impact of the proposed discharge will be.

Therefore, TCEQ's analysis of the discharge relied on an uncalibrated model based on default values that do not reflect the actual conditions of the unnamed tributary of Mankins Branch or Mankins Branch. Due to the potential from accidental releases from this small unmanned facility, and its potential for untreated or partially treated discharges resulting impact on the receiving waters. The use of site-specific data of the

¹² These endangered species can be found by using the Texas Parks and Wildlife Endangered Species by Counties search *available at* tpwd.texas.gov/gis/test and cross-referencing using the United States Geological Survey species list *available at* nas.er.usgs.gov/queries.

receiving waters is necessary to ensure the proper antidegradation analysis is conducted and that improper degradation of water quality is avoided.

In addition, the City is also concerned about elevated nitrogen levels in the receiving watercourses and its effect on water quality in the immediate receiving unnamed intermittent tributary and in downstream segments of this receiving water body.

Finally, the City is concerned that the TCEQ is using an incorrect standard in conducting its Tier 2 antidegradation review. The Statement of Basis for this draft permit indicate the TCEQ used a "no significant degradation" standard in conducting its Tier 2 evaluation. Such a standard is inconsistent with Texas antidegradation policy, which provides that no degradation is allowed unless it can be shown that the lowering of water quality is necessary for important economic or social development. Here, there is no indication that such economic or social development considerations were contemplated or that such a determination was made.

J. The draft permit does not contain sufficient operational requirements to ensure that water quality is protected.

(1) The draft permit does not require a sufficiently licensed and experienced chief operator.

The draft permit should require the chief operator to hold at least a Class B wastewater license. The draft permit only requires the chief operator to hold a Class C license. Holders of a Class C license are not experienced enough to operate and maintain a facility such as the Proposed Package Plant, especially since they will only be on-site to perform the required sampling. To obtain a Class C wastewater license, a person only needs a high school diploma or GED and either two years of work experience, or one year of work experience with minimal college hours or TCEQ-certified training. For example, applicants can substitute up to one year of experience with 32 semester hours of college or 40 additional hours of approved. The draft permit should require the chief operator to hold at least a Class B license. Holders of a Class B license are required to have a Bachelor's degree in chemistry, biology, engineering, microbiology, bacteriology or similar discipline, and 2 ½ years of hands on experience, or a high school diploma or GED and 5 years of hands on experience.

(2) The draft permit does not require adequate sampling and monitoring.

The Proposed Package Plant would operate 24/7, but only be monitored by grab sample once a week, or even less frequently for *E. Coli*. This level of frequency and sampling method does not provide adequate assurances to the City or the public that the remainder of the time the plant is producing an effluent meeting the requirements of the draft permit. For example, for Interim I Phase, the draft permit only requires a single grab sample once every quarter. This means that that less than 15 minutes of the facility's operations over a three-month period must be monitored. And because grab samples in two consecutive quarters could be taken as much as 89 days apart, discharges could violate water quality standards for some or all of that time without any means of detection or notice. For the Final Phase, the draft permit only requires a single grab sample once every month. This means that less than 15 minutes of the facility's operations over an entire month must be monitored. And because grab samples in two consecutive months could be taken as much as 59 days apart, discharges in the Final Phase discharges could violate water quality standards for some or all of that time without any means of detection or notice. Because the receiving water flows into Segment 1248, which is an impaired waterway due to high bacteria levels, sampling only quarterly or monthly is not sufficient protect the water quality of Segment 1248.

With regard to the type of sampling, a grab sample only reflects performance at the single, short point in time when the sample was collected, and then only if the sample is properly collected. The results can change depending on time of day or whether the plant is operating near its average daily flow rate. More than likely, these samples will be taken during daylight hours when flows are at their lowest part of the diurnal curve, so plant performance will be at its best. Also, it is not unheard of for operators who collect a bad grab sample to make changes to the plant and then to keep collecting grab samples until they collect enough to demonstrate compliance. Composite sampling consists of a collection of numerous individual discrete samples taken at regular intervals over a period of time, like 24 hours, or continuous sampling. Composite sampling techniques are more representative of the characteristics of the effluent over a longer period of time and more accurately reflect how the treatment plant is performing at all points along the diurnal curve. Although grab sampling may be fine for pH, DO, or total residual chlorine, which can change quickly in water once the sample is taken, it is not appropriate for BOD, TSS, Ammonia Nitrogen, Total Phosphorous, or *E. Coli*. Also, if a single grab sample does not meet permit conditions, adjustments to the plant can be made and additional grab samples taken to get the average back in compliance with the permit parameter. While unscrupulous, such a practice would still meet the permit's sampling

Ms. Laurie Gharis, Chief Clerk
Re: TPDES Permit No. WQ0016008001
June 20, 2022
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requirements. This is a widely known problem in the industry and should not be exacerbated by issuing permits with lax sampling requirements.

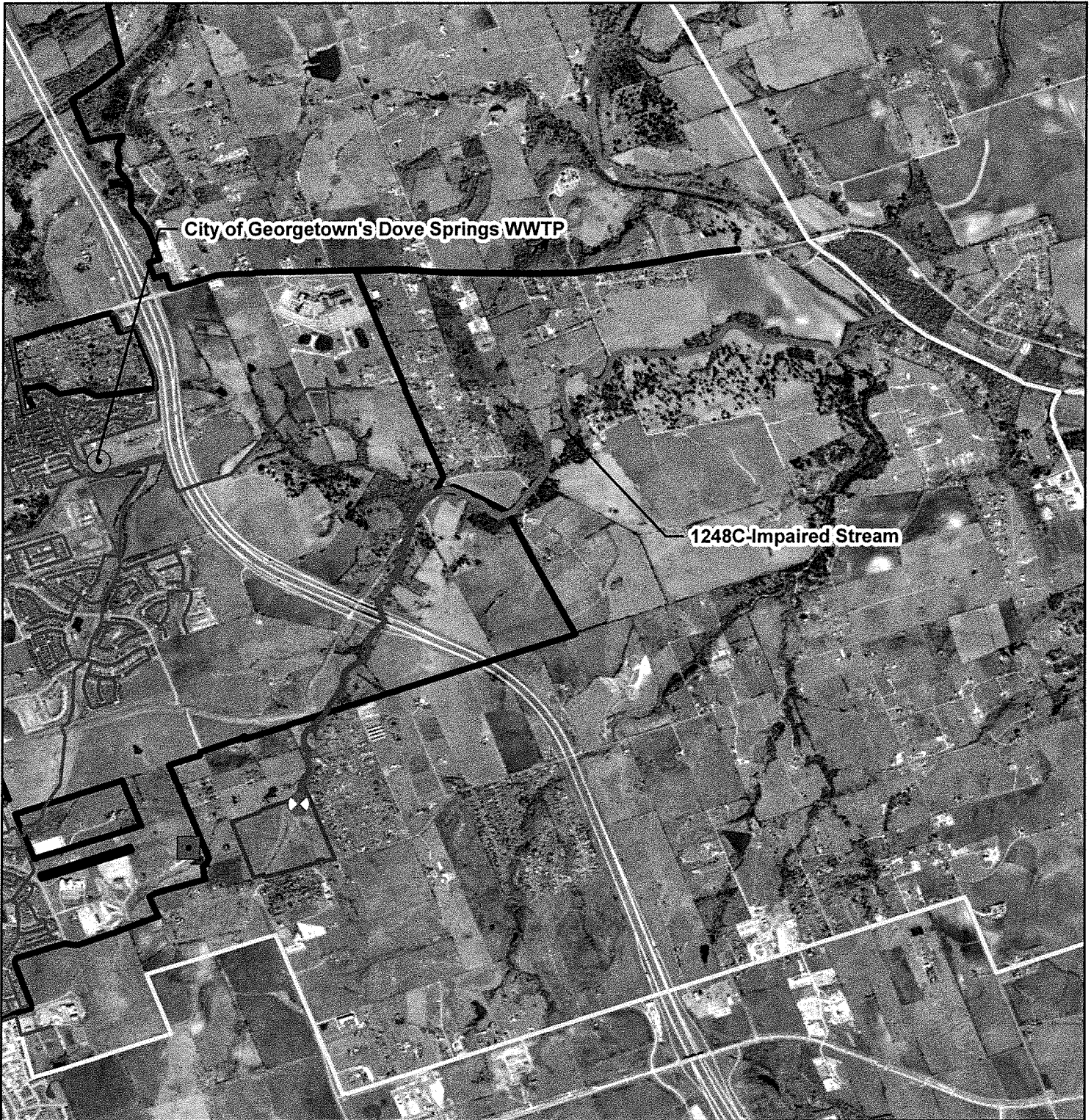
Respectfully submitted,

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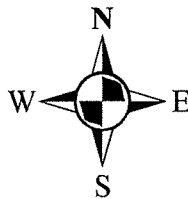
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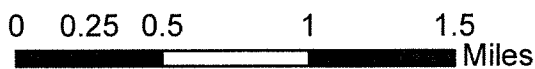


Legend

-  Patterson Ranch Lift Station- Under Construction
-  City of Georgetown's Dove Springs WWTP
-  R040062, LP Proposed Discharge Point
-  City's Wastewater Collection Lines (Existing)
-  Parcel Boundaries
-  Georgetown City Limits
-  Georgetown ETJ
- R040062, LP Proposed Discharge Route**
-  Impaired
-  Un-Impaired



**R040062, LP
Proposed Package Plant**



00073

ATTACHMENT 1

Debbie Zachary

From: PUBCOMMENT-OCC
Sent: Friday, October 7, 2022 11:42 AM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0016008001
Attachments: Part 2 - 2022.10.07 City of Georgetown's Request for Contested Case Hearing.pdf

H
RFR

From: hcampbell@spencerfane.com <hcampbell@spencerfane.com>
Sent: Friday, October 7, 2022 10:54 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016008001

REGULATED ENTY NAME INDIGO WATER RESOURCES RECOVERY FACILITY

RN NUMBER: RN111287538

PERMIT NUMBER: WQ0016008001

DOCKET NUMBER:

COUNTY: WILLIAMSON

PRINCIPAL NAME: R040062 LP

CN NUMBER: CN605905942

FROM

NAME: MR William A Faulk, III

EMAIL: hcampbell@spencerfane.com

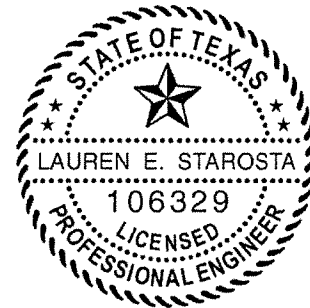
COMPANY: Spencer Fane LLP

ADDRESS: 9442 N CAPITAL OF TEXAS HWY Plaza I - Suite 500
AUSTIN TX 78759-7262

PHONE: 5128404557

FAX:

COMMENTS: Part 2 of 4: The City of Georgetown, Texas' Request for Contested Case Hearing



Digitally signed by
Lauren Starosta
Date: 2020.11.10
08:19:43-07'00'

Technical Memorandum

To: *Wesley Wright, P.E., Systems Engineering Director*
David Munk, P.E., Water Utility Engineer
City of Georgetown

From: *Lauren Starosta, P.E. (#106329)*
Allen Woelke, P.E. (#54386), BCEE
CDM Smith, TBPE Firm No. F-3043

Date: *November 10, 2020*

Subject: *Southeast Georgetown Wastewater Master Plan – Phase 1 (FINAL)*

1.0 General

This Technical Memorandum (TM) is the first phase of an interim wastewater master plan for the southeast region of Georgetown's extraterritorial jurisdiction (ETJ) which is outside the City's water service area defined by its Certificate of Convenience and Necessity (CCN). The study area is located within the Jonah Water Special Utility District (SUD) CCN. Historically, Georgetown has not considered providing wastewater service outside their water CCN; therefore, the area was not included in the City of Georgetown 2018 Wastewater Master Plan (2018 master plan), or previous master plans. Recent development proposals requesting wastewater service from Georgetown have prompted the utility provider to consider how they may serve the area within the City's ETJ now and into the future.

For this first phase, the collection system model, used by the City and CDM Smith to evaluate the system and develop master plan projects for the future, was expanded to include the southeast region. Buildout condition wastewater flows for the southeast were developed and added to the model using the same methods as described in the 2018 master plan with some modifications as described herein. The model was then used to develop and evaluate alternatives to provide wastewater service. A recommended alternative was selected and is presented herein with estimated capital costs.

A second phase of this study will consider the timing of future developments to phase the proposed projects and assimilative capacity of the San Gabriel River for treatment plant discharges.

This TM includes the following sections:

- Section 2.0 Study Area and Wastewater Flow Assumptions
- Section 3.0 Model Updates
- Section 4.0 Analysis and Recommended Projects
- Section 5.0 Conclusions

2.0 Study Area and Future Land Use Assumptions

The study area, existing collection system and existing wastewater treatment plants (WWTPs) are shown in **Figure 1**. The total study area covers about 10,760 acres. This southeast region slopes mostly east to the San Gabriel river. Past master plans considered a regional wastewater plant referred to as “Mankins” at the location shown in Figure 1. The location is ideal because it is located at the confluence of streams where gravity interceptors could be built to relieve the Pecan Branch and Dove Springs WWTPs in the future. However, master plans over the last ten years excluded a Mankins plant because Georgetown was not intending to serve the area within the Jonah water CCN. Interest in developing this area has increased in recent years and Georgetown would like to have a plan to provide service within the study area.

The first step in expanding the City’s collection system model to include the southeast study area was to delineate subcatchments and develop the parameters to simulate each component of wastewater flow. The components of wastewater flow include dry weather flow (DWF) and rainfall-dependent inflow and infiltration (RDII). DWF consists of groundwater infiltration (GWI) and base wastewater flow (BWF). GWI is groundwater that leaks into the system through cracks in pipes, joints, and other structural defects; BWF consists of residential and non-residential (commercial, industrial, institutional, etc.) sanitary wastewater flows that enter the wastewater collection system from everyday water uses. RDII consists of direct inflow through openings or stormwater connections in the system, and infiltration, similar to GWI, that enters the system during or immediately after a rainfall event. The wastewater flow criteria used in this study for each of these components and consistent with the 2018 wastewater master plan are summarized in **Table 1**.

Table 1. Wastewater Flow Criteria for Evaluation of the Proposed Development

Wastewater Flow Category	Criteria
Ground Water Infiltration (GWI)	
Residential	30 gallons per capita/day (gpcd)
Non-Residential	25% of Avg. Non-Residential BWF
Base Wastewater Flow (BWF)	
Typical Residential	70 gpcd
Non-Residential	Based on Future Land Use densities (see Table 2)
BWF Peaking Factors	
Residential	2.1
Non-Residential	1.5
Rainfall Dependent Inflow & Infiltration (RDII)	
Peak RDII	Based on flow monitoring or criteria of 750 gal/ac/day for new areas ¹

¹The area used for RDII is the contributing area, which excludes open space, parks and flood plains

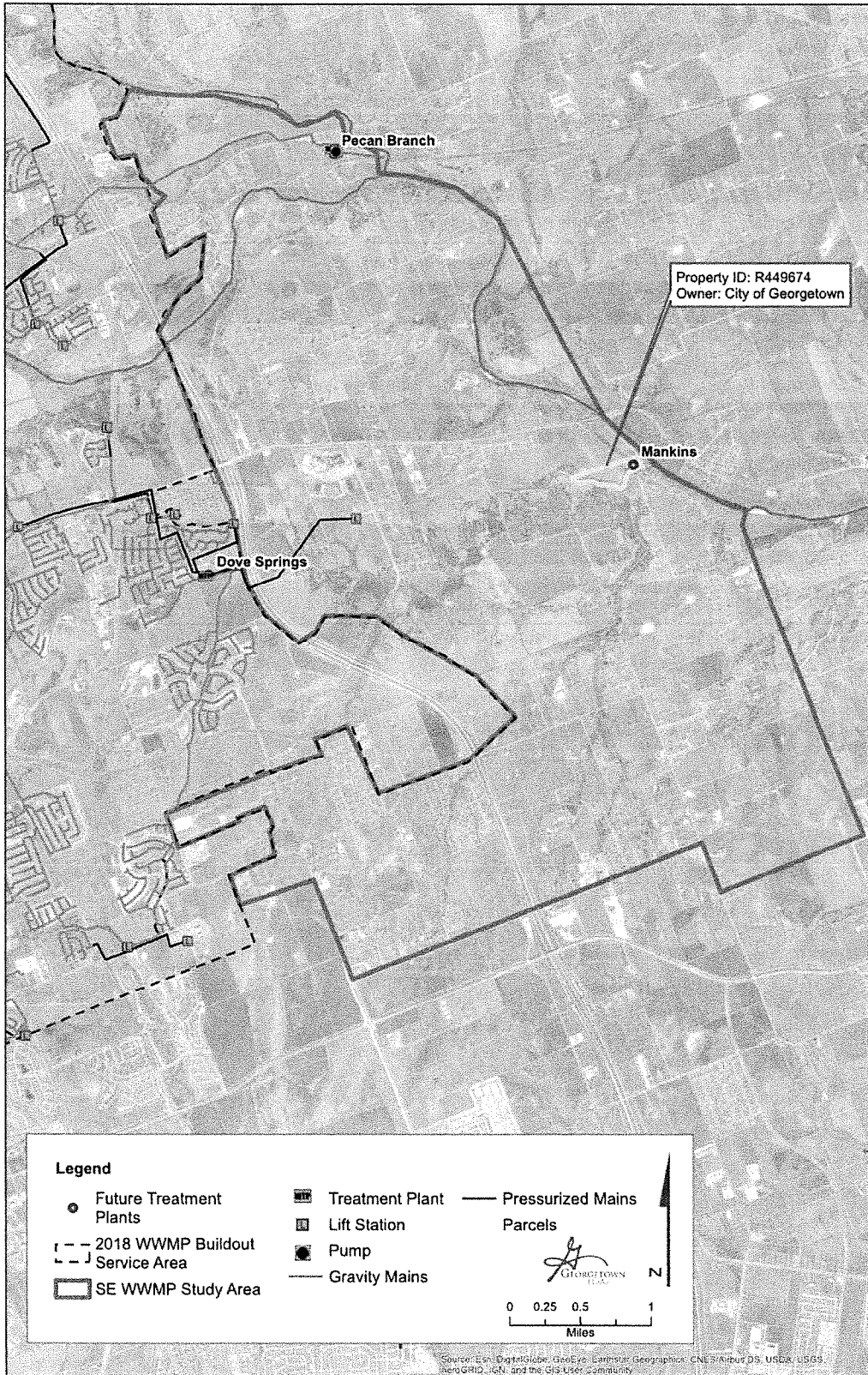


Figure 1 Study Area, Collection System, and Existing WWTPs

Wastewater flow parameters were developed using the same methods and assumptions from the 2018 master plan. The primary underlying assumption for the master plan is the City's future land use plan, which covers the entire ETJ. **Table 2** summarizes the assumptions for calculating the wastewater flow parameters for each subcatchment based on land use acreage. Since the 2018 master plan, the City's future land use database was updated. While the updated database was used for this southeast master plan, some assumptions, changes and exceptions were made per discussions with the City:

- The names of some land use categories changed. The following assumptions were made to equate the new names to the categories used in the 2018 master plan:
 - Mixed Density Neighborhood = Moderate Density Residential
 - Neighborhood = Moderate Density Residential
 - Community Center = Community Commercial
 - Regional Center = Regional Commercial Destination
- Areas defined as “rural residential” within the southeast study area were changed to “moderate-density residential”, which changes the projected single-family units per acre from 0.2 to 3.5. This is the change being investigated by this southeast master plan study. If the City provides wastewater service to this area, the assumption is that the area will develop at a density greater than what the current forecast is in the future land use plan.
- Any development requests for land parcels that have been received within the study area were assumed as better information for those parcels and were used to simulate wastewater flows for those properties.
- Neighborhoods in the study area that are currently on private on-site wastewater treatment systems were assumed to be converted and served by the collection system for this study. Wastewater flow parameters assumed for such areas were assumed based on the number of houses currently existing within the neighborhood.

The parcels with development request, private on-site wastewater treatment system neighborhoods and future land use areas with the modification changing the rural residential areas to moderate density residential are shown in **Figure 2**.

Table 2. Future Land Use Parameters

Future Land Use Category	Residential		Non-Residential	
	% of Area	Dwelling Units per Acre ¹	% of Area	Average Day Flow (gpd/ac)
Agricultural / Rural Residential	100%	0.2 SFU		
Low-Density Residential	100%	2 SFUs		
Conservation Subdivision	100%	2.3 SFUs		
Moderate-Density Residential	100%	3.5 SFUs		
High-Density Residential	100%	7 SFUs and 14 MFUs		
Community Commercial	10%	10 MFUs	90%	1200
Regional Commercial Destination	10%	10 MFUs	90%	1500
Institutional Use			100%	950
Mixed Use Community	50% / 25%	3 SFUs / 7 SFUs and 7 MFUs	25%	1200
Mixed Use Neighborhood Center	25%	7 SFUs and 7 MFUs	75%	1200
Specialty Mixed Use Area	20%	7 SFUs and 7 MFUs	10% (hotels) / 70%	14600 / 1500
Employment Center	10%	10 MFUs	90%	900

¹ SFU = Single-Family Unit = 2.5 people; MFU = Multi-Family Unit = 1.9 people

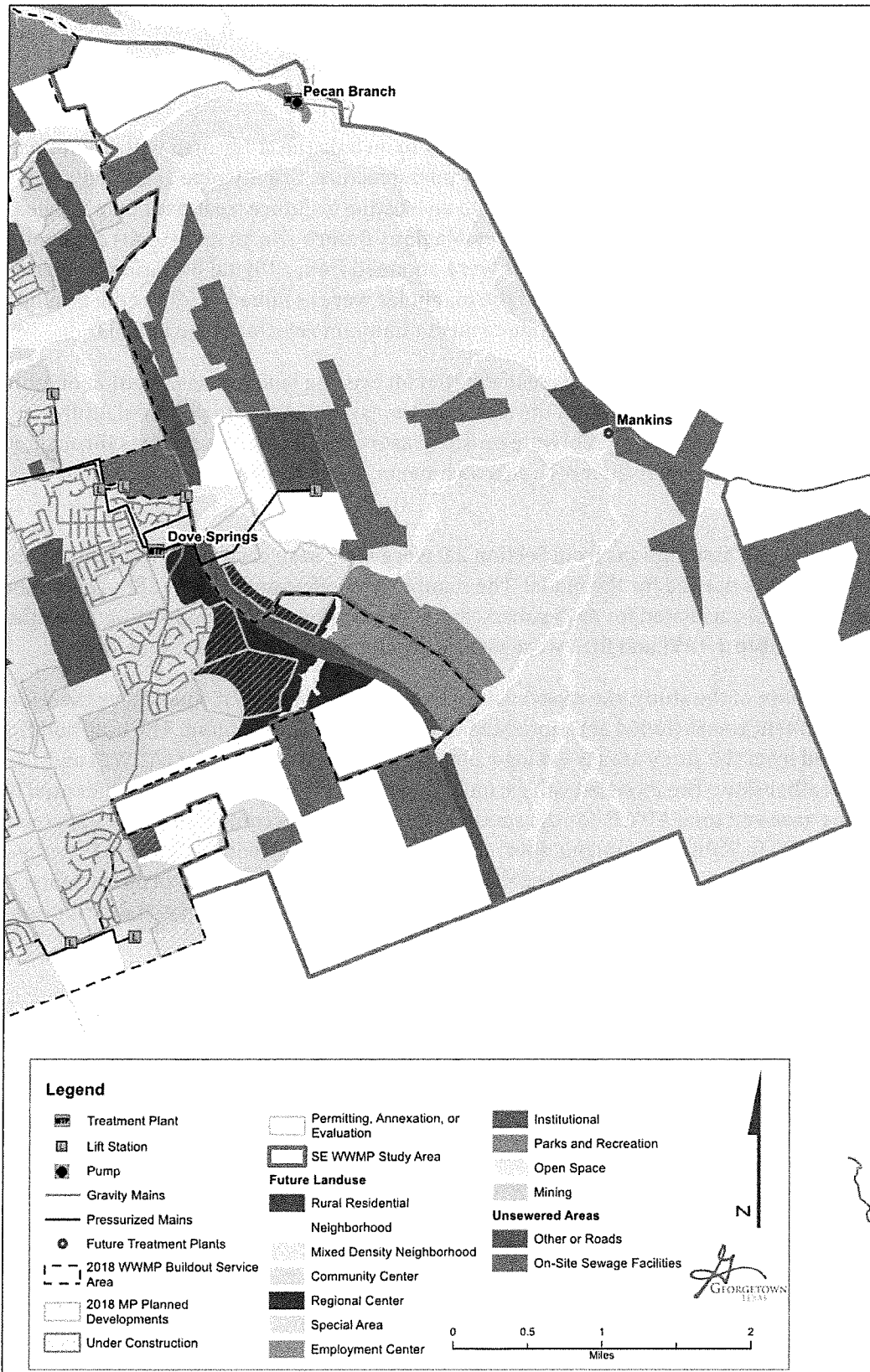


Figure 2 Future Land Use for Study Area

3.0 Model Updates

The future conditions buildout model was expanded to include the study area with additional subcatchments and proposed future wastewater infrastructure. Gravity pipe alignments and profiles were approximated along streamlines to an existing or future treatment plant. These alignments follow the path of San Gabriel River, Mankins Branch (North and South) and County Road 130. Ground elevations for the profiles were obtained from a Digital Elevation Model raster file from the USGS. The invert elevations of the manholes were assumed to follow the ground slope and were adjusted to produce enough slope to meet minimum velocity requirements.

Subcatchments in the study area were created based on existing land parcels, location of future gravity interceptors, the topography of the site, and drainage direction to potential future connection sites. Neighborhoods on private on-site wastewater treatment systems throughout the study areas were delineated as their own subcatchments. **Figure 3** shows the delineated subcatchments.

The information and assumptions from Section 2.0 were applied to each subcatchments to develop the flow parameters needed for the model. The number of single-family units (SFUs) and multi-family units (MFUs) calculated for each subcatchment were converted to population using the information in **Table 2**. GWI and RDII were included using the criteria describe in Table 1.

For this first phase of the study, the model was only updated for buildout conditions; therefore, each subcatchment was included and simulated in the model at full buildout. The total additional flow projected from the study area is 6.4 mgd average daily wastewater flow (ADWF) and 13.7 mgd peak wet weather flow. The modeled values, including modeled population, non-residential flows, contributing area and total ADWF, for the southeast study area are compared to the updated total buildout scenario in **Table 3**. Total buildout values include intermittent updates made to the model since the 2018 master plan. Note that modeled values are an overestimate of projected total growth within the wastewater service area to account for the uncertainties in the spatial distribution of growth when sizing infrastructure.

Table 3. Wastewater Model Values Summary

Wastewater Model Value	Southeast Study Area	Total System Buildout
Modeled Population	68,208	500,134
Non-Residential Average Day Flow (mgd)	0.49	13.2
Contributing Area (ac)	8,961	71,520
Total ADWF (mgd)	6.4	65.5

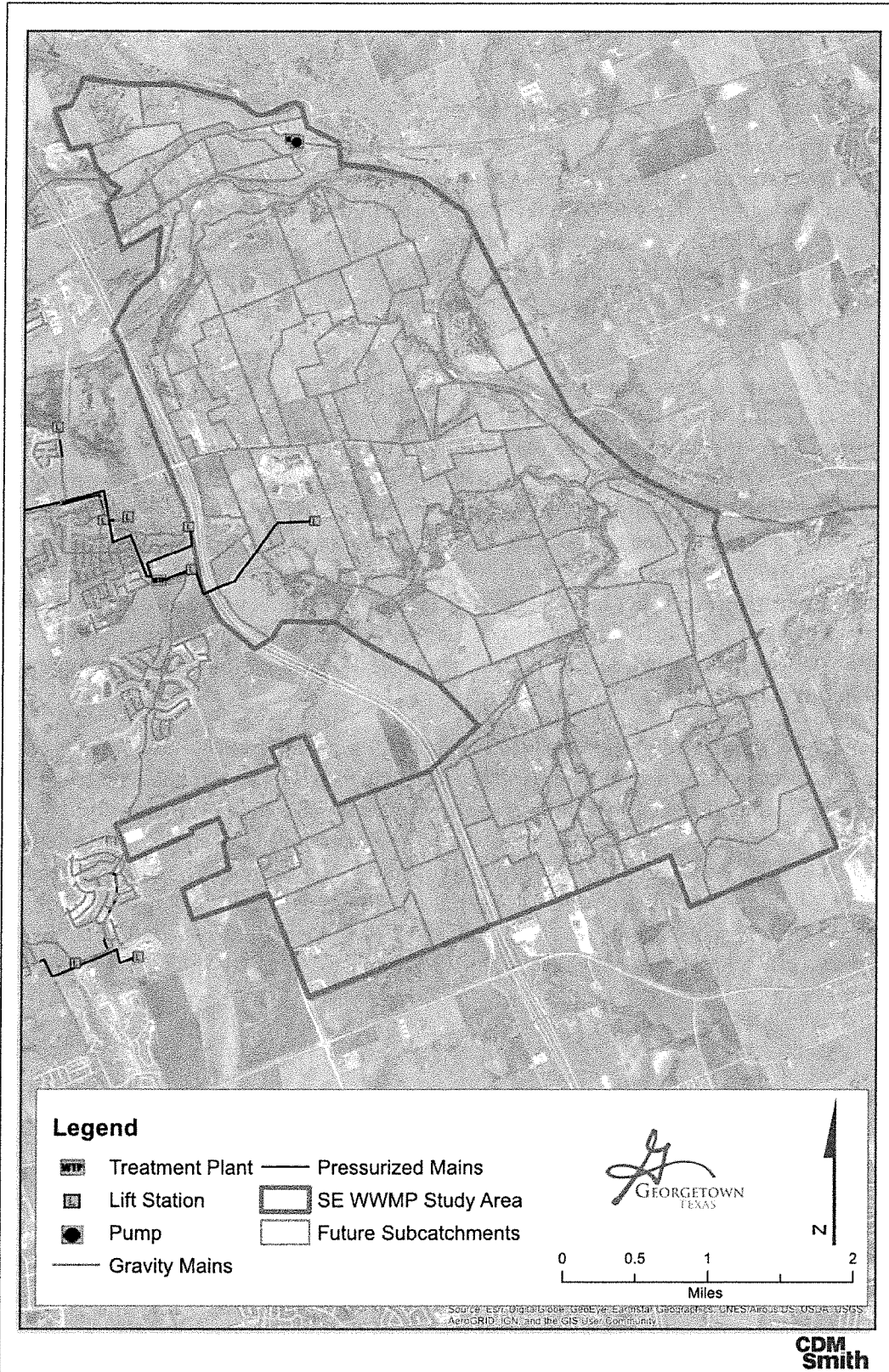


Figure 3 Future Subcatchments

4.0 Analysis and Recommended Projects

Three alternatives were considered to provide wastewater service to the study area. Two bookend alternatives were analyzed through modeling and capital cost estimates that considered an all-gravity system to a future Mankins WWTP versus mostly pumping back to existing WWTPs that would then be expanded. The recommended alternative analyzed and discussed herein is a combination of the bookend alternatives that more evenly distributes flows to existing and future WWTPs and provides service sooner for recently proposed developments so developers can assist with project costs.

Infrastructure was sized according to the flows predicted in the model: peak wet weather flows for gravity lines, lift stations and force mains and ADWF for treatment plants. Given that the study area is at the downstream end of much of the Georgetown collection system, the infrastructure is sized to include upstream flows. Projects from the 2018 master plan that can be replaced with the newly recommended projects are discussed. Cost information was developed for the recommended projects according to the costing methodology in the 2018 master plan and are in 2018 dollars. One update is that the unit construction cost for a lift station was reduced from \$0.50/gpd to \$0.30/gpd. Costs for the force main and other indirect costs are still added to this unit construction cost for the lift station according to the 2018 master plan costing methodology. The reduction in the construction cost was based on a recent bid tab for a large lift station, similar in magnitude to those proposed in this study.

The recommended projects distribute flow to three WWTPs: Pecan Branch, Dove Springs and a future Mankins. Pecan Branch and Dove Springs are existing and would be expanded while Mankins would be a new facility. The San Gabriel WWTP will remain at 2.5 mgd ADWF capacity, and it is assumed that 1.0 mgd will continue to be pumped to the Pecan Branch interceptor, which drains to Pecan Branch WWTP, via the Crystal Knoll lift station. Although this flow is not directly modeled, it is accounted for in future treatment capacity estimates. Flows in excess of 2.5 mgd (and after pumping 1.0 mgd to Pecan Branch) are routed to the SG3-A force main, which will be converted or replaced with a gravity main to drain back to the lift station and to master plan project SGI-1.

Current WWTP capacities compared to year 2020 ADWF from January through August are shown in **Figure 4** for Pecan Branch, San Gabriel and Dove Springs. They are all at about 65 percent of capacity with a total remaining capacity of about 5.2 mgd in total. The predicted buildout ADWF to Pecan Branch, Dove Springs and Mankins WWTPs totals 50.3 mgd. This is compared to the projected buildout ADWF for the whole system of 65.5 mgd presented in Table 3 to understand the proportion of the area that would be served by these three WWTPs. The contributing area is about 54,900 acres of the approximately 71,500 acres of contributing area at buildout. The remaining 15.2 mgd is to be treated by a new Northlands WWTP and the existing San Gabriel, Berry Creek and Cimarron Hills WWTPs.

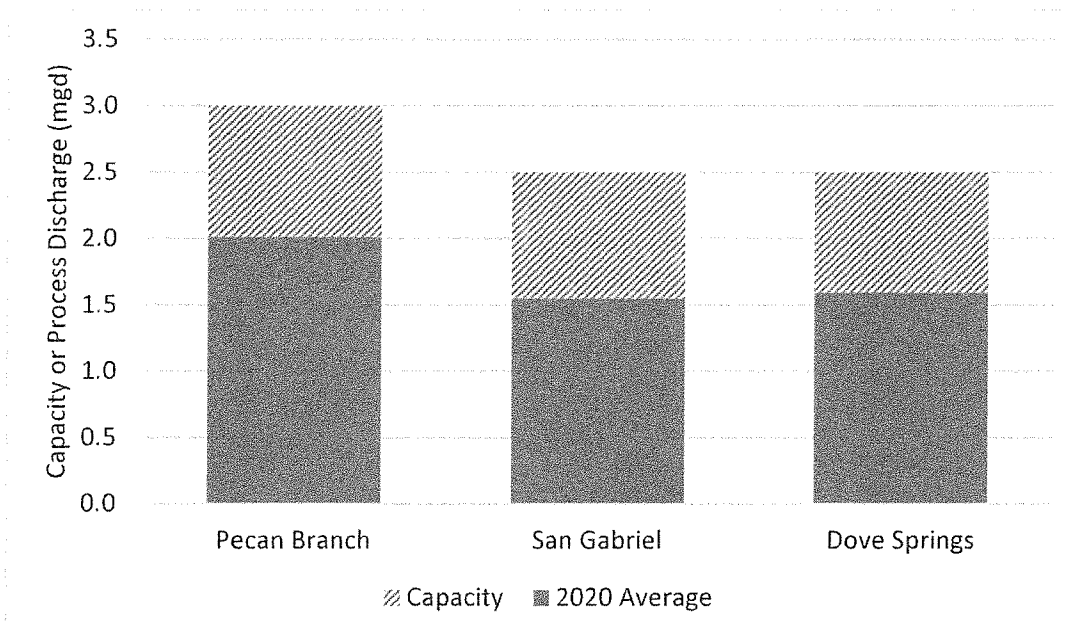


Figure 4 WWTP Capacity Compared to Year 2020 ADWF

Figure 5 shows the existing capacities of Pecan Branch, Dove Springs and San Gabriel WWTPs along with the recommended expansion of Pecan Branch and the ultimate proposed capacity of Mankins. The future capacity estimated for system buildout at these four WWTPs totals 44.8 mgd. Most of the needed future capacity would be divided between Pecan Branch and Mankins. The cost of additional treatment was excluded from this study since it considers buildout flows and the unit costs for treatment at all of the plants is about the same. Expansions will need to be phased and costs considered at that time.

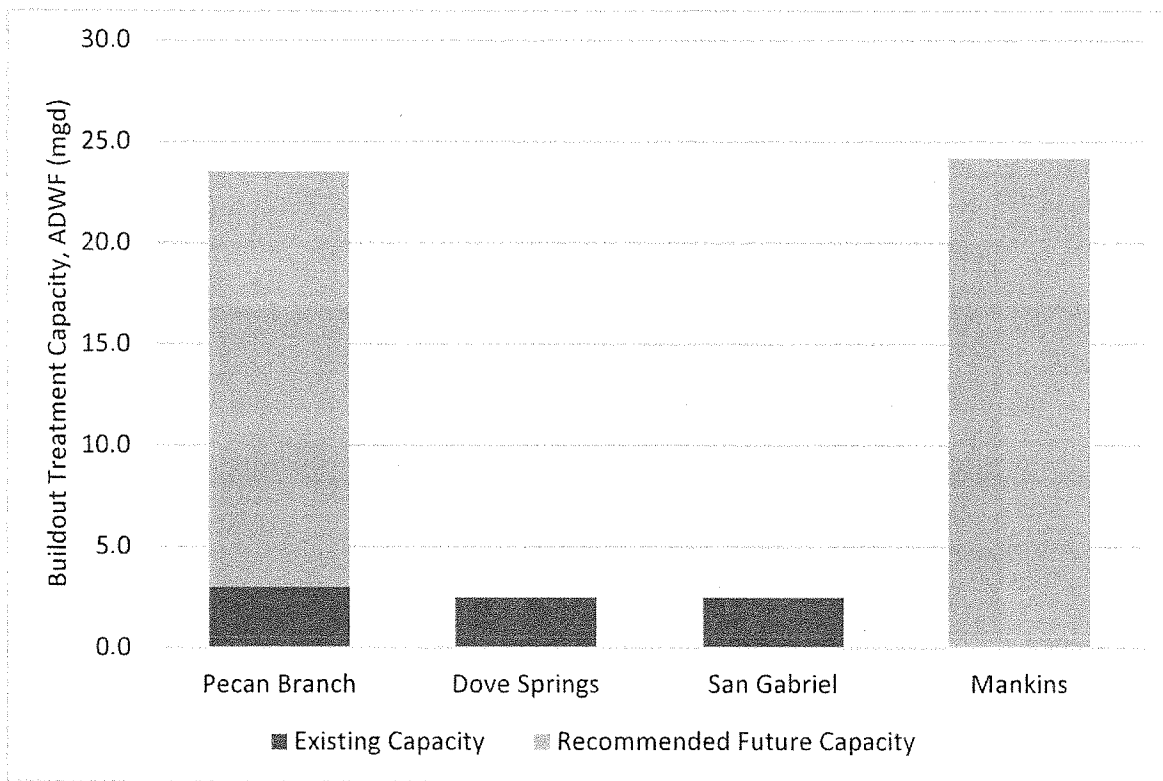


Figure 5 Existing and Future Buildout Recommended Treatment Capacity

The proposed projects are shown in **Figure 6**, which include 113,800 linear feet of gravity pipe, 1 lift station 5,600 linear feet of force main, a temporary lift station with 16,700 linear feet of force main, and a new WWTP and an expanded WWTP. The projects proposed, exclusive of treatment, are shown with capital cost information in **Table 4**. The total capital cost, which sizes all infrastructure for buildout conditions, is \$97.4 million. The table and costs do not include the 2018 master plan projects SGI-1 and SGI-PB_LS, which are shown in Figure 6; however, these projects are necessary for the proposed projects in this study. Master plan projects from 2018 replaced or modified by the proposed projects include MB-LS, MB-4 and MB-5.

The projections of treatment capacity were shown in Figure 5. Future flows are routed to an expanded Pecan Branch WWTP, Dove Springs WWTP remains at its existing capacity, and a future Mankins WWTP is sized similarly to an expanded Pecan Branch WWTP. Flow to the Pecan Branch WWTP that exceeds the proposed expansion is diverted to the Mankins WWTP through SGI-5. The treatment projections assume that a new Northlands WWTP is online to treat flows north and west of Sun City.

The projects include gravity interceptors in the Mankins basin, but instead of building a Mankins WWTP immediately, a temporary lift station with a capacity of 2.0 mgd is first constructed. A temporary lift station would pump back to Dove Springs and postpone the Mankins WWTP until the capacity at Dove Springs WWTP is exceeded. Due to the distance that the lift station would need to pump, a second, or re-lift, lift station would be needed along the route. The total estimated cost of this temporary infrastructure is \$7.7 million.

An alternative to a temporary lift station is a temporary membrane bioreactor (MBR) treatment plant at the Mankins WWTP site. A temporary MBR plant would treat up to 0.5 mgd of average daily flows, which would be equivalent to the capacity of a 2.0 mgd lift station that pumps back to Dove Springs WWTP. Either option is a temporary solution to a Mankins WWTP. A 0.5-mgd MBR treatment plant will cost more than the lift station or a typical WWTP at \$11.7 million; however, it will extend the capacity of the Dove Springs WWTP.

Another option would be to decommission Dove Springs WWTP in the future and size the gravity interceptors to Mankins WWTP to convey the additional flow. This would require upsizing MKN-1 and MKN-2 as described below:

- MKN-1 would be increased from 30 inches to 36 and 42 inches for an estimated cost increase of \$2.2 million
- MKN-2 would be increased from 24 inches to 30 and 36 inches for an estimated cost increase of \$2.5 million

The total estimated capital cost increase would be \$4.7 million for a total of \$102.1 million. Although an increase in cost, this option would avoid rehabilitation costs for the Dove Springs WWTP.

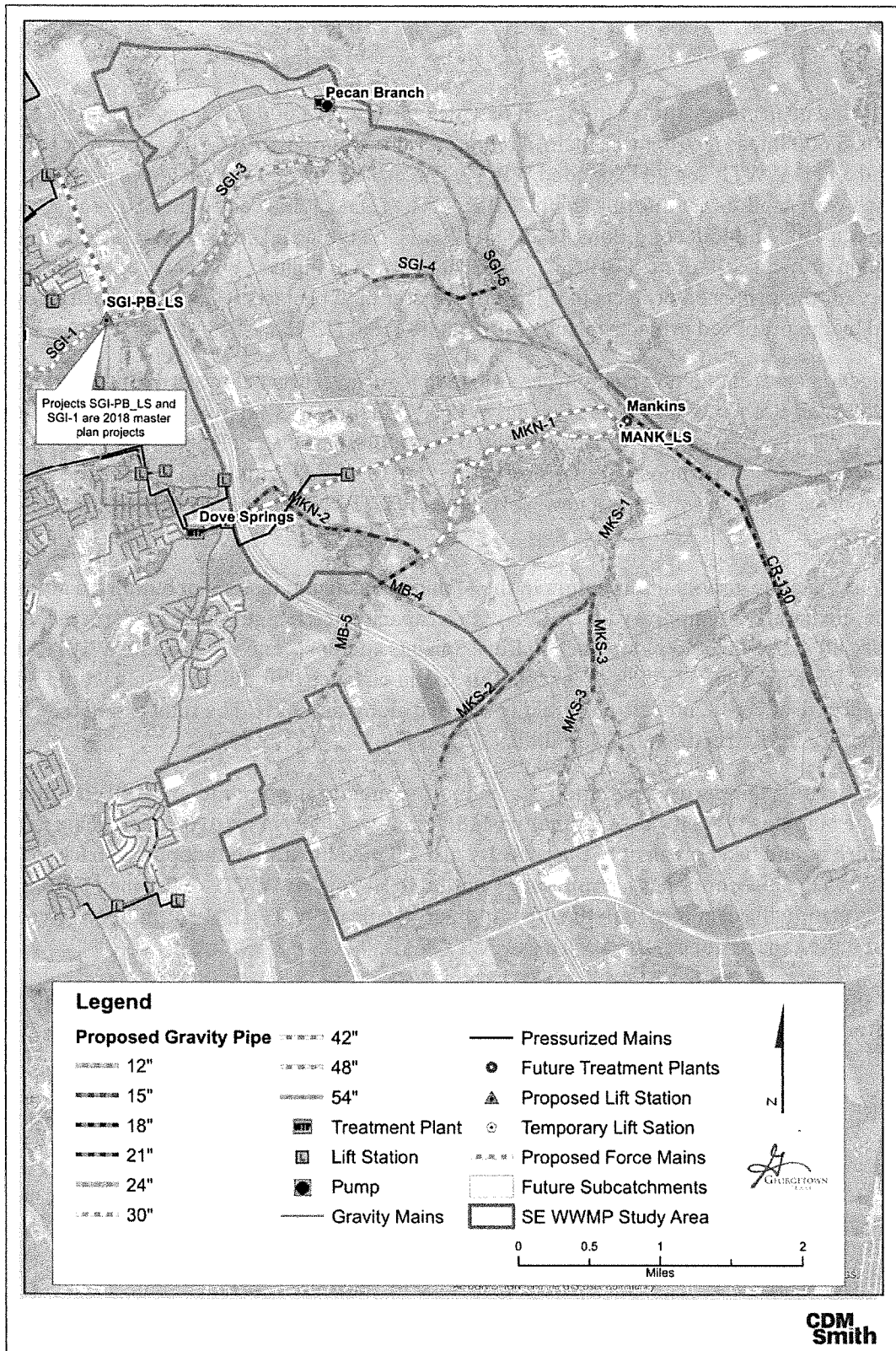


Figure 6 Proposed Projects

Table 4 Proposed Projects and Cost Estimates

GRAVITY MAINS				
Project ID	Diameter (in)	Length (ft)	Project Total Cost	
SGI-3	48	12,336	\$15.7	
SGI-4	12	2,884	\$2.8	
	15	3,059		
	18	1,991		
SGI-5	54	14,992	\$23.4	
	42	2,000		
MKN-1	30	11,308	\$6.9	
MKN-2	21	8,600	\$4.3	
MB-4	12	2,149	\$0.7	
MB-5	12	6,375	\$3.3	
	18	1,909		
MKS-1	24	7,779	\$4.6	
MKS-2	12	3,389	\$4.2	
	15	8,678		
MKS-3	12	8,668	\$4.0	
	15	3,710		
CR130	12	2,611	\$7.5	
	15	5,470		
	18	9,336		
GRAVITY MAINS TOTAL			\$77.3	
FORCE MAINS AND LS				
Project ID	Force Main Diameter (in)	Force Main Length (lf)	Lift Station Capacity (mgd)	Project Total Cost (in million \$)
MANK_LS ¹	12	16,728	2.0 ²	\$7.7
SGI-PB_LS	30	5,600	18	\$12.3
LIFT STATIONS TOTAL				\$20.0
ALTERNATIVE TOTAL				\$97.3

¹. Alternative to MANK_LS is a temporary MBR treatment plant at 0.5 mgd ADWF capacity. Estimated cost is \$11.7 million.

². Two lift stations, each at 2.0 mgd are required due to the length of the force main back to Dove Springs WWTP.

5.0 Conclusions and Recommendations

This interim master plan lays out the wastewater collection, pumping and treatment infrastructure needed to serve the southeast portion of Georgetown’s ETJ. The infrastructure presented was sized for buildout conditions and includes capacity to serve more than the study area alone because much of Georgetown drains towards the east side. In that regard, the study area cannot be analyzed in a vacuum and the projects overlap the 2018 wastewater master plan. This includes SGI-1 and SGI-PB_LS, which are included in this study as planned, while master plan projects removed or modified by the proposed projects include MB-LS, MB-4 and MB-5.

This interim master plan also considers the amount of treatment capacity that would be needed for the existing Pecan Branch and Dove Springs WWTPs and a new Mankins WWTP. The plan proposes delaying the Mankins WWTP with a temporary lift station or temporary MBR plant so that service can be provided before design and construction of a larger Mankins WWTP. The master plan project SGI-PB_LS is already in design and will allow the City to utilize the recently added capacity at the Pecan Branch WWTP. An option to the proposed projects is to decommission the Dove Springs WWTP in the future to avoid rehabilitation costs. The gravity interceptor consisting of MKN-1 and MKN-2 would need to be upsized as previously described.

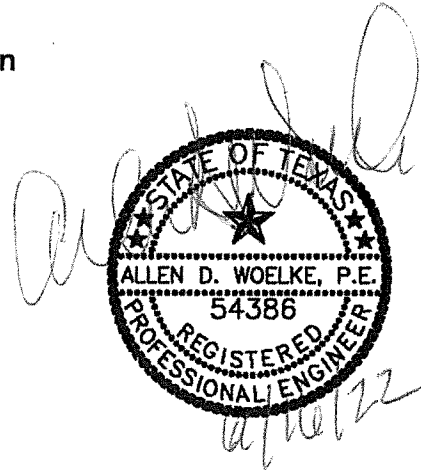
The final division of capacity between an expanded Pecan Branch WWTP and a future Mankins WWTP may need to be revised based on the ability to permit 24 mgd at the Pecan Branch WWTP. The next phase of this project is to evaluate the assimilative capacity of the San Gabriel River and determine the amount of capacity that can be constructed at the Pecan Branch site.



Technical Memorandum for the City of Georgetown

To: *Georgetown Utility Systems*

From: *Allen Woelke, P.E. (#54386), BCEE*
Ryan Tordella, P.E.
Jenn McNeill, EIT
CDM Smith, TBPE Firm No. F-3043



Date: *June 16, 2022*

Subject: *Wastewater Collection System Analysis for R040062, LP*

Purpose

The City of Georgetown (City) has received a request for wastewater service for the R040062, LP development to be located west of HWY 130 off of Rockride Ln. The proposed development is to include 600 single-family mobile homes and cover 65 acres in total. The purpose of this memorandum is to summarize the impact of the proposed development on the City's wastewater collection system and recommend improvements, if required.

Summary and Recommendations

The predicted flow from the proposed development exceeds the planned flows; therefore, the model was used to simulate future flows for this area. The incremental flow increase from the proposed development does not change the recommended improvements from the 2022 Wastewater Master Plan (WWMP). Additionally, as part of this evaluation, CDM Smith reviewed a short-term wastewater service option and confirmed there is adequate capacity for flow from the proposed development to be sent West to the Patterson Ranch Lift Station and pumped to the existing 18-inch gravity sewer upstream of Saddle Creek lift station.

To provide wastewater service, the developer will be required to construct a lift station and force main to route flow to the manhole upstream of the Patterson Ranch Lift Station. Additionally, the developer will need to coordinate with the Patterson Ranch developers to ensure that the pumps installed will be sized to handle the additional flow.

Wastewater Collection System Model

As part of a separate contract, CDM Smith developed and calibrated a wastewater collection system hydraulic model using InfoWorks ICM software. The model is continually updated as needed to complete these utility evaluations. The last comprehensive update was completed in 2022 as part of the 2022 Wastewater Master Plan (2022 WWMP). The criteria for calculating current and future

wastewater flows are documented in the 2022 WWMP and are summarized in **Table 1** specifically for proposed developments.

The collection system model is evaluated under peak wet weather flow (WWF) conditions based on a 2-year design storm to determine the impact of the proposed development on the collection system. The system is evaluated under future buildout conditions to determine if planned improvements as determined in the 2018 WWMP are sufficient to serve the proposed development. Future 10-year and existing conditions are simulated with the proposed development and evaluated when necessary to fully evaluate the conditions under which the proposed development may be causing an impact.

Peak WWF is made up of the following components:

- Groundwater Infiltration (GWI), which is input as a constant flow;
- Base Wastewater Flow (BWF), which is made up of residential or non-residential sanitary wastewater flow and will follow a diurnal pattern that has a max peaking factor; and
- Rainfall Dependent Inflow and Infiltration (RDII), which is based on hydrographs developed from the 2008, 2010, 2018, and 2022 flow monitoring efforts in specific basins or design criteria.

Peak Dry Weather Flow (DWF) is the sum of GWI and the peak BWF. Peak WWF is the sum of peak DWF and peak RDII. The criteria shown in Table 1 are used to calculate the components of peak WWF for the proposed development.

Table 1. Wastewater Flow Criteria for Evaluation of the Proposed Development

Wastewater Flow Category	Criteria
Ground Water Infiltration (GWI)	
Residential	30 gallons per capita/day (gpcd)
Non-Residential	25% of Avg. Non-Residential BWF
Base Wastewater Flow (BWF)	
Typical Residential	70 gpcd
Age Restricted (AR) PUD	55 gpcd
Non-Residential	Based on Future Land Use densities or information provided by developer
BWF Peaking Factors	
Residential	2.1
Non-Residential	1.5
Rainfall Dependent Inflow & Infiltration (RDII)	
Peak RDII	Based on flow monitoring or criteria of 1,000 gal/ac/day

Note: gpcd is gallons per capita per day

Figure 1 shows the proposed development and other pertinent information.

Proposed Development Area

The proposed development area covers 65 acres in total. The proposed development consists of single-family development. No area will be remaining as open space; therefore, 65 acres are considered to be contributing to RDII.

To provide wastewater service to the proposed development, the developer will be required to construct the proposed lift station and force main and connect them to the Patterson Ranch Lift Station via the upstream manhole.

Figure 1 shows the required lift station and force main and the Patterson Ranch Lift Station and Force Main. Flows from the Patterson Ranch lift station force main tie into the existing gravity sewer and will be conveyed to the Dove Springs WWTP.

Planned Wastewater Flows

Future wastewater flows were determined in the 2022 WMP using the future land use maps with the table of land use densities or planned development information to determine system capacity status and required capital improvements. This proposed development area is located in the development pipeline area where the City previously specified a development with 600 multi-family units. The resulting peak WWF predicted for the area based on the development pipeline and unit flow rates is **265,780 gpd**.

Proposed Wastewater Flows

The proposed development consists of 600 single-family units covering an area of 65 acres, and all 65 acres are considered to be contributing to RDII. Given the criteria in Table 1, the peak wet weather flow was calculated as follows:

- Population = 600 SFUs * 3 people per SFU = 1,800 people
- Total GWI = 1800 people * 30 gpcd = 54,000 gpd
- Peak DWF = 1800 * 70 gpcd * 2.1 + Total GWI = 318,600 gpd
- Total Peak WWF = Total Peak DWF + 65 * 1,000 gal/ac/day = **383,600 gpd**

The proposed peak WWF flow is greater than the peak WWF predicted based on future land use in the area; therefore, the model was used to simulate the greater flows and evaluate the impact on the system.

Model Evaluation

To provide wastewater service to the proposed development, the buildout model scenario was evaluated to determine if the recommended improvements from the master plan were adequately

sized for the additional flow. The incremental flow increase from the proposed development does not change the recommended improvements.

This memorandum also evaluated a short-term wastewater solution. The model was used to evaluate flow from the proposed development being routed through the Patterson Ranch Lift Station and force main. There is adequate capacity for the additional flow in the Patterson Ranch force main and downstream gravity sewer. The Developer will need to coordinate with the Patterson Ranch developers to ensure that the pumps installed will be sized to handle the additional flow.

Recommendation

To provide wastewater service, the developer will be required to construct a lift station and force main to route flow to the manhole upstream of the Patterson Ranch Lift Station. Additionally, the developer will need to coordinate with the Patterson Ranch developers to ensure that the pumps installed will be sized to handle the additional flow.

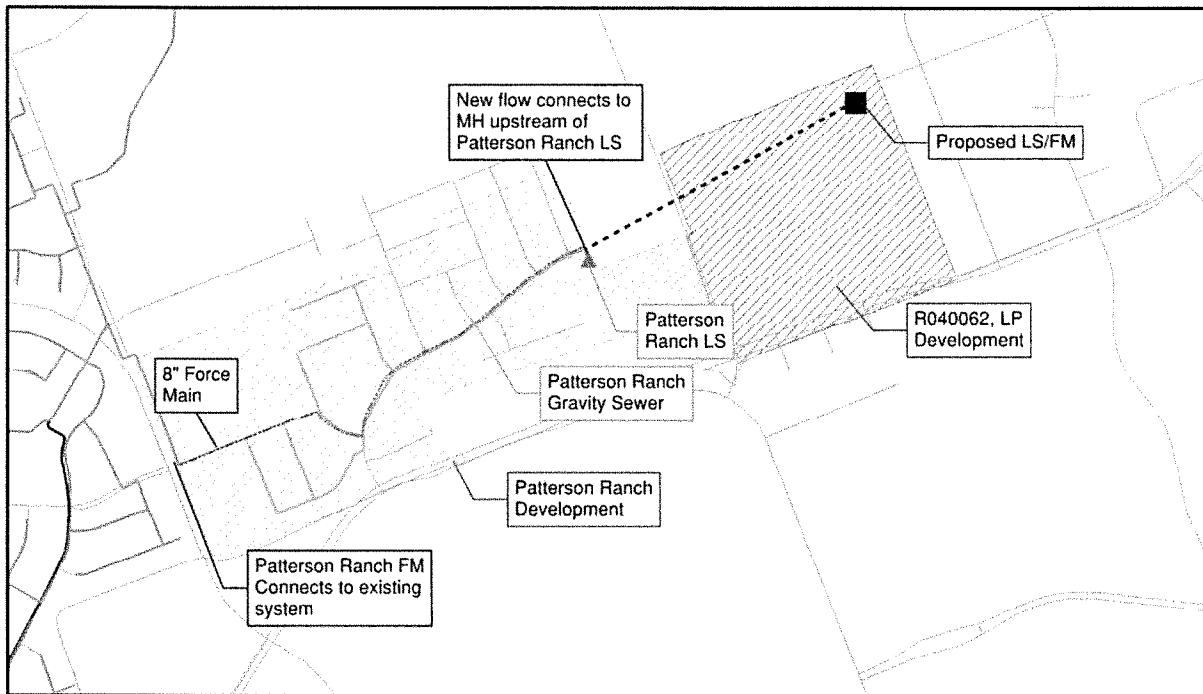


Figure 1 R040062 LP Development Evaluation

Debbie Zachary

From: PUBCOMMENT-OCC
Sent: Friday, October 7, 2022 11:42 AM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0016008001
Attachments: Part 3 - 2022.10.07 City of Georgetown's Request for Contested Case Hearing.pdf

H
RFR

From: hcampbell@spencerfane.com <hcampbell@spencerfane.com>
Sent: Friday, October 7, 2022 10:55 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016008001

REGULATED ENTY NAME INDIGO WATER RESOURCES RECOVERY FACILITY

RN NUMBER: RN111287538

PERMIT NUMBER: WQ0016008001

DOCKET NUMBER:

COUNTY: WILLIAMSON

PRINCIPAL NAME: R040062 LP

CN NUMBER: CN605905942

FROM

NAME: MR Cody A Faulk, III

EMAIL: hcampbell@spencerfane.com

COMPANY: Spencer Fane LLP

ADDRESS: 9442 N CAPITAL OF TEXAS HWY Plaza I - Suite 500
AUSTIN TX 78759-7262

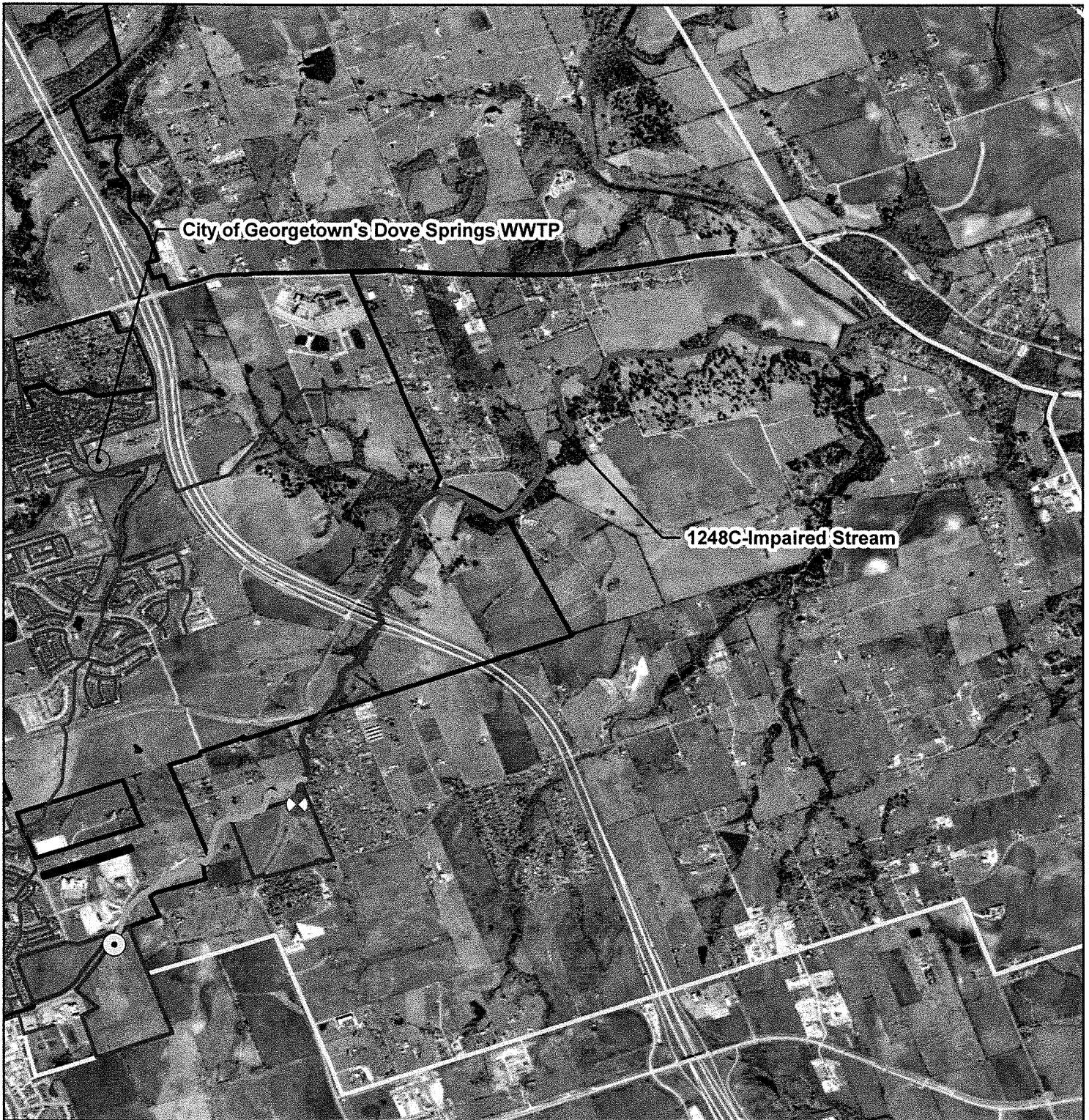
PHONE: 5128404557

FAX:

COMMENTS: Part 3 of 4: The City of Georgetown, Texas' Request for Contested Case Hearing

**Georgetown Water Utility
Indigo Interim Lift Station and Force Main
Opinion of Probable Construction Cost**




Item No.	Description	Quantity	Unit	Unit Price	Total Cost
1	8-inch Force Main	3400	LF	\$ 96	\$ 326,400
2	20-inch Bored Road Crossing	100	LF	\$ 1,050	\$ 105,000
3	Trench Safety/Silt Fence	3300	LF	\$ 5	\$ 16,500
4	Revegetation	3300	LF	\$ 7	\$ 23,100
5	Traffic Control	1	LS	\$ 5,000	\$ 5,000
6	0.8 mgd Lift Station	0.8	mgd	\$ 750,000	\$ 600,000
7	Miscellaneous	1	LS	\$ 200,000	\$ 200,000
	Construction Subtotal				\$ 1,276,000
8	Bonds and Insurance				\$ 38,300
9	Mobilization/Demobilization				\$ 63,800
10	Contractor Overhead & Profit				\$ 255,200
	Construction Subtotal				\$ 1,633,300
11	Professional Services				\$ 326,700
12	Easements: 25-ft Permanent				\$ 189,400
13	40-ft Temporary Construction				\$ 151,500
	Project Total				\$ 2,300,900

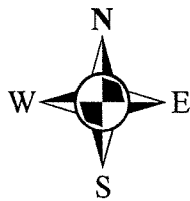


City of Georgetown's Dove Springs WWTP

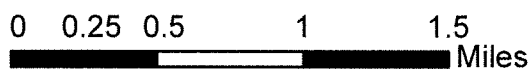
1248C-Impaired Stream

Legend

-  AIRW 2017-7 LP's Discharge Point
-  City of Georgetown's Dove Springs WWTP
-  RO40062, LP's Discharge Point
-  AIRW 2017-7 LP's Discharge Route
-  City's Wastewater Collection Lines (Existing)
-  Parcel Boundaries
-  Georgetown City Limits
-  Georgetown ETJ
-  RO40062, LP's and AIRW 2017-7 LP's Combined Discharge Route
-  Impaired
-  Un-Impaired



AIRW 2017-7, LP and R040062, LP Proposed Package Plants



00097

ATTACHMENT 5

Debbie Zachary

From: PUBCOMMENT-OCC
Sent: Friday, October 7, 2022 11:43 AM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0016008001
Attachments: Part 4 - 2022.10.07 City of Georgetown's Request for Contested Case Hearing1.pdf

H
RFR

From: hcampbell@spencerfane.com <hcampbell@spencerfane.com>
Sent: Friday, October 7, 2022 10:58 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016008001

REGULATED ENTY NAME INDIGO WATER RESOURCES RECOVERY FACILITY

RN NUMBER: RN111287538

PERMIT NUMBER: WQ0016008001

DOCKET NUMBER:

COUNTY: WILLIAMSON

PRINCIPAL NAME: R040062 LP

CN NUMBER: CN605905942

FROM

NAME: MR William A Faulk, III

EMAIL: hcampbell@spencerfane.com

COMPANY: Spencer Fane LLP

ADDRESS: 9442 N CAPITAL OF TEXAS HWY Plaza I - Suite 500
AUSTIN TX 78759-7262

PHONE: 5128404557

FAX:

COMMENTS: Part 4 of 4: The City of Georgetown, Texas' Request for Contested Case Hearing

EXHIBIT 2

WCAD

Property R584127 Owner GEORGETOWN ISD Property Address 4101 SOUTHWESTERN BLVD, GEORGETOWN, TX 78626 Tax Year 2023 Market Value N/A

2023 GENERAL INFORMATION

Property Status Active
 Property Type C1
 Legal Description S12011 - SOUTH ROCKRIDE, BLOCK 1, Lot 1, ACRES 21.224
 Neighborhood G90CS - West Georgetown Isd
 Account R-20-1101-0001-0001
 Map Number 3-1937

2023 VALUE INFORMATION

Improvement Homesite Value N/A
 Improvement Non-Homesite Value N/A
 Total Improvement Market Value N/A
 Land Homesite Value N/A
 Land Non-Homesite Value N/A
 Land Agricultural Market Value N/A
 Total Land Market Value N/A
 Total Market Value N/A
 Agricultural Use N/A
 Timber Use N/A
 Total Appraised Value N/A
 Homestead Cap Loss N/A
 Total Assessed Value N/A

2023 OWNER INFORMATION

Owner Name GEORGETOWN ISD
 Owner ID
 Exemptions Exempt Property
 Percent Ownership 100%
 Mailing Address 507 E UNIVERSITY AVE GEORGETOWN, TX 78626
 Agent -

2023 ENTITIES & EXEMPTIONS

Special Exemptions EX - Exempt Property

TAXING ENTITY	EXEMPTIONS	EXEMPTIONS AMOUNT	TAXABLE VALUE	TAX RATE PER 100	TAX CEILING
CAD- Williamson CAD		N/A	N/A	N/A	N/A
<input checked="" type="checkbox"/> CGT- City of Georgetown		N/A	N/A	N/A	N/A
<input checked="" type="checkbox"/> GWI- Williamson CO		N/A	N/A	N/A	N/A
<input checked="" type="checkbox"/> RFM- Wmsn CO FM/RD		N/A	N/A	N/A	N/A
<input checked="" type="checkbox"/> SGT- Georgetown ISD		N/A	N/A	N/A	N/A

2023 IMPROVEMENTS

Expand/Collapse All

Improvement #1 State Code Homesite Total Main Area (Exterior Measured) Market Value
 - XV - Other Exemptions No - N/A

RECORD	TYPE	YEAR BUILT	SQ. FT	VALUE	ADD'L INFO
1	Main Area	2019	-	N/A	Details

2023 LAND SEGMENTS

LAND SEGMENT TYPE	STATE CODE	HOMESITE	MARKET VALUE	AG USE	TIM USE	LAND SIZE
1 - Commercial	XV - Other Exemptions	No	N/A	N/A	N/A	924,517 Sq. ft

TOTALS

924,517 Sq. ft / 21.224000 acres

VALUE HISTORY

YEAR	IMPROVEMENT	LAND	MARKET	AG MARKET	AG USE	APPRAISED	HS CAP LOSS	ASSESE
2022	\$20,000,000	\$1,664,131	\$21,664,131	\$0	\$0	\$21,664,131	\$0	\$21,664,131

PublicAccess > Property Detail

2021	\$20,000,000	\$1,386,776	\$21,386,776	\$0	\$0	\$21,386,776	\$0	\$21,386,776
2020	\$19,000,000	\$1,317,437	\$20,317,437	\$0	\$0	\$20,317,437	\$0	\$20,317,437

WCAD

Property	Owner	Property Address	Tax Year	2023 Market Value
R040062	R040062 LP	CR 105, GEORGETOWN, TX 78626	2023	N/A

2023 GENERAL INFORMATION

Property Status	Active
Property Type	LTRR-Land Transitional Residential
Legal Description	AW0426 AW0426 - Mcqueen, J. Sur., ACRES 64.358
Neighborhood	G305M50H - E Gtown ISD Abstracts
Account	R-20-0426-0000-0028
Map Number	3-1943,3-1937

2023 VALUE INFORMATION

Improvement Homesite Value	N/A
Improvement Non-Homesite Value	N/A
Total Improvement Market Value	N/A
Land Homesite Value	N/A
Land Non-Homesite Value	N/A
Land Agricultural Market Value	N/A
Total Land Market Value	N/A
Total Market Value	N/A
Agricultural Use	N/A
Timber Use	N/A
Total Appraised Value	N/A
Homestead Cap Loss	N/A
Total Assessed Value	N/A

2023 OWNER INFORMATION

Owner Name	R040062 LP
Owner ID	
Exemptions	
Percent Ownership	100%
Mailing Address	5599 SAN FELIPE ST STE 565 HOUSTON, TX 77056-2753
Agent	O'CONNOR & ASSOCIATES (A1479)

2023 ENTITIES & EXEMPTIONS

TAXING ENTITY	EXEMPTIONS	EXEMPTIONS AMOUNT	TAXABLE VALUE	TAX RATE PER 100	TAX CEILING
CAD- Williamson CAD			N/A	N/A	N/A
<input checked="" type="checkbox"/> F08- Wmsn ESD #8			N/A	N/A	N/A
<input checked="" type="checkbox"/> GWI- Williamson CO			N/A	N/A	N/A
<input checked="" type="checkbox"/> RFM- Wmsn CO FM/RD			N/A	N/A	N/A
<input checked="" type="checkbox"/> SGT- Georgetown ISD			N/A	N/A	N/A

2023 LAND SEGMENTS

LAND SEGMENT TYPE	STATE CODE	HOMESITE	MARKET VALUE	AG USE	TIM USE	LAND SIZE
1 - Vacant Land	E4 - Vacant Acreage (unless platted)	No	N/A	N/A	N/A	64.358000 acres

TOTALS 2,803,434 Sq. ft / 64.358000 acres

VALUE HISTORY

YEAR	IMPROVEMENT	LAND	MARKET	AG MARKET	AG USE	APPRAISED	HS CAP LOSS	ASSESSED
2022	\$0	\$3,200,000	\$3,200,000	\$0	\$0	\$3,200,000	\$0	\$3,200,000
2021	\$0	\$0	\$0	\$1,462,929	\$2,188	\$2,188	\$0	\$2,188
2020	\$0	\$0	\$0	\$1,389,782	\$5,083	\$5,083	\$0	\$5,083
2019	\$0	\$0	\$0	\$965,175	\$4,890	\$4,890	\$0	\$4,890
2018	\$0	\$0	\$0	\$1,023,450	\$4,708	\$4,708	\$0	\$4,708

SALES HISTORY

DEED DATE	SELLER	BUYER	INSTR #	VOLUME/PAGE
-----------	--------	-------	---------	-------------

PublicAccess > Property Detail

3/18/2021	KIMBRO, ERNEST W	R040062 LP	2021042165
12/1/2006	KIMBRO, JAMES R & ERNEST W	KIMBRO, ERNEST W	2007004401
2/11/2005	KIMBRO, Y W & JAMES & ERNEST	KIMBRO, JAMES R & ERNEST W	2005045198
3/23/1998	KIMBRO, JAMES/ERNEST/TOMMIE	KIMBRO, Y W & JAMES & ERNEST	9848735
9/19/1987	KIMBRO, Y W & VIRGINA KIMBRO	KIMBRO, JAMES/ERNEST/TOMMIE	- 1615/485
	VETERANS LAND BOARD OF TEXAS	KIMBRO, Y W & VIRGINA KIMBRO	- 501/577

WQ
124974

Debbie Zachary

From: PUBCOMMENT-OCC
Sent: Tuesday, June 21, 2022 10:28 AM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: WQ0016008001 - Public Comments
Attachments: City of Georgetown Comments and Hearing Request 6.20.2022.pdf

H

From: Laurie Gharis <Laurie.Gharis@tceq.texas.gov>
Sent: Monday, June 20, 2022 5:16 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: FW: WQ0016008001 - Public Comments

Laurie Gharis
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-1835
Cell Phone: 512-739-4582

How is our customer service? Fill out our online customer satisfaction survey at:
www.tceq.texas.gov/customersurvey

From: Trish Erlinger Carls <tcarls@tcarlslaw.com>
Sent: Monday, June 20, 2022 5:08 PM
To: Laurie Gharis <Laurie.Gharis@tceq.texas.gov>
Cc: Faulk, Cody <cfaulk@spencerfane.com>; Hopinks-Baul, Carlota <chbaul@spencerfane.com>
Subject: WQ0016008001 - Public Comments

Laurie –
Please see the attached document that we have trying to file as comments regarding the referenced application.

Trish Erlinger Carls
512-567-0125
tcarls@tcarlslaw.com

Law Offices of
Patricia Erlinger Carls

June 20, 2022

via e-file to: www14.tceq.texas.gov/epic/eComment/

Ms. Laurie Gharis, Chief Clerk (MC 105)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Re: **The City of Georgetown, Texas' Public Comments and Request for Contested Case Hearing**

Applicant Name: R040062 LP (CN605905942)
Regulated Entity Name: Indigo Water Resources Recovery Facility (RN111287538)
Application: TPDES Permit No. WQ0016008001
Location: Williamson County, Texas
EPA I.D.: TX0141437

Dear Ms. Gharis:

On behalf of the City of Georgetown (the "**City**"), please accept these public comments and request for a contested case hearing on the application by R040062, LP (the "**Applicant**") for proposed new Texas Pollutant Discharge Elimination System ("**TPDES**") Permit No. WQ0016008001, to authorize a domestic wastewater treatment facility in Williamson County, Texas (the "**Application**"). The City's contact persons for this matter are below:

Cody Faulk, Partner
Carlota Hopinks-Baul, Attorney
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I. INTRODUCTION

The Application was received by the TCEQ on June 11, 2021 and declared administratively complete on August 24, 2021. The Executive Director completed its technical review and prepared a draft permit. The Notice of Application and Preliminary Decision was issued on May 5, 2022 and published on May 18, 2022. The public comment period on the Application ends on June 20, 2022. These public comments and request for a contested case hearing are timely and properly filed under 30 Tex. Admin. Code (“TAC”) 55.201(c) and (d).

If approved, the draft permit would authorize the discharge of effluent from a package plant (the “**Proposed Package Plant**”) at a daily average flow not to exceed 0.075 million gallons per day (“MGD”) in the Interim Phase and a daily average flow not to exceed 0.2 MGD in the Final Phase. The Proposed Package Plant would be located off the west end of Madison Drive, approximately 1,500 feet northwest of the intersection of County Road 105 and Jacobs Way, in Williamson County, Texas 78626, within the City’s extraterritorial jurisdiction (“ETJ”). The effluent will be discharged to an unnamed tributary of Mankins Branch, thence to Mankins Branch, thence to the San Gabriel/North Fork San Gabriel River in Segment No. 1248 of the Brazos River Basin.

II. REQUEST FOR A CONTESTED CASE HEARING

A. AFFECTED PERSON ANALYSIS/STANDING

(1) Applicable Rules

In determining who is an “affected person,” the TCEQ rule provides as follows:

RULE § 55.203 Determination of 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 general public does not qualify as a personal justiciable interest.

(b) Except as provided by § 55.103 of this title (relating to Definitions)¹, governmental entities, including local governments and public agencies, with authority under state law over issues raised by the application may be considered affected persons.

¹ Barring participation by non-river authority state agencies in contested case hearings unless the state agency is the applicant. See 30 TAC § 55.103.

(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;*
- (6) for a hearing request on an application filed on or after September 1, 2015, whether the requestor timely submitted comments on the application that were not withdrawn; and*
- (7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.*

(d) In determining whether a person is an affected person for the purpose of granting a hearing request for an application filed on or after September 1, 2015, the commission may also consider the following:

- (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 executive director; and*
- (3) any other expert reports, affidavits, opinions, or data submitted by the executive director, the applicant, or hearing requestor.*

(e) In determining whether a person is an affected person for the purpose of granting a hearing request for an application filed before September 1, 2015, the commission may also consider the factors in subsection (d) of this section to the extent consistent with case law.²

The City is an "affected person" entitled to a contested case hearing on issues raised in its hearing request because the City has interests related to legal rights, duties, privileges, powers, or economic interests affected by the Application that are not common to the general public and is an affected person under 30 TAC § 55.203(a). In addition, the City has "statutory authority over" and "interest in the issues relevant to the Application within the meaning of 30 TAC § 55.203(b). The City is also providing additional information to the Commission in this letter, per 30 TAC § 55.203(d)(1), (d)(3) and (e). For example, as discussed more fully below, the City provides wastewater treatment services to areas both inside and outside of its corporate limits, the City has authority over or an interest in the effects on the environment and on public health, safety, and welfare from the Proposed Package Plant, the Proposed Package Plant's wastewater discharges into

² 30 TAC § 55.203 (*emphasis added*).

waterways within the City's corporate limits and ETJ, and the City has an interest in eliminating new potential sources of contamination.

(2) The City's Wastewater Treatment System

According to the Application, the Proposed Package Plant would service 600 manufactured homes, having an estimated three persons per unit, located on approximately 64.345 acres of land (the "**Proposed Service Area.**") The Proposed Package Plant, proposed outfall, and Proposed Service Area are all within the City's ETJ, approximately 1,850 feet from the closest City limit line. The proposed discharge route is partially in the City's ETJ and partially inside its city limits.

The City has an interest in reducing or eliminating the number of wastewater package plants so as to reduce or eliminate additional point sources of pollution, and protect water quality and public health and safety. To that end, the City owns and operates an extensive wastewater system that eliminates the regional need for package plants such as one described in the Application. The City owns and operates five existing wastewater treatment plants, and has a permit for a sixth to be constructed in the near future.³ The City employs approximately 15 licensed wastewater treatment plant operators and 38 licensed wastewater collection system operators. The City currently provides wastewater service to approximately 35,891 customers. One of the City's wastewater treatment plants, the Dove Springs Wastewater Treatment Plant ("Dove Springs Plant"), is within a three mile radius of the Proposed Facility (*see **Attachment 1***). The Dove Springs Plant is actually interconnected with the City's two other largest wastewater treatment plants, the Pecan Branch Plant and the San Gabriel Plant. Together, just the three, large, connected plants can treat 8.0 MGD, which is the equivalent of 80,000 people (at 100 gpd/ person). The two other plants – the Cimarron Hills Plant and the Berry Creek Plant – can treat 0.2 MGD and 0.3 MGD, respectively – which is the combined equivalent of 5,000 people (at 100 gpd/person). Based on information from the US Census Bureau available at <https://www.census.gov/quickfacts/fact/table/georgetowncitytexas#>, the City population as of the April 1, 2020 census was 67,176. So, the City clearly has more than enough capacity to provide wastewater treatment service to its customers within its city limits and ETJ.

³ The City owns and operates the following wastewater treatment facilities: Cimarron Hills WWTP (WQ0014232001); San Gabriel WWTP (WQ0010489002); Dove Springs WWTP (WQ0010489003); Pecan Branch WWTP (WQ0010489005); Berry Creek WWTP (WQ0010489006). Georgetown also has a permit for the Northlands WWTP (WQ WQ0010489007), which is not yet under construction. The City also owns a site in the subject drainage basin on which a seventh WWTP is planned.

The City also has existing wastewater collection systems located within a three mile radius of the Proposed Service Area, and there is additional collection system infrastructure under construction that would be even closer to the Proposed Service Area. The existing collection system is located approximately 3/4 feet/miles away from the western boundary of the Proposed Service Area, and a lift station and associated wastewater collection system is currently under construction at a subdivision located less than 1,000 feet from the western boundary of the Proposed Service Area (*see Attachment 1*).

(3) The City's Interests in the Application

The City is a home-rule municipality, having the full powers of self-governance, and is authorized to exercise all authority incident to local self-government.⁴ In addition to having the powers granted to it as a home-rule city via the Texas Constitution, the Legislature has also expressly granted home-rule cities regulatory authority within the ETJ over issues raised by or relevant to the Application. The Legislature created municipal extraterritorial jurisdiction areas for all cities for the following purposes: "to promote and protect the general health, safety, and welfare of persons residing in and adjacent to the municipalities."⁵ Thus, the City has a Legislatively-mandated interest in promoting and protecting the general health, safety, and welfare of persons residing inside its city limits and ETJ. In the context of the Application, the City's interests are to promote and protect the general health, safety, and welfare of persons residing in the ETJ AND inside the city limits from deleterious effects caused by the Proposed Package Plant.

The Legislature has also granted cities statutory authority over or interest in issues relative to the Application via specific statutes. For example:

⁴ See Tex. Const. art. XI, § 5; TEX. LOC. GOV. CODE ANN. § 51.072(a) and (b) ("(a) The [home-rule] municipality has full power of local self-government. (b) The grant of powers to the municipality by this code does not prevent, by implication or otherwise, the municipality from exercising the authority incident to local self-government."); *Lower Colo. Riv. Auth. v. City of San Marcos*, 523 S.W.2d 641, 643 (Tex. 1975), *Quick v. City of Austin*, 7 S.W.3d 109, 122 (Tex. 1999), *Dallas Merch. & Concessionaires Ass'n v. City of Dallas*, 852 S.W.2d 489, 490-91 (Tex. 1993) (Home-rule cities do not depend on the Legislature for specific grants of authority but, instead, have a constitutional right of self-government and, look to the Legislature only for specific limitations on their power). See also, *In re Sanchez*, 81 S.W.3d 794, 796 (Tex. 2002); *Proctor v. Andrews*, 972 S.W.2d 729, 733 (Tex. 1998) (For the Legislature to divest home-rule cities of their Constitutional authority, the Legislature's intent to do so must be expressed with "unmistakable clarity.")

⁵ TEX. LOCAL GOV'T CODE ANN. § 42.001 ("PURPOSE OF EXTRATERRITORIAL JURISDICTION. The legislature declares it the policy of the state to designate certain areas as the extraterritorial jurisdiction of municipalities to promote and protect the general health, safety, and welfare of persons residing in and adjacent to the municipalities.")

- TEX. WATER CODE ANN. Ch. 26, Subchapter E (disposal system rules and water pollution control and abatement)
- TEX. WATER CODE ANN. Ch. 7, Subchapter H (water quality enforcement)⁶
- TEX. HEALTH & SAFETY CODE ANN. § 121.003(a) (public health)
- TEX. LOC. GOV'T CODE ANN. § 551.002 (pollution or degradation of water supplies and watersheds)
- TEX. LOC. GOV'T CODE ANN. § 212.003(a) (subdivision and platting (including the provision of water and sewer service platted areas))
- TEX. LOC. GOV'T CODE ANN. § 217.042 (nuisances within 5,000 feet)
- TEX. LOC. GOV'T CODE ANN. § 552.001 (municipal utility systems) and Subchapter C (municipal drainage systems)
- TEX. LOC. GOV'T CODE ANN. Ch. 551.002 (protection of streams and watercourses)

In addition, regionalization and need in wastewater permitting cases are issues on which cities that operate wastewater collection and treatment systems, like the City, are uniquely poised to offer evidence. TWC § 26.003 states that:

“It is the policy of this state and the purpose of this subchapter to . . . encourage and promote the development and use of regional and areawide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of this state; and to require the use of all reasonable methods to implement this policy.”

This guiding principle of regionalization and need is enshrined in the introductory provisions of Chapter 26, listed second only to the recognition of private ownership rights of groundwater. Two other pieces of legislation were adopted to underscore this policy

⁶ The enforcement authority and rights granted to cities via TWC § 7.351(a) are different from those of the general public, and having been granted special statutory enforcement rights over water quality matters, the City has authority under state law over issues raised by the Application or statutory authority over or interests in the issues relevant to the Application. TWC § 7.351(a) authorizes local governments to bring an action against a person for a violation or threatened violation of Chapter 26 of the TWC occurring in the jurisdiction of that local government in the same manner as the Commission may do so – that is, for injunctive relief or a civil penalty or both. Although that section also gives similar powers to “a person affected” the term “person affected” as used in Section 7.351(a) does not have the same meaning as the term “affected person” under the Texas Water Code. As used in Section 7.351(a), the term “person affected” refers only to a select group of persons defined in Section 401 of the Texas Health and Safety Code and only as to violations of Chapter 401 of the Texas Health and Safety Code (relating to Radioactive Materials and Other Sources of Radiation).

-- TEX. WATER CODE ANN. §§ 26.081⁷ and 26.0282⁸ -- relating to the consideration of the regionalization policy, need, and the availability of existing or proposed areawide or regional wastewater collection, treatment, and disposal systems.

The state regionalization policy articulated three times in the Texas Water Code is entirely consistent with the Legislature's creation of ETJs via the Texas Local Government Code. The issues of wastewater treatment regionalization and need cannot be evaluated or implemented without the ability to look "regionally" and "areawide" – beyond a city's corporate boundaries. The Legislature has adopted statutes that underscore a city's status as an affected person in cases such as the one at hand by creating ETJs, acknowledging cities' interest in the environment, and issues affecting the health, safety, and welfare in those areas, granting cities authority over issues such as those raised in wastewater permitting applications, and adopting policies relating to regionalization and need in wastewater permitting cases. It is consistent with state law to allow a city's participation in wastewater permitting cases when the facility, outfall, and discharge route are within a city's ETJ. Therefore, the City has authority under state law over issues raised in the application as required for governmental entities under 30 TAC §§ 55.203(b) and 55.203(c)(7).

In summary, the City has interests in issues relevant to the Application because the Proposed Facility and outfall are both in the City's ETJ and the planned discharge route is located within both the City's corporate limits and ETJ. The City owns and operates a wastewater treatment plant that can serve the Proposed Service Area. As is detailed more fully below, the City should be granted a contested case hearing to represent the City's interests in regionalization and need, environmental effect, and public health, safety and welfare including pursuing a reduction of package plants and eliminating risk of water quality degradation and nuisance odors and upsets from such plants, to ensure that the health, safety, and welfare of residents in the City limits and in its ETJ will be maintained, and that the plant operator has the technical, managerial, and

⁷ TEX. WATER CODE ANN. § 26.081(a) ("The legislature finds and declares that it is necessary to the health, safety, and welfare of the people of this state to implement the state policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.")

⁸ TEX. WATER CODE ANN. § 26.0282 ("In considering the issuance, amendment, or renewal of a permit to discharge waste, the commission may deny or alter the terms and conditions of the proposed permit, amendment, or renewal based on consideration of need, including the expected volume and quality of the influent and the availability of existing or proposed areawide or regional waste collection, treatment, and disposal systems not designated as such by commission order pursuant to provisions of this subchapter. This section is expressly directed to the control and treatment of conventional pollutants normally found in domestic wastewater.")

to ensure that the Applicant and/or plant owner/operator has a good compliance history and the financial capability to construct, operate and maintain the plant. There is a reasonable relationship between Georgetown's stated concerns and the proposed activities to be regulated under the draft permit.

B. REQUEST FOR CONTESTED CASE HEARING

The Proposed Package Plant, outfall, and Proposed Service Area are all within the City's ETJ but very proximate to the City's corporate limits. The proposed discharge route is both the City's ETJ and city limits. The City has a Legislatively-mandated interest in promoting and protecting the general health, safety, and welfare of persons residing inside its city limits and ETJ. Local governments, such as the City, with authority under state law over issues contemplated by an application, are considered affected persons under 30 TAC § 55.203. For the reasons articulated above, the City has justiciable interests that will be adversely affected by this Application.

The City requests that it be granted party status. The City also requests a contested case hearing.

III. COMMENTS ON THE APPLICATION

A. The City has existing permitted wastewater treatment capacity that could meet the need expressed by the Applicant, and the Applicant fails to demonstrate the need for the facility in the context of Regionalization.

The City owns and operates an extensive wastewater system that eliminates the need for package plants such as one described in the Application. The City owns and operates five existing wastewater treatment plants, has a permit for a sixth to be constructed in the near future.⁹ The City employs approximately 15 licensed wastewater treatment plant operators and 38 licensed wastewater collection system operators. The City currently provides sewer service to approximately 35,891 wastewater customers.

⁹ The City owns and operates the following wastewater treatment facilities: Cimarron Hills WWTP (WQ0014232001); San Gabriel WWTP (WQ0010489002); Dove Springs WWTP (WQ0010489003); Pecan Branch WWTP (WQ0010489005); Berry Creek WWTP (WQ0010489006). Georgetown also has a permit for the Northlands WWTP (WQ WQ0010489007), which is not yet under construction. The City also owns a site in the subject drainage basin on which a seventh WWTP is planned.

One of the City's wastewater treatment plants, the Dove Springs Plant, is within a three mile radius of the Proposed Facility (see **Attachment 1**). The Dove Springs Plant is actually interconnected with the City's two other largest wastewater treatment plants, the Pecan Branch Plant and the San Gabriel Plant. Together, just the three, large, connected plants can treat 8.0 MGD, which is the equivalent of 80,000 people (at 100 gpd/person). The two other plants – the Cimarron Hills Plant and the Berry Creek Plant – can treat 0.2 MGD and 0.3 MGD, respectively – which is the combined equivalent of 5,000 people (at 100 gpd/person). Based on information from the US Census Bureau available at <https://www.census.gov/quickfacts/fact/table/georgetowncitytexas#>, the City population as of the April 1, 2020 census was 67,176. So, the City clearly has more than enough capacity to provide wastewater treatment service to the 600 manufactured homes proposed to be constructed in the Proposed Service Area at the Applicant's requested levels.

The City also has existing wastewater collection systems located within a three mile radius of the Proposed Service Area. The Applicant wholly failed to show the City's collection system on Attachment K.1-1 of the Application, even though information about the City's system is readily available on the internet.¹⁰ The City's existing collection system network is located about 1½ miles away from the Proposed Package Plant, and about one mile away from the western boundary of the Proposed Service Area. Additional collection system infrastructure is currently under construction that would be even closer to the Proposed Service Area. Specifically, a new lift station and associated collection system is currently under construction at a subdivision located under ¼ mile away from the western boundary of the Proposed Service Area (see **Attachment 1**). This information should have been included in the Application.

The City has planned and constructed its wastewater treatment and collection system to eliminate the need for small package plants serving single subdivisions such as the Proposed Package Plant, consistent with the State's regionalization policy.

B. The Application fails to demonstrate that the Applicant's proposed facilities satisfy TCEQ's requirements for unsuitable site characteristics.

TCEQ regulations do not allow wastewater treatment facilities to be located within a 100-year floodplain. 30 TEX.ADMIN.CODE §309.13. The Applicant represented that

¹⁰ See City of Georgetown Utility Information at this link:
<https://georgetowntx.maps.arcgis.com/apps/webappviewer/index.html?id=43e000b1e2f54464acf9ccb2a7dbe50b>

none of its proposed facilities would fall within the unnamed tributary of Mankins Branch 100-year floodplain. To support this assertion, the Applicant relied on FEMA FIRM Panel 48491C0505F. (the "FEMA Map"). That reliance was misplaced.

The absence of a floodplain on the FEMA Map in the area of the proposed discharge and related facilities does not mean that the Proposed Package Plant is not in a 100-year floodplain. The FEMA floodplain maps typically only show watersheds that are one square mile or more in size. So the fact that no floodplain is shown for the small area in question does not mean that there is not 100-year floodplain present. More thorough analysis of the floodplain extent and water surface elevation is required to accurately assess whether the site of the Proposed Package Plant is suitable. Placement of the Proposed Package Plant within a 100-year floodplain would pose a significant threat to the surface water and groundwater quality in the receiving stream and in the aquifers that the receiving stream recharge.

The site of the Proposed Package Plant is also unsuitable because it is near a potential wetland, as identified as such on the USF&W National Wetlands Inventory. TCEQ does not allow the construction of wastewater treatment facilities in a wetland. 10 TEX. ADMIN. CODE §309.13.

C. Granting the draft permit is not consistent with the Legislature's policy directive to encourage and promote the development and use of regional and areawide waste collection, treatment, and disposal systems per Tex. Water Code §§ 26.003, 26.081(a), and 26.0282, and the TCEQ's Regionalization Policy for Wastewater Treatment.

(1) The City owns and operates a wastewater treatment facility or collection system located within three miles of the Proposed Package Plant and can provide wastewater treatment services to the Applicant at the levels requested.

The City owns and operates a wastewater treatment plant and wastewater collection system located with three miles of the Proposed Package Plant. As detailed in above, the City actually currently owns and operates five wastewater treatment plants (one of which is within a three mile radius of the Proposed Package Plant). The City also has a permit to construct a sixth wastewater treatment plant, and owns land on which it plans to see authorization to construct a seventh wastewater treatment plant. The City's existing wastewater treatment plants together provide 8.5 MGD in treatment capacity – sufficient to provide wastewater service to 85,000 people. The City currently provides

sewer service to approximately 35,891 wastewater customers. So, the City clearly has more than enough capacity to provide wastewater treatment service to the 600 manufactured homes proposed to be constructed in the Proposed Service Area at the Applicant's requested levels of 0.085 to 0.09 MGD. As detailed elsewhere in this letter, the City also has existing wastewater collection systems for all of its plants, and such a system is currently located within a three mile radius of the Proposed Service Area. In addition, construction of a new collection is currently underway within about ¼ mile from the western boundary of the Proposed Service Area. Finally, the City employs approximately 15 licensed wastewater treatment plant operators and 38 licensed wastewater collection system operators who are fully trained and capable of operating the City's extensive wastewater treatment and collection system.

(2) The Proposed Service Area is Located Within the City's Updated Wastewater Master Plan, which Generally Describes How Wastewater Service Will Be Provided to the Studied Region

The City updated its 2018 Wastewater Master Plan in 2020, and the Proposed Service Area is located within area including in the Updated Wastewater Master Plan (see Attachment 2). As with all municipal master plans, the Updated Wastewater Master Plan provides a general outline for all accomplishing the City's and community's mutual goals – in this case the goal of providing wastewater services to about 10,760 acres on the east side of the City.

With regard to the City's provision of wastewater service to the Proposed Service Area, the Applicant asked, and the City provided, information pertaining to the type and cost of connecting infrastructure, reiterating what is set forth in the Updated Wastewater Master Plan. The City's responses to the Applicant assumed that there would be no other development in the area and no cost-sharing or economies of scale that would mitigate the cost to the Applicant or relieve it of the burden of bearing the entire cost of new regional infrastructure. However, as is discussed below, there is other development occurring in the area and there are alternatives to the connecting infrastructure described in the City's Updated Wastewater Master Plan that could be considered and approved by the City Council.

(3) Other Faster and Less Costly Alternatives for Connecting to the City's Wastewater Exist

The Updated Wastewater Master Plan covers a 10,760 acre area, so it is a given that some portions of the will develop faster or differently than planned. Therefore, the City has several processes or mechanisms to provide more nimble and nuanced evaluations of how wastewater service might be provided in a specific instance. Those alternatives have not been discussed by the City and the Applicant since the Applicant chose instead to file the Application. But, as the Application reveals, the City alerted the Applicant to the fact that a path forward for its project may be available via a development agreement.¹¹

There is significant other development in the area (including significant new wastewater system infrastructure), which is either ahead of the Applicant's schedule or generally in line with the Applicant's schedule. Some of this new infrastructure may be able to be utilized by the Applicant either as is, or with some upsizing, and may significantly reduce Applicant's cost to connect to the City's wastewater system compared to the costs of the regional infrastructure described in the Updated Wastewater Master Plan. In other words, there are service alternatives available to the Applicant that are not presented in the Application that make connection to the City's wastewater system both timely and cost-effective. These service alternatives are generally described in **Attachment 3**. On approval by the City Council, those alternatives are available to the Applicant.

(4) The TCEQ Fails to Consider Another Proposed Stand-Alone Package Plant Service One Subdivision Approximately One Mile Away

Another standalone package plant is proposed to be located approximately one mile away from the Proposed Package Plant. The Applicant and the TCEQ should have considered the pending *Application of AIRW2017-7, LP for TPDES Permit No. WQ0015878001*, SOAH Docket No. 582-22-106; TCEQ Docket No. 2021-1214-MWD (the "AIRW2017-7, LP Package Plant"). The locations of both proposed package plants are shown on **Attachment 4**.

Nothing in the Application or the TCEQ's memorandums reference the AIRW2017-7, LP Package Plant, even though the same firm prepared both applications and both applicants are represented by the same lawyer. The Executive Director is supporting the AIRW2017-7, LP Package Plant in a pending contested case hearing, so is clearly aware of it. Failure to disclose the AIRW2017-7, LP Application, coupled with the

¹¹ Application, Exhibit K.2, Pre-Application Meeting – Planning Notes dated 5/20/2021.

Executive Director's apparent failure to consider it in its analysis of the Application, signals disregard of any meaningful effort to implement the State's regionalization policy. As a result, the City is left playing wack-a-mole trying to single-handedly implement the State's wastewater regionalization policy. Allowing two stand-alone package plants within one mile of each other in an ETJ of a city having five, soon to be six, wastewater treatment plants wholly thwarts regionalization, encouraging balkanization rather than regionalization per the Legislature's directive to the TCEQ in the Texas Water Code.

D. The Application is not substantially complete and accurate.

The Application is materially incomplete in that it fails to provide relevant information that is necessary for the TCEQ to conduct a full analysis of the possible effects of the Proposed Facility on water quality and surrounding existing uses. This includes, but is not limited to, the Applicant failing to provide the information required to be included in its topographic map, including schools and playgrounds near the proposed discharge point; as well as not including information about the receiving water, which should have been included as Domestic Worksheet 2.1.

E. The draft permit is not protective of water quality and existing uses of the receiving waters in accordance with Texas Surface Water Quality Standards, including protection of public health and enjoyment of waters in the state and aquatic and terrestrial life.

The City is concerned that the proposed discharge of treated effluent will adversely affect the receiving water, which is within the City's extraterritorial jurisdiction and its City limits, and existing and future uses thereof. The Statement of Basis for the draft permit indicates that the TCEQ's evaluation of the Application did not investigate or duly consider all existing uses (for example, agricultural uses like livestock watering and irrigation) or water quality standards protective of all existing uses (for example, aesthetic parameters related to recreational uses that are implicated in public health and enjoyment of waters in the state, criteria protective of livestock and other terrestrial and aquatic life). And although the TCEQ's review included an evaluation of the aquatic life use, this review was based on general assumptions whose accuracy has not been confirmed as appropriate in this specific circumstance. For example, the intermittent stream coursing through the future residential development that is to be served by the Proposed Package Plant appears to be fed by one or more springs or groundwater baseflow. However, the TCEQ did not evaluate whether the receiving stream contains

aquatic life that is dependent on the water quality of such spring water or groundwater and would be particularly sensitive to changes in water quality resulting from the proposed discharge. In the absence of an investigation into and evaluation of existing uses and relevant water quality standards, the City is concerned that the draft permit does not contain conditions that will be protective of water quality and all existing uses in accordance with Texas law.

Given that the slightest plant upset would adversely affect the water quality in the receiving streams and rivers, the City is concerned that the proposed discharge poses risks to the receiving water quality and may create unsanitary or unsafe water quality conditions in the receiving waters and the health and safety of its citizens.

The draft permit for the Proposed Package Plant is concerning as it is inconsistent with Texas' regionalization policy, which includes the promotion of use of existing area-wide waste collection, treatment, and disposal systems to prevent pollution. The Proposed Package Plant will discharge treated effluent to a receiving stream in an area of shallow groundwater, yet the Statement of Basis for this draft permit does not indicate that the TCEQ considered the potential interconnection of the receiving waters with shallow groundwater. The failure to consider shallow groundwater and how it may be contaminated by the proposed discharge is troubling.

In addition, the draft permit does not contain measures to protect against discharges of untreated or partially untreated effluent. Because this creates an unnecessary risk of contamination of the unnamed tributary to Mankins Branch, the downstream Mankins Branch segments, and groundwater, the draft permit should be denied.

E. The Draft Permit is not protective of the public health and safety of nearby residents.

The City is also concerned about the public health risk posed by the Proposed Package Plant to nearby residents. . The City is concerned that the very close distance of the Proposed Package Plant to adjacent residences poses health risks, including the potential exposure of residents to harmful pathogens via vectors (e.g., flies), aerosols (e.g., bacteria containing mists), and the receiving water (e.g., bacteria and viruses in the treated wastewater).

G. The Draft Permit does not protect the health and safety of landowners' livestock and the habitats of endangered species.

The area surrounding the plant and discharge route is agricultural in nature and contains many livestock as noted by the Application. Also, the surrounding area as well as the San Gabriel River is home to several endangered species including the Texas Shiner and Guadalupe Bass as well as several endangered salamanders.¹² Granting the Permit would expose these animals to adverse effects from growth of algae, high nitrogen content, and bacterial contamination from the proposed discharge.

H. The Application failed to show the proposed discharge satisfied TCEQ's antidegradation policy.

As noted above, the Statement of Basis for this draft permit indicates that the TCEQ did not consider all existing uses and water quality protective thereof. Without this information, it is not clear how the TCEQ could have conducted its Tier 1 and Tier 2 antidegradation review consistent with the Texas antidegradation policy and procedures implementing the same.

The standard Implementation Team's Interoffice Memorandum related to the Application classifies unnamed tributary of Mankins Branch as limited aquatic life use and Mankins Branch as presumed high aquatic life use. Nothing in TCEQ's materials indicate that TCEQ conducted a site visit to the unnamed tributary of Mankins Branch to determine whether the unnamed tributary of Mankins Branch has been appropriately classified. Also, no information from TCEQ shows a site visit to unnamed tributary of Mankins Branch or Mankins Branch to confirm the actual conditions, such as the hydraulics, of these receiving waters to determine what the impact of the proposed discharge will be.

Therefore, TCEQ's analysis of the discharge relied on an uncalibrated model based on default values that do not reflect the actual conditions of the unnamed tributary of Mankins Branch or Mankins Branch. Due to the potential from accidental releases from this small unmanned facility, and its potential for untreated or partially treated discharges resulting impact on the receiving waters. The use of site-specific data of the

¹² These endangered species can be found by using the Texas Parks and Wildlife Endangered Species by Counties search *available at* tpwd.texas.gov/gis/test and cross-referencing using the United States Geological Survey species list *available at* nas.er.usgs.gov/queries.

receiving waters is necessary to ensure the proper antidegradation analysis is conducted and that improper degradation of water quality is avoided.

In addition, the City is also concerned about elevated nitrogen levels in the receiving watercourses and its effect on water quality in the immediate receiving unnamed intermittent tributary and in downstream segments of this receiving water body.

Finally, the City is concerned that the TCEQ is using an incorrect standard in conducting its Tier 2 antidegradation review. The Statement of Basis for this draft permit indicate the TCEQ used a “no significant degradation” standard in conducting its Tier 2 evaluation. Such a standard is inconsistent with Texas antidegradation policy, which provides that no degradation is allowed unless it can be shown that the lowering of water quality is necessary for important economic or social development. Here, there is no indication that such economic or social development considerations were contemplated or that such a determination was made.

J. The draft permit does not contain sufficient operational requirements to ensure that water quality is protected.

(1) The draft permit does not require a sufficiently licensed and experienced chief operator.

The draft permit should require the chief operator to hold at least a Class B wastewater license. The draft permit only requires the chief operator to hold a Class C license. Holders of a Class C license are not experienced enough to operate and maintain a facility such as the Proposed Package Plant, especially since they will only be on-site to perform the required sampling. To obtain a Class C wastewater license, a person only needs a high school diploma or GED and either two years of work experience, or one year of work experience with minimal college hours or TCEQ-certified training. For example, applicants can substitute up to one year of experience with 32 semester hours of college or 40 additional hours of approved. The draft permit should require the chief operator to hold at least a Class B license. Holders of a Class B license are required to have a Bachelor’s degree in chemistry, biology, engineering, microbiology, bacteriology or similar discipline, and 2 ½ years of hands on experience, or a high school diploma or GED and 5 years of hands on experience.

(2) The draft permit does not require adequate sampling and monitoring.

The Proposed Package Plant would operate 24/7, but only be monitored by grab sample once a week, or even less frequently for *E. Coli*. This level of frequency and sampling method does not provide adequate assurances to the City or the public that the remainder of the time the plant is producing an effluent meeting the requirements of the draft permit. For example, for Interim I Phase, the draft permit only requires a single grab sample once every quarter. This means that that less than 15 minutes of the facility's operations over a three-month period must be monitored. And because grab samples in two consecutive quarters could be taken as much as 89 days apart, discharges could violate water quality standards for some or all of that time without any means of detection or notice. For the Final Phase, the draft permit only requires a single grab sample once every month. This means that less than 15 minutes of the facility's operations over an entire month must be monitored. And because grab samples in two consecutive months could be taken as much as 59 days apart, discharges in the Final Phase discharges could violate water quality standards for some or all of that time without any means of detection or notice. Because the receiving water flows into Segment 1248, which is an impaired waterway due to high bacteria levels, sampling only quarterly or monthly is not sufficient protect the water quality of Segment 1248.

With regard to the type of sampling, a grab sample only reflects performance at the single, short point in time when the sample was collected, and then only if the sample is properly collected. The results can change depending on time of day or whether the plant is operating near its average daily flow rate. More than likely, these samples will be taken during daylight hours when flows are at their lowest part of the diurnal curve, so plant performance will be at its best. Also, it is not unheard of for operators who collect a bad grab sample to make changes to the plant and then to keep collecting grab samples until they collect enough to demonstrate compliance. Composite sampling consists of a collection of numerous individual discrete samples taken at regular intervals over a period of time, like 24 hours, or continuous sampling. Composite sampling techniques are more representative of the characteristics of the effluent over a longer period of time and more accurately reflect how the treatment plant is performing at all points along the diurnal curve. Although grab sampling may be fine for pH, DO, or total residual chlorine, which can change quickly in water once the sample is taken, it is not appropriate for BOD, TSS, Ammonia Nitrogen, Total Phosphorous, or *E. Coli*. Also, if a single grab sample does not meet permit conditions, adjustments to the plant can be made and additional grab samples taken to get the average back in compliance with the permit parameter. While unscrupulous, such a practice would still meet the permit's sampling

Ms. Laurie Gharis, Chief Clerk
Re: TPDES Permit No. WQ0016008001
June 20, 2022
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requirements. This is a widely known problem in the industry and should not be exacerbated by issuing permits with lax sampling requirements.

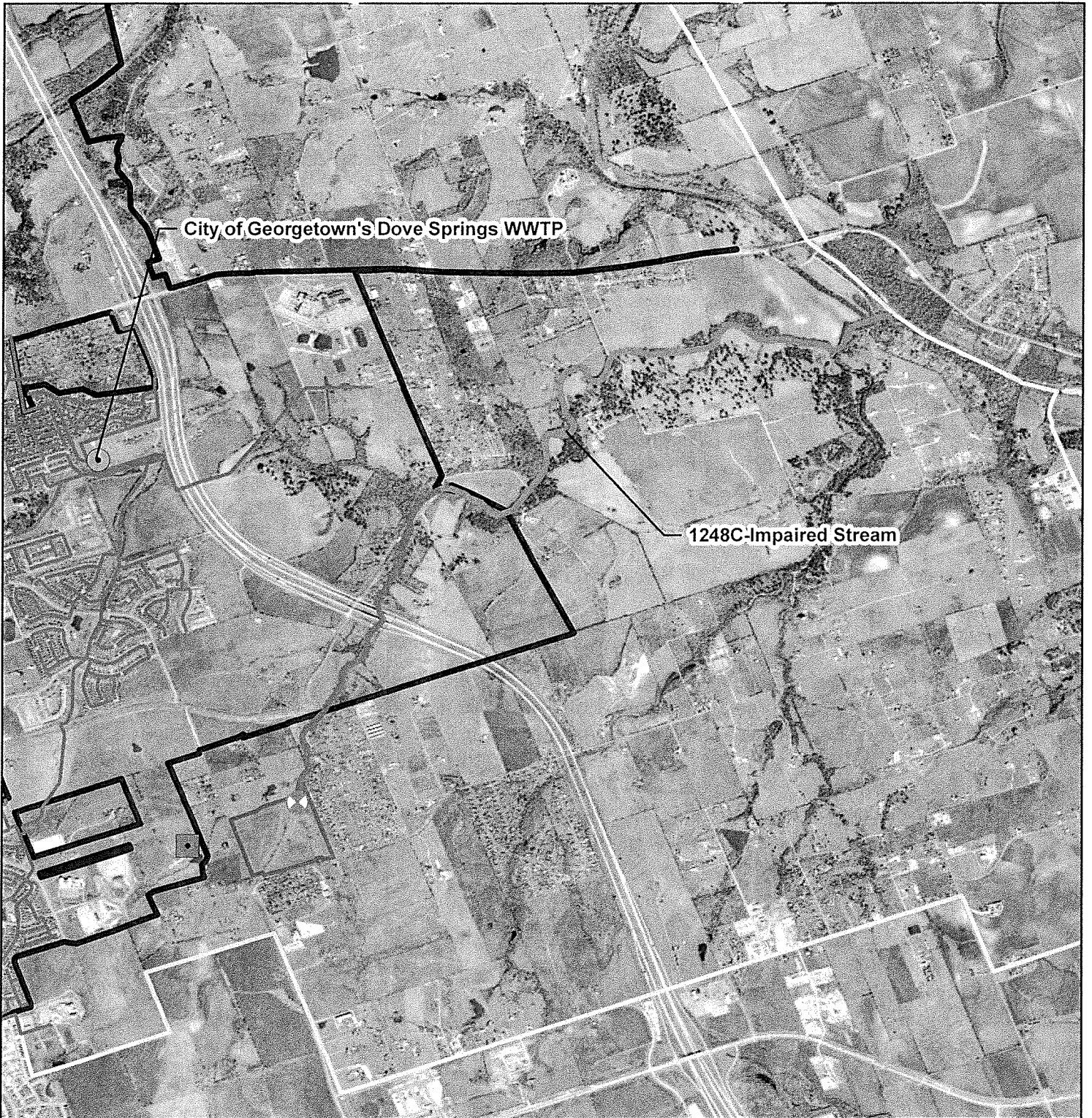
Respectfully submitted,

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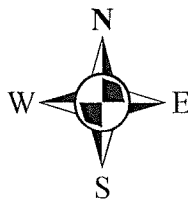
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GEORGETOWN**



Legend

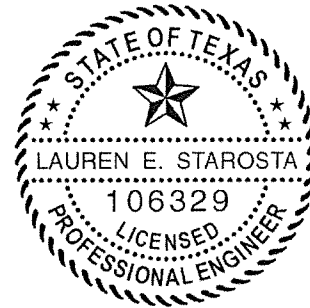
-  Patterson Ranch Lift Station- Under Construction
-  City of Georgetown's Dove Springs WWTP
-  R040062, LP Proposed Discharge Point
-  City's Wastewater Collection Lines (Existing)
-  Parcel Boundaries
-  Georgetown City Limits
-  Georgetown ETJ
- R040062, LP Proposed Discharge Route**
-  Impaired
-  Un-Impaired



**R040062, LP
Proposed Package Plant**



00124



Digitally signed by
Lauren Starosta
Date: 2020.11.10
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Technical Memorandum

To: *Wesley Wright, P.E., Systems Engineering Director*
David Munk, P.E., Water Utility Engineer
City of Georgetown

From: *Lauren Starosta, P.E. (#106329)*
Allen Woelke, P.E. (#54386), BCEE
CDM Smith, TBPE Firm No. F-3043

Date: *November 10, 2020*

Subject: *Southeast Georgetown Wastewater Master Plan – Phase 1 (FINAL)*

1.0 General

This Technical Memorandum (TM) is the first phase of an interim wastewater master plan for the southeast region of Georgetown’s extraterritorial jurisdiction (ETJ) which is outside the City’s water service area defined by its Certificate of Convenience and Necessity (CCN). The study area is located within the Jonah Water Special Utility District (SUD) CCN. Historically, Georgetown has not considered providing wastewater service outside their water CCN; therefore, the area was not included in the City of Georgetown 2018 Wastewater Master Plan (2018 master plan), or previous master plans. Recent development proposals requesting wastewater service from Georgetown have prompted the utility provider to consider how they may serve the area within the City’s ETJ now and into the future.

For this first phase, the collection system model, used by the City and CDM Smith to evaluate the system and develop master plan projects for the future, was expanded to include the southeast region. Buildout condition wastewater flows for the southeast were developed and added to the model using the same methods as described in the 2018 master plan with some modifications as described herein. The model was then used to develop and evaluate alternatives to provide wastewater service. A recommended alternative was selected and is presented herein with estimated capital costs.

A second phase of this study will consider the timing of future developments to phase the proposed projects and assimilative capacity of the San Gabriel River for treatment plant discharges.

This TM includes the following sections:

- Section 2.0 Study Area and Wastewater Flow Assumptions
- Section 3.0 Model Updates
- Section 4.0 Analysis and Recommended Projects
- Section 5.0 Conclusions

2.0 Study Area and Future Land Use Assumptions

The study area, existing collection system and existing wastewater treatment plants (WWTPs) are shown in **Figure 1**. The total study area covers about 10,760 acres. This southeast region slopes mostly east to the San Gabriel river. Past master plans considered a regional wastewater plant referred to as “Mankins” at the location shown in Figure 1. The location is ideal because it is located at the confluence of streams where gravity interceptors could be built to relieve the Pecan Branch and Dove Springs WWTPs in the future. However, master plans over the last ten years excluded a Mankins plant because Georgetown was not intending to serve the area within the Jonah water CCN. Interest in developing this area has increased in recent years and Georgetown would like to have a plan to provide service within the study area.

The first step in expanding the City’s collection system model to include the southeast study area was to delineate subcatchments and develop the parameters to simulate each component of wastewater flow. The components of wastewater flow include dry weather flow (DWF) and rainfall-dependent inflow and infiltration (RDII). DWF consists of groundwater infiltration (GWI) and base wastewater flow (BWF). GWI is groundwater that leaks into the system through cracks in pipes, joints, and other structural defects; BWF consists of residential and non-residential (commercial, industrial, institutional, etc.) sanitary wastewater flows that enter the wastewater collection system from everyday water uses. RDII consists of direct inflow through openings or stormwater connections in the system, and infiltration, similar to GWI, that enters the system during or immediately after a rainfall event. The wastewater flow criteria used in this study for each of these components and consistent with the 2018 wastewater master plan are summarized in **Table 1**.

Table 1. Wastewater Flow Criteria for Evaluation of the Proposed Development

Wastewater Flow Category	Criteria
Ground Water Infiltration (GWI)	
Residential	30 gallons per capita/day (gpcd)
Non-Residential	25% of Avg. Non-Residential BWF
Base Wastewater Flow (BWF)	
Typical Residential	70 gpcd
Non-Residential	Based on Future Land Use densities (see Table 2)
BWF Peaking Factors	
Residential	2.1
Non-Residential	1.5
Rainfall Dependent Inflow & Infiltration (RDII)	
Peak RDII	Based on flow monitoring or criteria of 750 gal/ac/day for new areas ¹

¹The area used for RDII is the contributing area, which excludes open space, parks and flood plains

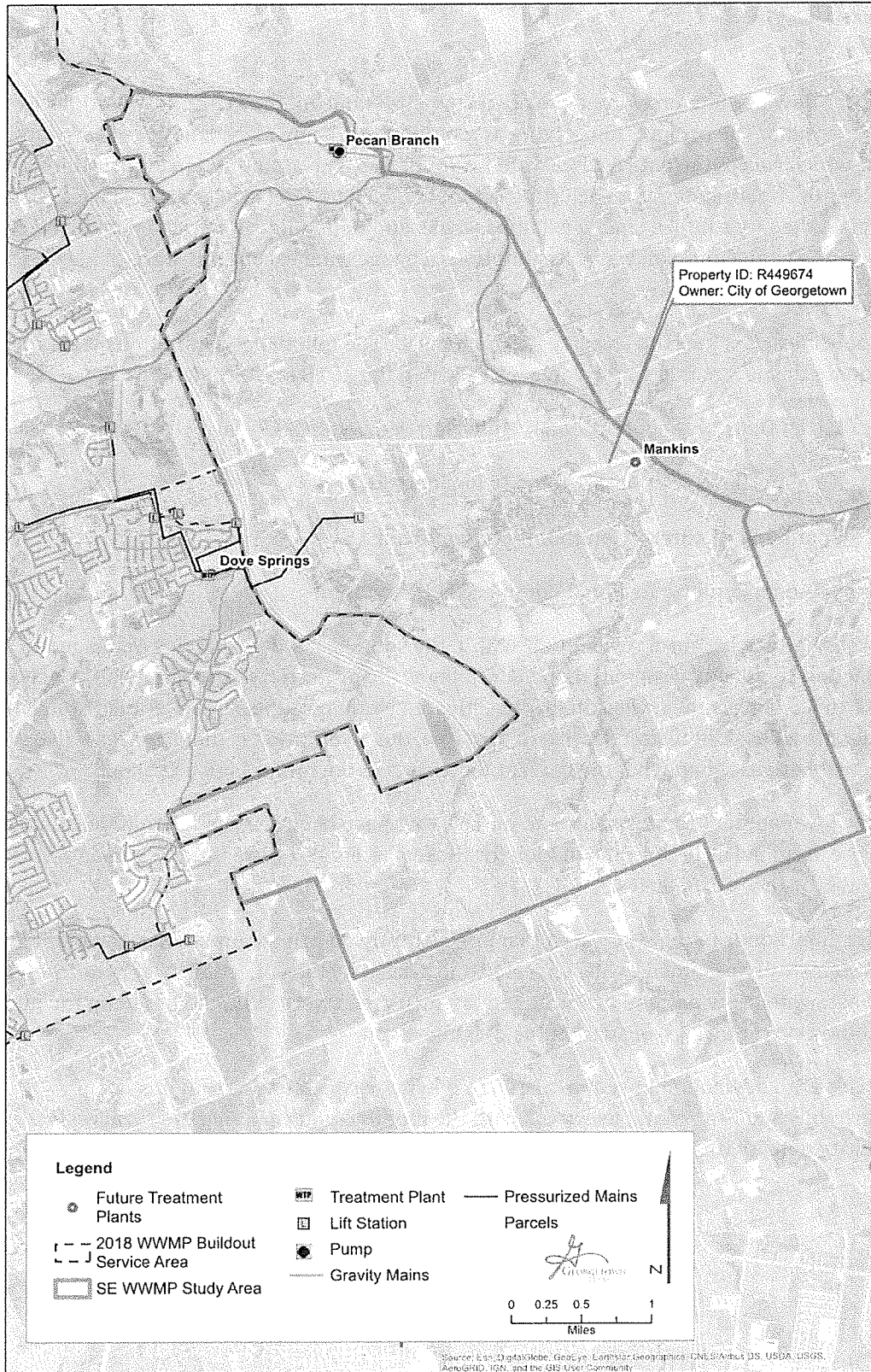


Figure 1 Study Area, Collection System, and Existing WWTPs

Wastewater flow parameters were developed using the same methods and assumptions from the 2018 master plan. The primary underlying assumption for the master plan is the City's future land use plan, which covers the entire ETJ. **Table 2** summarizes the assumptions for calculating the wastewater flow parameters for each subcatchment based on land use acreage. Since the 2018 master plan, the City's future land use database was updated. While the updated database was used for this southeast master plan, some assumptions, changes and exceptions were made per discussions with the City:

- The names of some land use categories changed. The following assumptions were made to equate the new names to the categories used in the 2018 master plan:
 - Mixed Density Neighborhood = Moderate Density Residential
 - Neighborhood = Moderate Density Residential
 - Community Center = Community Commercial
 - Regional Center = Regional Commercial Destination
- Areas defined as “rural residential” within the southeast study area were changed to “moderate-density residential”, which changes the projected single-family units per acre from 0.2 to 3.5. This is the change being investigated by this southeast master plan study. If the City provides wastewater service to this area, the assumption is that the area will develop at a density greater than what the current forecast is in the future land use plan.
- Any development requests for land parcels that have been received within the study area were assumed as better information for those parcels and were used to simulate wastewater flows for those properties.
- Neighborhoods in the study area that are currently on private on-site wastewater treatment systems were assumed to be converted and served by the collection system for this study. Wastewater flow parameters assumed for such areas were assumed based on the number of houses currently existing within the neighborhood.

The parcels with development request, private on-site wastewater treatment system neighborhoods and future land use areas with the modification changing the rural residential areas to moderate density residential are shown in **Figure 2**.

Table 2. Future Land Use Parameters

Future Land Use Category	Residential		Non-Residential	
	% of Area	Dwelling Units per Acre ¹	% of Area	Average Day Flow (gpd/ac)
Agricultural / Rural Residential	100%	0.2 SFU		
Low-Density Residential	100%	2 SFUs		
Conservation Subdivision	100%	2.3 SFUs		
Moderate-Density Residential	100%	3.5 SFUs		
High-Density Residential	100%	7 SFUs and 14 MFUs		
Community Commercial	10%	10 MFUs	90%	1200
Regional Commercial Destination	10%	10 MFUs	90%	1500
Institutional Use			100%	950
Mixed Use Community	50% / 25%	3 SFUs/ 7 SFUs and 7 MFUs	25%	1200
Mixed Use Neighborhood Center	25%	7 SFUs and 7 MFUs	75%	1200
Specialty Mixed Use Area	20%	7 SFUs and 7 MFUs	10% (hotels) / 70%	14600 / 1500
Employment Center	10%	10 MFUs	90%	900

¹ SFU = Single-Family Unit = 2.5 people; MFU = Multi-Family Unit = 1.9 people



Figure 2 Future Land Use for Study Area

3.0 Model Updates

The future conditions buildout model was expanded to include the study area with additional subcatchments and proposed future wastewater infrastructure. Gravity pipe alignments and profiles were approximated along streamlines to an existing or future treatment plant. These alignments follow the path of San Gabriel River, Mankins Branch (North and South) and County Road 130. Ground elevations for the profiles were obtained from a Digital Elevation Model raster file from the USGS. The invert elevations of the manholes were assumed to follow the ground slope and were adjusted to produce enough slope to meet minimum velocity requirements.

Subcatchments in the study area were created based on existing land parcels, location of future gravity interceptors, the topography of the site, and drainage direction to potential future connection sites. Neighborhoods on private on-site wastewater treatment systems throughout the study areas were delineated as their own subcatchments. **Figure 3** shows the delineated subcatchments.

The information and assumptions from Section 2.0 were applied to each subcatchments to develop the flow parameters needed for the model. The number of single-family units (SFUs) and multi-family units (MFUs) calculated for each subcatchment were converted to population using the information in **Table 2**. GWI and RDII were included using the criteria describe in Table 1.

For this first phase of the study, the model was only updated for buildout conditions; therefore, each subcatchment was included and simulated in the model at full buildout. The total additional flow projected from the study area is 6.4 mgd average daily wastewater flow (ADWF) and 13.7 mgd peak wet weather flow. The modeled values, including modeled population, non-residential flows, contributing area and total ADWF, for the southeast study area are compared to the updated total buildout scenario in **Table 3**. Total buildout values include intermittent updates made to the model since the 2018 master plan. Note that modeled values are an overestimate of projected total growth within the wastewater service area to account for the uncertainties in the spatial distribution of growth when sizing infrastructure.

Table 3. Wastewater Model Values Summary

Wastewater Model Value	Southeast Study Area	Total System Buildout
Modeled Population	68,208	500,134
Non-Residential Average Day Flow (mgd)	0.49	13.2
Contributing Area (ac)	8,961	71,520
Total ADWF (mgd)	6.4	65.5

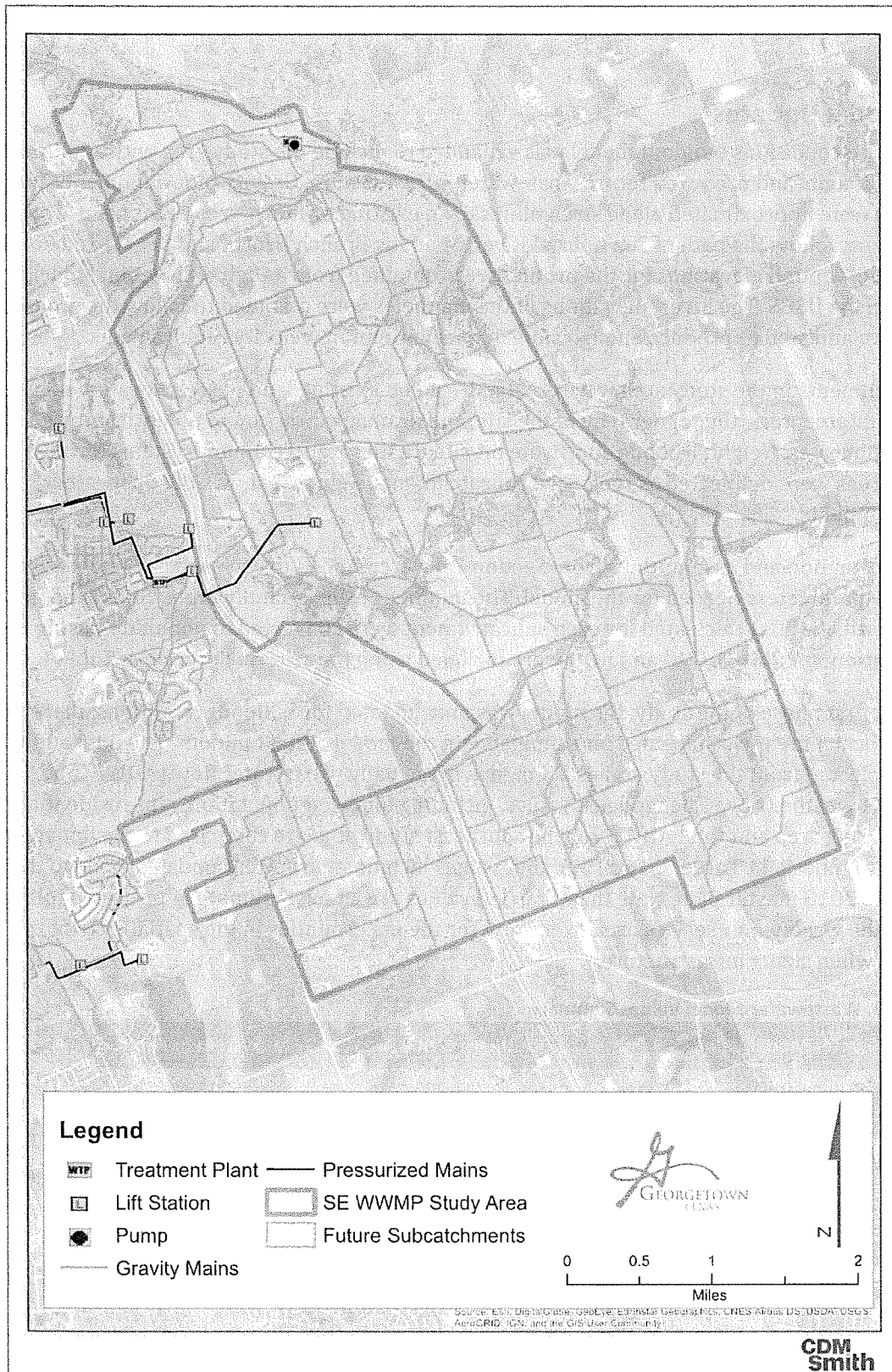


Figure 3 Future Subcatchments

4.0 Analysis and Recommended Projects

Three alternatives were considered to provide wastewater service to the study area. Two bookend alternatives were analyzed through modeling and capital cost estimates that considered an all-gravity system to a future Mankins WWTP versus mostly pumping back to existing WWTPs that would then be expanded. The recommended alternative analyzed and discussed herein is a combination of the bookend alternatives that more evenly distributes flows to existing and future WWTPs and provides service sooner for recently proposed developments so developers can assist with project costs.

Infrastructure was sized according to the flows predicted in the model: peak wet weather flows for gravity lines, lift stations and force mains and ADWF for treatment plants. Given that the study area is at the downstream end of much of the Georgetown collection system, the infrastructure is sized to include upstream flows. Projects from the 2018 master plan that can be replaced with the newly recommended projects are discussed. Cost information was developed for the recommended projects according to the costing methodology in the 2018 master plan and are in 2018 dollars. One update is that the unit construction cost for a lift station was reduced from \$0.50/gpd to \$0.30/gpd. Costs for the force main and other indirect costs are still added to this unit construction cost for the lift station according to the 2018 master plan costing methodology. The reduction in the construction cost was based on a recent bid tab for a large lift station, similar in magnitude to those proposed in this study.

The recommended projects distribute flow to three WWTPs: Pecan Branch, Dove Springs and a future Mankins. Pecan Branch and Dove Springs are existing and would be expanded while Mankins would be a new facility. The San Gabriel WWTP will remain at 2.5 mgd ADWF capacity, and it is assumed that 1.0 mgd will continue to be pumped to the Pecan Branch interceptor, which drains to Pecan Branch WWTP, via the Crystal Knoll lift station. Although this flow is not directly modeled, it is accounted for in future treatment capacity estimates. Flows in excess of 2.5 mgd (and after pumping 1.0 mgd to Pecan Branch) are routed to the SG3-A force main, which will be converted or replaced with a gravity main to drain back to the lift station and to master plan project SGI-1.

Current WWTP capacities compared to year 2020 ADWF from January through August are shown in **Figure 4** for Pecan Branch, San Gabriel and Dove Springs. They are all at about 65 percent of capacity with a total remaining capacity of about 5.2 mgd in total. The predicted buildout ADWF to Pecan Branch, Dove Springs and Mankins WWTPs totals 50.3 mgd. This is compared to the projected buildout ADWF for the whole system of 65.5 mgd presented in Table 3 to understand the proportion of the area that would be served by these three WWTPs. The contributing area is about 54,900 acres of the approximately 71,500 acres of contributing area at buildout. The remaining 15.2 mgd is to be treated by a new Northlands WWTP and the existing San Gabriel, Berry Creek and Cimarron Hills WWTPs.

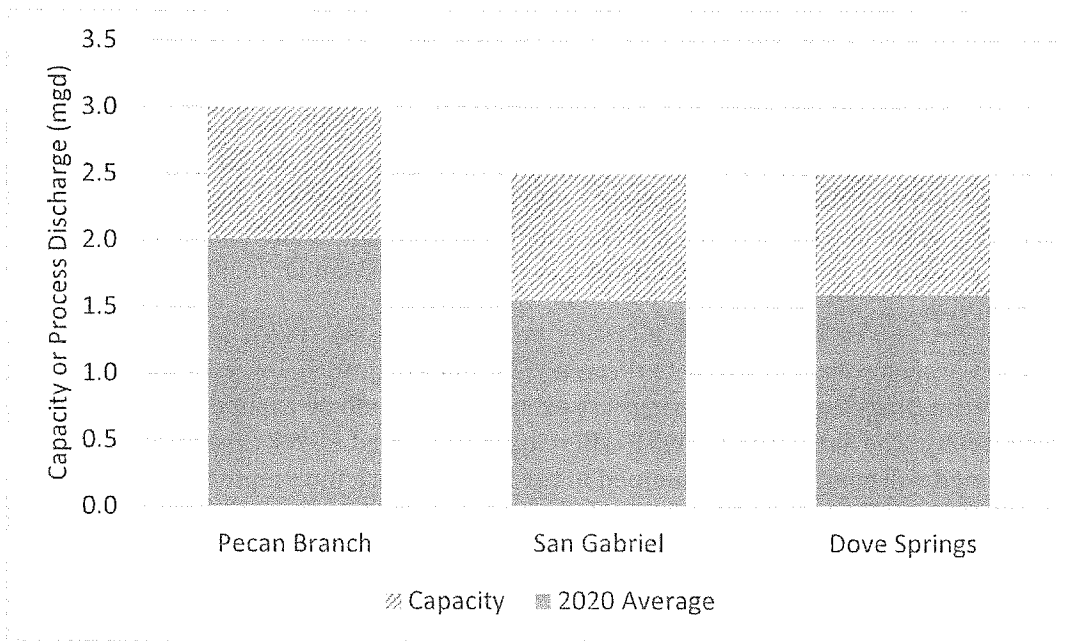


Figure 4 WWTP Capacity Compared to Year 2020 ADWF

Figure 5 shows the existing capacities of Pecan Branch, Dove Springs and San Gabriel WWTPs along with the recommended expansion of Pecan Branch and the ultimate proposed capacity of Mankins. The future capacity estimated for system buildout at these four WWTPs totals 44.8 mgd. Most of the needed future capacity would be divided between Pecan Branch and Mankins. The cost of additional treatment was excluded from this study since it considers buildout flows and the unit costs for treatment at all of the plants is about the same. Expansions will need to be phased and costs considered at that time.

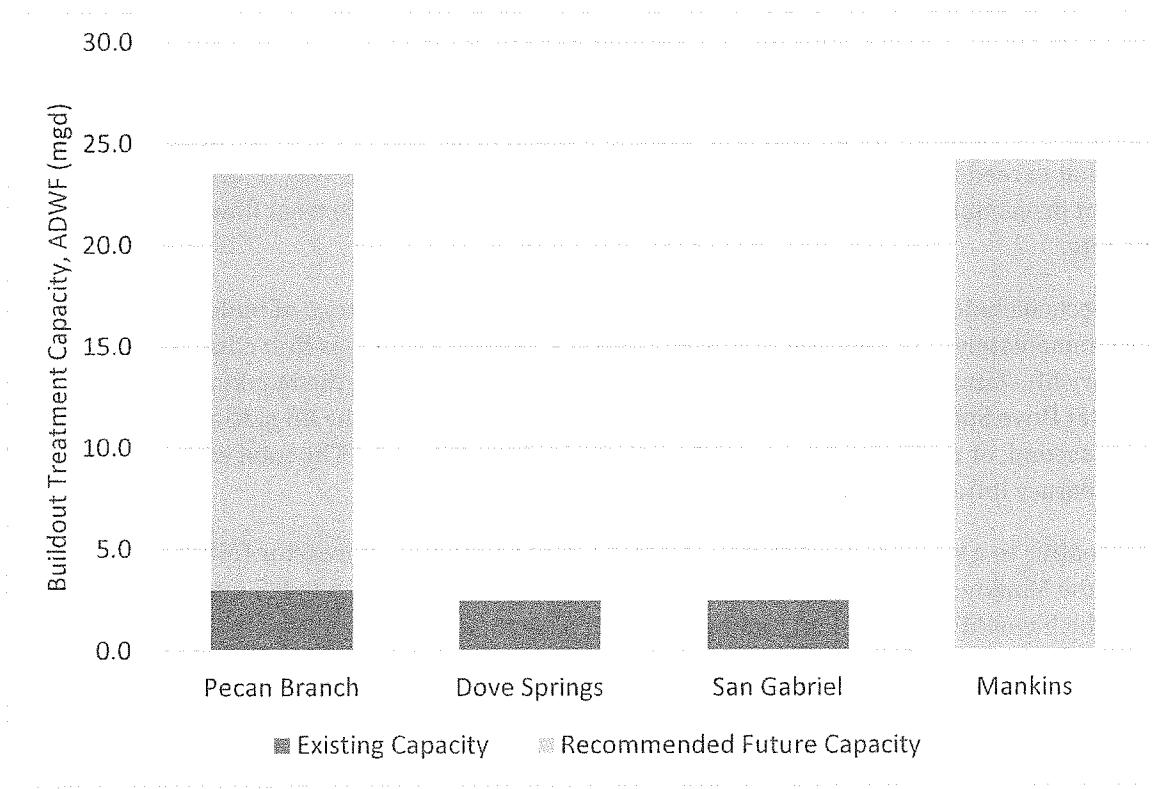


Figure 5 Existing and Future Buildout Recommended Treatment Capacity

The proposed projects are shown in **Figure 6**, which include 113,800 linear feet of gravity pipe, 1 lift station 5,600 linear feet of force main, a temporary lift station with 16,700 linear feet of force main, and a new WWTP and an expanded WWTP. The projects proposed, exclusive of treatment, are shown with capital cost information in **Table 4**. The total capital cost, which sizes all infrastructure for buildout conditions, is \$97.4 million. The table and costs do not include the 2018 master plan projects SGI-1 and SGI-PB_LS, which are shown in Figure 6; however, these projects are necessary for the proposed projects in this study. Master plan projects from 2018 replaced or modified by the proposed projects include MB-LS, MB-4 and MB-5.

The projections of treatment capacity were shown in Figure 5. Future flows are routed to an expanded Pecan Branch WWTP, Dove Springs WWTP remains at its existing capacity, and a future Mankins WWTP is sized similarly to an expanded Pecan Branch WWTP. Flow to the Pecan Branch WWTP that exceeds the proposed expansion is diverted to the Mankins WWTP through SGI-5. The treatment projections assume that a new Northlands WWTP is online to treat flows north and west of Sun City.

The projects include gravity interceptors in the Mankins basin, but instead of building a Mankins WWTP immediately, a temporary lift station with a capacity of 2.0 mgd is first constructed. A temporary lift station would pump back to Dove Springs and postpone the Mankins WWTP until the capacity at Dove Springs WWTP is exceeded. Due to the distance that the lift station would need to pump, a second, or re-lift, lift station would be needed along the route. The total estimated cost of this temporary infrastructure is \$7.7 million.

An alternative to a temporary lift station is a temporary membrane bioreactor (MBR) treatment plant at the Mankins WWTP site. A temporary MBR plant would treat up to 0.5 mgd of average daily flows, which would be equivalent to the capacity of a 2.0 mgd lift station that pumps back to Dove Springs WWTP. Either option is a temporary solution to a Mankins WWTP. A 0.5-mgd MBR treatment plant will cost more than the lift station or a typical WWTP at \$11.7 million; however, it will extend the capacity of the Dove Springs WWTP.

Another option would be to decommission Dove Springs WWTP in the future and size the gravity interceptors to Mankins WWTP to convey the additional flow. This would require upsizing MKN-1 and MKN-2 as described below:

- MKN-1 would be increased from 30 inches to 36 and 42 inches for an estimated cost increase of \$2.2 million
- MKN-2 would be increased from 24 inches to 30 and 36 inches for an estimated cost increase of \$2.5 million

The total estimated capital cost increase would be \$4.7 million for a total of \$102.1 million. Although an increase in cost, this option would avoid rehabilitation costs for the Dove Springs WWTP.

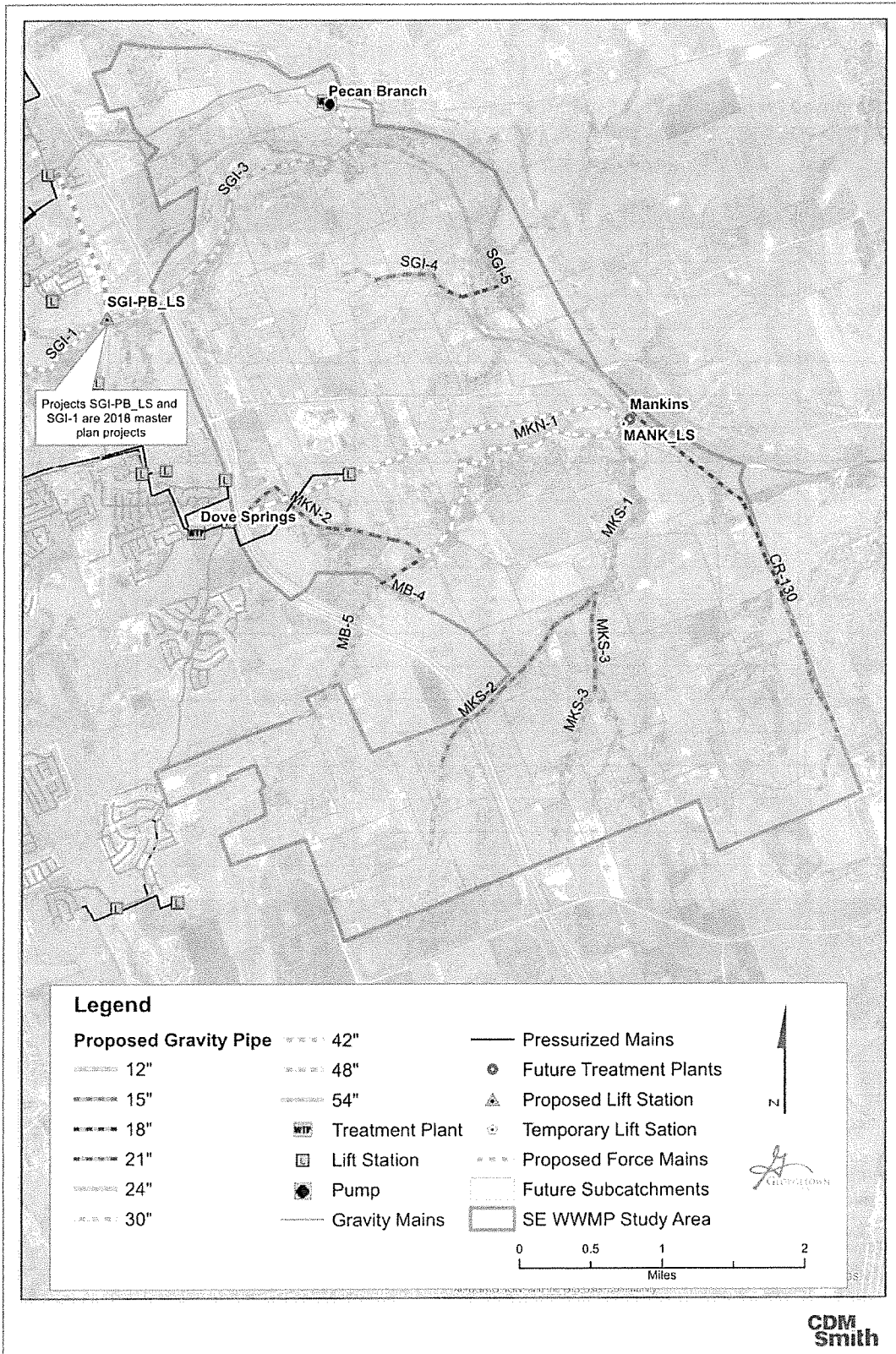


Figure 6 Proposed Projects

Table 4 Proposed Projects and Cost Estimates

GRAVITY MAINS				
Project ID	Diameter (in)	Length (ft)	Project Total Cost	
SGI-3	48	12,336	\$15.7	
SGI-4	12	2,884	\$2.8	
	15	3,059		
	18	1,991		
SGI-5	54	14,992	\$23.4	
	42	2,000		
MKN-1	30	11,308	\$6.9	
MKN-2	21	8,600	\$4.3	
MB-4	12	2,149	\$0.7	
MB-5	12	6,375	\$3.3	
	18	1,909		
MKS-1	24	7,779	\$4.6	
MKS-2	12	3,389	\$4.2	
	15	8,678		
MKS-3	12	8,668	\$4.0	
	15	3,710		
CR130	12	2,611	\$7.5	
	15	5,470		
	18	9,336		
GRAVITY MAINS TOTAL			\$77.3	
FORCE MAINS AND LS				
Project ID	Force Main Diameter (in)	Force Main Length (lf)	Lift Station Capacity (mgd)	Project Total Cost (in million \$)
MANK_LS ¹	12	16,728	2.0 ²	\$7.7
SGI-PB_LS	30	5,600	18	\$12.3
LIFT STATIONS TOTAL				\$20.0
ALTERNATIVE TOTAL				\$97.3

¹. Alternative to MANK_LS is a temporary MBR treatment plant at 0.5 mgd ADWF capacity. Estimated cost is \$11.7 million.

². Two lift stations, each at 2.0 mgd are required due to the length of the force main back to Dove Springs WWTP.

5.0 Conclusions and Recommendations

This interim master plan lays out the wastewater collection, pumping and treatment infrastructure needed to serve the southeast portion of Georgetown's ETJ. The infrastructure presented was sized for buildout conditions and includes capacity to serve more than the study area alone because much of Georgetown drains towards the east side. In that regard, the study area cannot be analyzed in a vacuum and the projects overlap the 2018 wastewater master plan. This includes SGI-1 and SGI-PB_LS, which are included in this study as planned, while master plan projects removed or modified by the proposed projects include MB-LS, MB-4 and MB-5.

This interim master plan also considers the amount of treatment capacity that would be needed for the existing Pecan Branch and Dove Springs WWTPs and a new Mankins WWTP. The plan proposes delaying the Mankins WWTP with a temporary lift station or temporary MBR plant so that service can be provided before design and construction of a larger Mankins WWTP. The master plan project SGI-PB_LS is already in design and will allow the City to utilize the recently added capacity at the Pecan Branch WWTP. An option to the proposed projects is to decommission the Dove Springs WWTP in the future to avoid rehabilitation costs. The gravity interceptor consisting of MKN-1 and MKN-2 would need to be upsized as previously described.

The final division of capacity between an expanded Pecan Branch WWTP and a future Mankins WWTP may need to be revised based on the ability to permit 24 mgd at the Pecan Branch WWTP. The next phase of this project is to evaluate the assimilative capacity of the San Gabriel River and determine the amount of capacity that can be constructed at the Pecan Branch site.



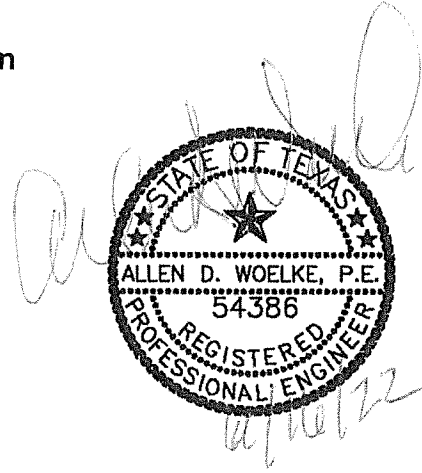
Technical Memorandum for the City of Georgetown

To: *Georgetown Utility Systems*

From: *Allen Woelke, P.E. (#54386), BCEE*
Ryan Tordella, P.E.
Jenn McNeill, EIT
CDM Smith, TBPE Firm No. F-3043

Date: *June 16, 2022*

Subject: *Wastewater Collection System Analysis for R040062, LP*



Purpose

The City of Georgetown (City) has received a request for wastewater service for the R040062, LP development to be located west of HWY 130 off of Rockride Ln. The proposed development is to include 600 single-family mobile homes and cover 65 acres in total. The purpose of this memorandum is to summarize the impact of the proposed development on the City's wastewater collection system and recommend improvements, if required.

Summary and Recommendations

The predicted flow from the proposed development exceeds the planned flows; therefore, the model was used to simulate future flows for this area. The incremental flow increase from the proposed development does not change the recommended improvements from the 2022 Wastewater Master Plan (WWMP). Additionally, as part of this evaluation, CDM Smith reviewed a short-term wastewater service option and confirmed there is adequate capacity for flow from the proposed development to be sent West to the Patterson Ranch Lift Station and pumped to the existing 18-inch gravity sewer upstream of Saddle Creek lift station.

To provide wastewater service, the developer will be required to construct a lift station and force main to route flow to the manhole upstream of the Patterson Ranch Lift Station. Additionally, the developer will need to coordinate with the Patterson Ranch developers to ensure that the pumps installed will be sized to handle the additional flow.

Wastewater Collection System Model

As part of a separate contract, CDM Smith developed and calibrated a wastewater collection system hydraulic model using InfoWorks ICM software. The model is continually updated as needed to complete these utility evaluations. The last comprehensive update was completed in 2022 as part of the 2022 Wastewater Master Plan (2022 WWMP). The criteria for calculating current and future

wastewater flows are documented in the 2022 WWMP and are summarized in **Table 1** specifically for proposed developments.

The collection system model is evaluated under peak wet weather flow (WWF) conditions based on a 2-year design storm to determine the impact of the proposed development on the collection system. The system is evaluated under future buildout conditions to determine if planned improvements as determined in the 2018 WWMP are sufficient to serve the proposed development. Future 10-year and existing conditions are simulated with the proposed development and evaluated when necessary to fully evaluate the conditions under which the proposed development may be causing an impact.

Peak WWF is made up of the following components:

- Groundwater Infiltration (GWI), which is input as a constant flow;
- Base Wastewater Flow (BWF), which is made up of residential or non-residential sanitary wastewater flow and will follow a diurnal pattern that has a max peaking factor; and
- Rainfall Dependent Inflow and Infiltration (RDII), which is based on hydrographs developed from the 2008, 2010, 2018, and 2022 flow monitoring efforts in specific basins or design criteria.

Peak Dry Weather Flow (DWF) is the sum of GWI and the peak BWF. Peak WWF is the sum of peak DWF and peak RDII. The criteria shown in Table 1 are used to calculate the components of peak WWF for the proposed development.

Table 1. Wastewater Flow Criteria for Evaluation of the Proposed Development

Wastewater Flow Category	Criteria
Ground Water Infiltration (GWI)	
Residential	30 gallons per capita/day (gpcd)
Non-Residential	25% of Avg. Non-Residential BWF
Base Wastewater Flow (BWF)	
Typical Residential	70 gpcd
Age Restricted (AR) PUD	55 gpcd
Non-Residential	Based on Future Land Use densities or information provided by developer
BWF Peaking Factors	
Residential	2.1
Non-Residential	1.5
Rainfall Dependent Inflow & Infiltration (RDII)	
Peak RDII	Based on flow monitoring or criteria of 1,000 gal/ac/day

Note: gpcd is gallons per capita per day

Figure 1 shows the proposed development and other pertinent information.

Proposed Development Area

The proposed development area covers 65 acres in total. The proposed development consists of single-family development. No area will be remaining as open space; therefore, 65 acres are considered to be contributing to RDII.

To provide wastewater service to the proposed development, the developer will be required to construct the proposed lift station and force main and connect them to the Patterson Ranch Lift Station via the upstream manhole.

Figure 1 shows the required lift station and force main and the Patterson Ranch Lift Station and Force Main. Flows from the Patterson Ranch lift station force main tie into the existing gravity sewer and will be conveyed to the Dove Springs WWTP.

Planned Wastewater Flows

Future wastewater flows were determined in the 2022 WMP using the future land use maps with the table of land use densities or planned development information to determine system capacity status and required capital improvements. This proposed development area is located in the development pipeline area where the City previously specified a development with 600 multi-family units. The resulting peak WWF predicted for the area based on the development pipeline and unit flow rates is **265,780 gpd**.

Proposed Wastewater Flows

The proposed development consists of 600 single-family units covering an area of 65 acres, and all 65 acres are considered to be contributing to RDII. Given the criteria in Table 1, the peak wet weather flow was calculated as follows:

- Population = 600 SFUs * 3 people per SFU = 1,800 people
- Total GWI = 1800 people * 30 gpcd = 54,000 gpd
- Peak DWF = 1800 * 70 gpcd * 2.1 + Total GWI = 318,600 gpd
- Total Peak WWF = Total Peak DWF + 65 * 1,000 gal/ac/day = **383,600 gpd**

The proposed peak WWF flow is greater than the peak WWF predicted based on future land use in the area; therefore, the model was used to simulate the greater flows and evaluate the impact on the system.

Model Evaluation

To provide wastewater service to the proposed development, the buildout model scenario was evaluated to determine if the recommended improvements from the master plan were adequately

sized for the additional flow. The incremental flow increase from the proposed development does not change the recommended improvements.

This memorandum also evaluated a short-term wastewater solution. The model was used to evaluate flow from the proposed development being routed through the Patterson Ranch Lift Station and force main. There is adequate capacity for the additional flow in the Patterson Ranch force main and downstream gravity sewer. The Developer will need to coordinate with the Patterson Ranch developers to ensure that the pumps installed will be sized to handle the additional flow.

Recommendation

To provide wastewater service, the developer will be required to construct a lift station and force main to route flow to the manhole upstream of the Patterson Ranch Lift Station. Additionally, the developer will need to coordinate with the Patterson Ranch developers to ensure that the pumps installed will be sized to handle the additional flow.

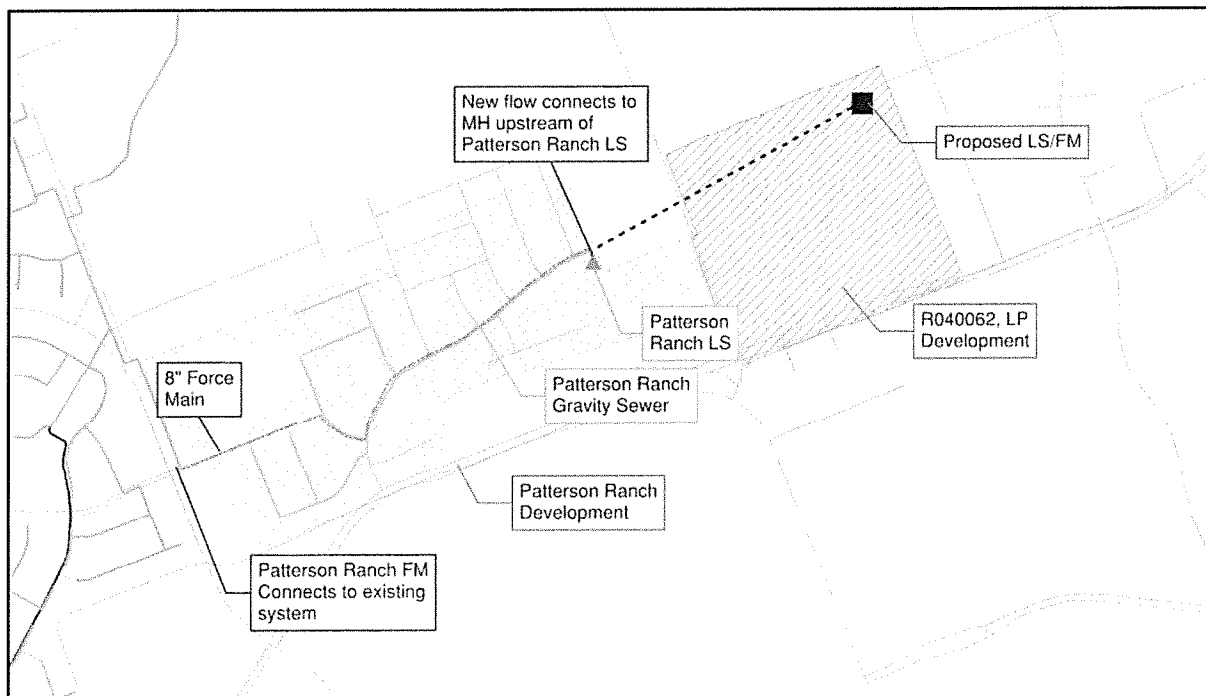
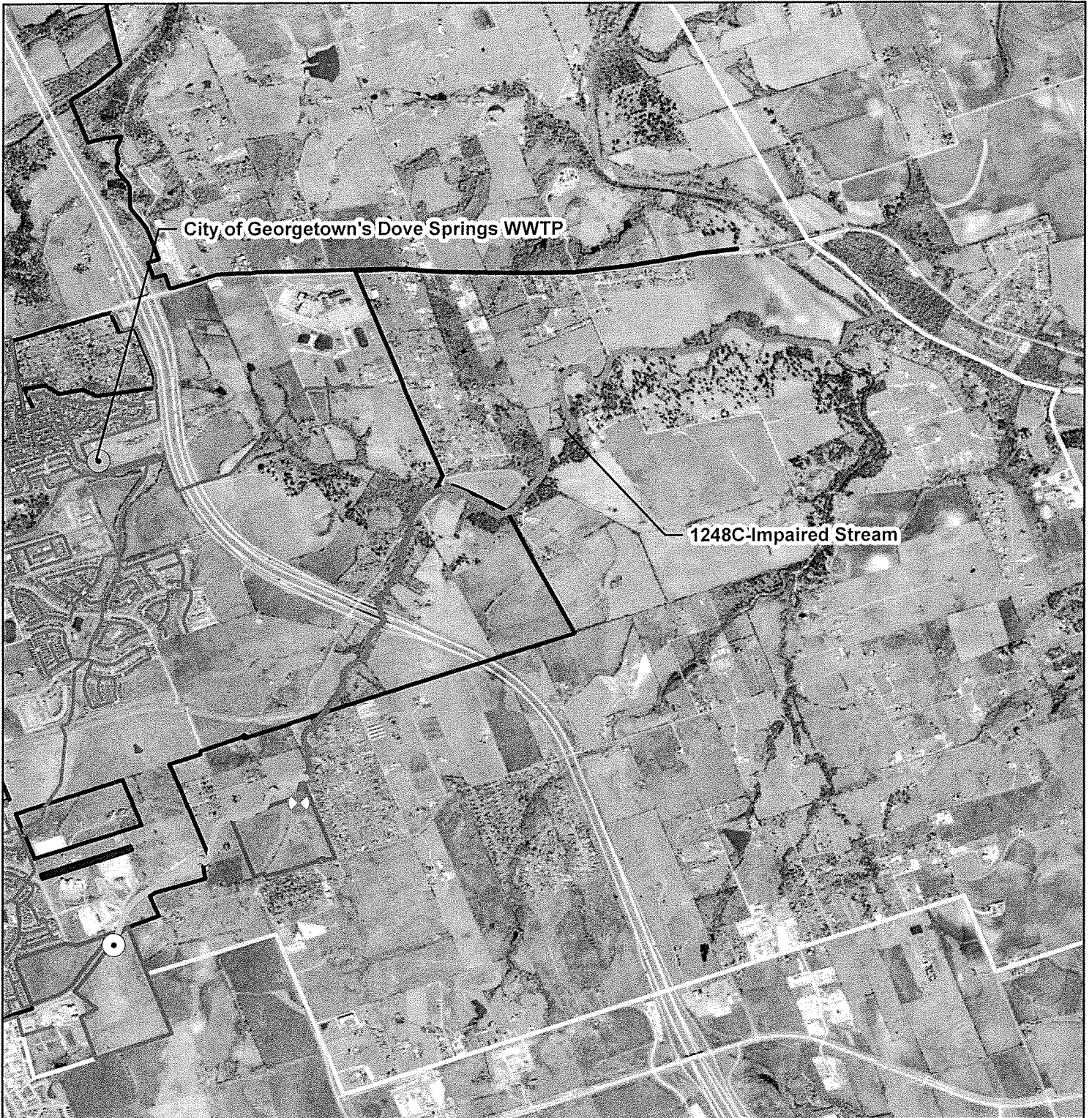




Figure 1 R040062 LP Development Evaluation

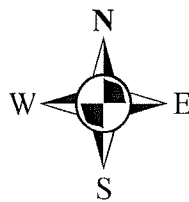
**Georgetown Water Utility
Indigo Interim Lift Station and Force Main
Opinion of Probable Construction Cost**

Item No.	Description	Quantity	Unit	Unit Price	Total Cost
1	8-inch Force Main	3400	LF	\$ 96	\$ 326,400
2	20-inch Bored Road Crossing	100	LF	\$ 1,050	\$ 105,000
3	Trench Safety/Silt Fence	3300	LF	\$ 5	\$ 16,500
4	Revegetation	3300	LF	\$ 7	\$ 23,100
5	Traffic Control	1	LS	\$ 5,000	\$ 5,000
6	0.8 mgd Lift Station	0.8	mgd	\$ 750,000	\$ 600,000
7	Miscellaneous	1	LS	\$ 200,000	\$ 200,000
	Construction Subtotal				\$ 1,276,000
8	Bonds and Insurance				\$ 38,300
9	Mobilization/Demobilization				\$ 63,800
10	Contractor Overhead & Profit				\$ 255,200
	Construction Subtotal				\$ 1,633,300
11	Professional Services				\$ 326,700
12	Easements: 25-ft Permanent				\$ 189,400
13	40-ft Temporary Construction				\$ 151,500
	Project Total				\$ 2,300,900

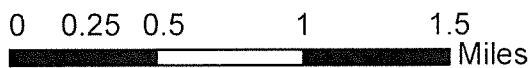


Legend

-  AIRW 2017-7 LP's Discharge Point
-  City of Georgetown's Dove Springs WWTP
-  RO40062, LP's Discharge Point
-  AIRW 2017-7 LP's Discharge Route
-  City's Wastewater Collection Lines (Existing)
-  Parcel Boundaries
-  Georgetown City Limits
-  Georgetown ETJ
-  RO40062, LP's and AIRW 2017-7 LP's Combined Discharge Route
-  Impaired
-  Un-Impaired



**AIRW 2017-7, LP
and
R040062, LP
Proposed Package Plants**



Lori Rowe

From: PUBCOMMENT-OCC
Sent: Wednesday, September 22, 2021 3:33 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WQ
Subject: FW: Public comment on Permit Number WQ0016008001

MWD
124974

From: sbichsel@gmail.com <sbichsel@gmail.com>
Sent: Wednesday, September 22, 2021 3:07 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0016008001

REGULATED ENTY NAME INDIGO WATER RESOURCES RECOVERY FACILITY

RN NUMBER: RN111287538

PERMIT NUMBER: WQ0016008001

DOCKET NUMBER:

COUNTY: WILLIAMSON

PRINCIPAL NAME: R040062 LP

CN NUMBER: CN605905942

FROM

NAME: Shawn D Bichsel

E-MAIL: sbichsel@gmail.com

COMPANY:

ADDRESS: 211 JACOBS WAY
HUTTO TX 78634-3045

PHONE: 5129664620

FAX:

COMMENTS: Shawn and Ena Bichsel 211 Jacobs Way, Hutto TX, 78634 512-966-4620 or 512-966-4630 sbichsel@gmail.com / enabixel@msn.com I am writing with concern about Permit NO. WQ0016008001, applicant R040062, LP. My name, address, phone number, and email address should be recorded as part of this message. Our property is directly downstream on Mankins Branch from the preliminary location of the outfall identified. By my measurement it is roughly 600' away and is the first downstream property affected by the flow from this outfall.

Mankins Branch enters our property at that point and continues through it until it reaches my neighbors property directly to the north of me. Mankins branch merges with another tributary on our property. The creek bed for Mankins Branch on our property is not more than 3 feet wide and we have concerns about what impact a year-round flow would have. The west 1/3 of our property falls within the FEMA Designated 100 Year flood plain and in fact floods far more frequently than every 100 years. Almost all the flow that cause the flooding on our property, comes from the property identified in this Permit. Our neighbor to the north has built a land bridge across Mankins Branch on his property that greatly impedes the flow during wet weather. This bridge / impediment can only be seen by foot from one of our properties. This man-made impediment only amplifies the flood problems on our property. So, we have another concern about what impact this facility would have on the flood problems we already experience. As stated in the letter sent to us and our neighbors, we can view and copy the permit at the Georgetown Public Library at 402 West 8th Street, Georgetown TX. I went to the library this morning (9/22/2021) and they have no record of this being on file. They questioned if this letter was real and why I would think it would be on file at the library. I spoke to 4 people there and all had great concern that the direction from TCEQ would be to visit them regarding this issue and this guidance would be put in a public facing document without their knowledge. Any contact information or additional documentation you can provide would be greatly appreciated. Preferably in a timely and expedited manner. As we have stated above, we believe we would be adversely affected by this facility in a way not common to the general public. We are available to talk in person at the numbers above or contact us via the email addresses provided. Please advise on what steps we should take next regarding our concerns with this permit and what forms of communication we should be expecting. If additional information is needed form us, do not hesitate to contact us.