

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Office of Chief Clerk Date: May 22, 2023
From: Michael Parr, Staff Attorney, Environmental Law Division
Subject: Transmittal of Documents for Administrative Record

Applicant: SJWTX, Inc. and Mary Jane Cielencki
Proposed Permit No.: WQ0016052001
Program: Water Quality Division
TCEQ Docket No.: 2023-0120-MWD

In a contested case hearing, the administrative record includes copies of the public notices relating to the permit application, as well as affidavits of public notices filed by the applicant directly with the Office of the Chief Clerk (OCC). In addition, the record includes the following documents provided to the OCC by the Executive Director's (ED) staff. See 30 TAC § 80.118.

This transmittal serves to also request that the OCC transmit the attached items, together with (a) the public notice documents (including notice of hearing), and (b) where available for direct referral cases only, the ED's Response to Comments to the State Office of Administrative Hearings.

Indicated below are the documents included with this transmittal:

1. The Executive Director's Response to Comments.
2. The Executive Director's Final Decision Letter.
3. The Executive Director's Response to Hearing Request.
4. The Executive Director's Technical Backup materials (Fact Sheet, Draft Permit Preliminary Decision, and the Compliance History).

Sincerely,



Michael Parr II
Staff Attorney
Environmental Law Division

TPDES PERMIT NO. WQ0016052001

APPLICATION BY SJWTX, INC.
AND MARY JANE CIELENCKI
FOR NEW TPDES PERMIT NO.
WQ0016052001

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BEFORE THE TEXAS
COMMISSION ON
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 application by SJWTX, Inc. and Mary Jane Cielencki (Applicant) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016052001, and on the ED's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code (30 TAC) Section (§) 55.156, before a permit is issued, the ED prepares a response to all timely, relevant, and material, or significant comments.

The Office of the Chief Clerk received timely comments from Texas State-Representative Kyle Biedermann, Isaiah Daily, Irma Llanas-Garza, Catherine Martin, Rebecca Newman, Maria Broadway, Ronald Wogulis, Jennifer Insalata, C.B. Harper, Amanda Saunders, Rindy Saunders, Eric Cardenas, Josephine Rosales, Lisa O'Sullivan, Susan Marder, Gwen Sternberg, Mary Abel, Michelle Ornelas, Linda Mohr, Cynthia Wilson, Wayne Woodliff, Fara Woodliff, Michael Meyers, Milber Berry, Nilsa Swift, Irene Renfro, Andrew Enochs, Juli Coen, Becky and Sid W. Atkinson, Bert and Julie Whitaker, Tiffany Platt, Karen Richardson, William Wessale, Margaret Ousset, Wendy Junod, Jennifer Sandifer, Cynthia Biela, Ann Hennis, A.R. Hoenninger, Thomas Hussion-Frantz, Megan Stockwell, Veronica Garcia, Ingrid Giral-Caanen, Ben Hudson, Erin Atcherhof, Barbara Felux, Joseph Diaz, Vanessa Diaz, Jennifer Insalata, Sandra Knoll, Arlene Nosker, Katrina Manning, John Bedingfield, Peter Soltys, Charles Kahn, Mark Carlson, Sarah Mercer, Ann Broadway, Jennifer Powell, Rebecca Newman, Maria Broadway, Victoria Rose, Raymond Sawiki, Daniel Phillips, Amanda Nicolet, Irene Renfro, Shari St Clair, Debra Allen, Lynsey Valencia, Owen Powell, Sara Williams, Frank Slade, Heidi White, Marian Henderson, Nathan Glavy, Analisa Peace, William Warren, Tony Taylor, Eva Silverfine, Alejandro Ruiz, Star McDonald, Dirk Davidek, Frank Zurovec, Colette Laine, Cathy Allen, Robert Butler, James Mayer, Jen Crownover, Sarah Thomas, Nathan Segovia, Thomas Mote, Linda Shaw, Juanita Proffitt, Danielle Villa, Hubrey Shipman, Alex Ruiz, Colette Lane, Raul Flores, Marlin Brown, Ed Lette, Karen Lette, Keith Hutchison, Paul Gescheidle, Linda Clark, Sharon Duval, Alden Jones.

This Response is intended to address all timely public comments received, whether withdrawn or not. However, if anyone would like 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 on the TCEQ web site at <http://www.tceq.texas.gov>.

BACKGROUND

The Applicant applied for TPDES Permit No. WQ0016052001 (**proposed permit**), which authorizes the discharge of treated domestic effluent, otherwise known as wastewater (**proposed discharge**), at a daily average flow limit of 60,000 or 0.06 million gallons per day (MGD) in the Interim Phase I, at a daily average flow limit of 0.15 MGD in the Interim Phase II, and a Final Phase flow limit of 0.26 MGD from the

Simmons Valley Wastewater Treatment Facility (**proposed facility**). The proposed permit authorizes sludge generated at the proposed facility to be disposed of at any TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

DESCRIPTION OF PROPOSED FACILITY/DISCHARGE ROUTE

If this permit is issued, the proposed facility will be located 0.25 miles northwest of the intersection of Rebecca Clark Road and U.S. Highway 281 North, in Comal County, Texas, serve the Simmons Valley Subdivision, and will be a Membrane Bioreactor (MBR) facility. Treatment units throughout the three phases of the proposed permit include an ultra-violet (UV) disinfection chamber, a sludge press, multiple equalization and sludge holding tanks, and multiple MBR and Pre-Aeration skids. The route of the proposed discharge is via pipe to Cypress Creek, then to the Guadalupe River Above Canyon Lake (Segment No. 1806 of the Guadalupe River Basin).

TECHNICAL REVIEW

The TCEQ has primary authority over water quality in Texas and also federal regulatory authority for the TPDES program, which controls discharges of pollutants into Texas surface waterbodies (“**water in the state**”). The Texas Water Code (TWC) § 26.027, authorizes the TCEQ to issue permits for discharges into water in the state, and the ED evaluates applications for discharge permits based on the information provided in the application and can recommend issuance or denial of an application based on its compliance with the TWC and TCEQ rules. Specifically, the ED’s review evaluates impacts from the proposed discharge on the receiving waters in the route for the proposed discharge, starting at the discharge point (via pipe to Cypress Creek).

The designated uses for Segment No. 1806, as listed at 30 TAC § 307.10, Appendix A (Texas Surface Water Quality Standards (TSWQS)) are primary contact recreation, public water supply, aquifer protection, and exceptional aquatic life use. The ED must provide the proper effluent limitations (limits) to protect these uses.

The Technical Review process for surface water quality is conducted by staff in the ED’s Water Quality Division, (**WQD staff**) on the Standards Implementation Team (**Standards Team**), and WQD staff in the Water Quality Assessment Section (**Modeling Team**).

With a goal of maintaining a level of water quality sufficient to protect the existing uses of the receiving waters, during the Technical Review of the application process WQD Staff reviewed the application according to the TSWQS and TCEQ’s *Implementation procedures for the Texas Surface Water Quality Standards-June 2010 (IPs)*. WQD staff performed multiple analyses during the Technical Review of the proposed permit, including but not limited to a review of the receiving waters of the route for the proposed discharge route by the Standards Team, and Water Quality Modeling runs by the Modeling Team using an “uncalibrated QUAL-TX” model.

Reviewing the receiving waters of the discharge route, along with other available information, allows the Standards Team to preliminarily determine the aquatic life uses in the area of the proposed discharge’s possible impact and assign the corresponding Minimum Dissolved Oxygen (**DO**) criterion as stipulated at 30 TAC § 307.5 (TSWQS) and in the TCEQ’s IPs. For every new discharge, the Standards Team performs an antidegradation analysis of the proposed discharge. As with all determinations, reviews, or analyses related to the Technical review of the proposed

permit, the above and below can be reexamined and subsequently modified upon receipt of new information or information that conflicts with the bases employed in the applicable review or analysis.

Segment No. 1806 is currently listed on the State's inventory of impaired and threatened waters (the 2020 CWA § 303(d) list). The listing is for bacteria from the confluence of Honey Creek in Comal County upstream to the confluence of Big Joshua Creek in Kendall County (AU 1806_08). The proposed facility is designed to provide adequate disinfection and, when operated properly, should not add to the bacterial impairment of the segment. In addition, in order to ensure that the proposed discharge meets the stream bacterial standard, an effluent limit of 126 CFU or MPN of *E. coli* per 100 ml has been added to the proposed permit.

One Total Maximum Daily Load for Bacteria in the Guadalupe River Above Canyon Lake for Segment No. 1806 (TMDL Project No. 65) has been approved for the segment. The TMDL was adopted by TCEQ on July 25, 2007, and it was approved by the U.S. Environmental Protection Agency (EPA) on September 25, 2007. Field investigations identified that excessive bacteria concentrations are confined to two small assessment areas within the City of Kerrville. The TMDL does not call for reduced bacteria limits for wastewater treatment facilities, so current or future facilities that discharge to the affected area are subject to the standard bacteria limits described in the Bacteria Rule.

The proposed permit's water quality-related limits, established by WQD staff's modeling results using an uncalibrated QUAL-TX model, will maintain and protect the existing instream uses. Similarly, conventional effluent parameters such as DO, Five-day Carbonaceous Biochemical Oxygen Demand (CBOD₅), Total Suspended Solids (TSS), and Ammonia Nitrogen (NH₃-N) 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.

Based on the Modeling Team's results, effluent limits for all flow phases of 5.0 mg/L CBOD₅, 2.0 mg/L NH₃-N, and 4.0 mg/L DO, based on a 30-day average, is predicted to ensure that DO levels will be maintained above the criterion established by the Standards Team for Cypress Creek (3.0 mg/L DO). Coefficients and kinetics used in the model are a combination of site specific, standardized default, and estimated values.

The effluent limits and conditions in the proposed permit meet requirements for secondary treatment and disinfection according to 30 TAC Chapter 309 (Subchapter A: Effluent Limits) and comply with the TSWQS (30 TAC §§ 307.1-10, *eff.* 7/22/2010) and the EPA-approved portions of the TSWQS (*eff.* 3/6/2014).

No priority watershed of critical concern has been identified in Segment 1806. However, the Peck's cave amphipod (*Stygobromus pecki*), Comal Springs dryopid beetle (*Stygoparnus comalensis*), Comal Springs Riffle Beetle (*Heterelmis comalensis*), and the fountain darter (*Etheostoma fonticula*) can occur in Comal County. This determination is based on the United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System (TPDES); September 14, 1998; October 21, 1998 update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic dependent species occurring in critical concern or high priority watersheds, as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to

subsequent updates or amendments to the biological opinion. EPA review is not required for the determination of the presence of endangered or threatened species.

PROCEDURAL HISTORY

The TCEQ received the application on October 7, 2021, and declared it administratively complete on December 14, 2021. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in Comal County, Texas in the *Herald Zeitung* on January 9, 2022. The ED completed the technical review of the application on April 13, 2022, and prepared the proposed permit, which if approved, would establish the conditions under which the proposed facility must operate. The Applicant published the Notice of Application and Preliminary Decision (NAPD) and Notice of Public Meeting in Comal County, Texas in the *Herald Zeitung* on May 31, 2022, and July 6, 2022 (respectively). The public comment period ended on August 11, 2022, at the close of the public meeting. Because this application was received after September 1, 2015, and because it was declared administratively complete after September 1, 1999, it is subject to both the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999, and the procedural requirements and rules implementing Senate Bill 709, 84th Legislature, 2015, which are implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55.

ACCESS TO RULES, LAWS AND RECORDS

- All administrative rules: Secretary of State Website: www.sos.state.tx.us
- TCEQ rules: Title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac/ (select TAC Viewer on the right, then Title 30 Environmental Quality)
- Texas statutes: www.statutes.capitol.texas.gov
- TCEQ website: www.tceq.texas.gov (for downloadable rules in WordPerfect or Adobe PDF formats, select “Rules, Policy, & Legislation,” then “Current TCEQ Rules,” then “Download TCEQ Rules”);
- Federal rules: Title 40 of the Code of Federal Regulations (C.F.R.) http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40tab_02.tpl
- Federal environmental laws: <http://www.epa.gov/lawsregs/>

Commission records for the Proposed facility are available for viewing and copying at TCEQ’s main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk, for the current application until final action is taken). Some documents located at the Office of the Chief Clerk may also be located in the TCEQ Commissioners’ Integrated Database at www.tceq.texas.gov/goto/cid. The permit application has been available for viewing and copying at the circulation desk of the Mammen Family Public Library located at 131 Bulverde Crossing, Bulverde, Texas 78163, since publication of the NORI. The final permit application, proposed permit, statement of basis/technical summary, and the ED’s preliminary decision have been available for viewing and copying at the same location since publication of the NAPD.

If you would like to file a complaint about the proposed facility concerning its compliance with the provisions of its permit, the TCEQ rules, or to address potential permit violations, you may contact the TCEQ Regional Office (Region 13) in San Antonio, TX at (210) 490-3096 or the statewide toll-free number at 1-888-777-3186. In addition, environmental or citizen complaints may be filed electronically at: <https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html>

(select “use our online form”) or through sending an email to the following address: cmplaint@TCEQ.state.tx.us.

If an inspection by the Regional Office finds that the Applicant is not complying with all the requirements of the proposed permit, or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.

COMMENTS AND RESPONSES

COMMENT 1:

Ann Hennis, Barbara Felux, Heidi White, Cathy Allen, Debra Allen, Isaiah Daily, Katrina Manning, Linda Shaw, Erin Atcherhof, William Warren, Heidi White, Joseph and Vanessa Diaz, Sandra Knoll, Jennifer Insalata, Ronald Wogulis, Thomas Hussion-Frantz, Megan Stockwell, Shari St. Clair, Lynsey Valencia, John Bedingfield, Rebecca Newman, Marian Henderson, Mary Abel, Rindy Saunders, Amanda Saunders, Wayne Woodliff, Fara Woodliff, Michael Meyers, Nilsa Swift, Cynthia Wilson, Juli Coen, Margaret Ousset, Wendy Junod, Jennifer Sandifer, Ingrid Giral-Caanen, Ben Hudson, Arlene Nosker, Raymond Sawiki, Sara Williams, Charles Kahn, Keith Hutchison, Mark Carlson, Sarah Mercer, Jennifer Powell, Owen Powell, Frank Slade, Eva Silverfine, Star McDonald, Frank Zurovec, Robert Butler, Sarah Thomas, Nathan Segovia, Sharon Duvall, Thomas Mote, Paul Gescheidle, Danielle Villa, Milber Berry, Raul Flores, Sid and Becky Atkinson, Bert and Julie Whitaker, Ed and Karen Lette, Tony and Ruth Taylor, and Andrew Enochs all commented in opposition to the proposed permit, the proposed facility, and the proposed facility’s location, while expressing opposition to Lennar Homes’ proposed development.

RESPONSE 1:

The ED acknowledges the comments in opposition to the proposed permit, the proposed facility, and the proposed facility’s location.

The issuance of a permit by the TCEQ does not authorize any injury to persons or property or an invasion of others property rights, and nothing in the proposed permit limits the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property. In addition, the scope of TCEQ’s regulatory jurisdiction does not limit the ability of nearby landowners to seek relief from a court in response to trespass, nuisance, other causes of action in response to activities that may or do interfere with the use and enjoyment of their property, or that may or do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property.

The Applicant has a duty to comply with all conditions of the proposed permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Health and Safety Code and is grounds for enforcement action, for permit amendment, revocation, or suspension, or for denial of a permit renewal application or an application for a permit for another facility.

If the proposed facility, proposed discharge, or the Applicant create any nuisance conditions, the TCEQ may be contacted by the methods described above, in the last paragraph on page 4 to investigate if potential permit violations occurred.

However, TCEQ’s permitting authority does not include the ability to mandate a different location for the facility if the location in the application complies with 30

TAC Chapter 309, Subchapter B (Location Standards), specifically 30 TAC § 309.13 pertaining to “Unsuitable Site Characteristics” for a discharge facility. The Applicant is the entity that proposes the location of the facility, the discharge point, and the route for the proposed discharge, rather than the ED.

Instead, the ED may only evaluate a location for the proposed facility according to the Location Standards in the TCEQ regulations and the effect(s) of the discharge on the uses of the receiving streams starting at the discharge point.

If an Applicant were to revise its application with a different location and discharge route for a treatment facility, the ED would reevaluate the new location and discharge route to make sure that the permit contains proper limits and conditions for the revised discharge route and location, which may require notice to additional landowners because of the new facility location and discharge route.

COMMENT 2:

Alden Jones, Ann Hennis, Arlene Nosker, Amanda Nicolet, Alex Ruiz, Alejandro Ruiz, Raymond Sawiki, Barbara Felux, Jennifer Powell, Charles Kahn, Erin Atcherhof, Juli Coen, Erin Atcherhof, William Warren, Heidi White, Debra Allen, Daniel Phillips, Joseph and Vanessa Diaz, John Bedingfield, Irma Llanas-Garza, Maria Broadaway, Nathan Segovia, Susan Marder, Robert Butler, Rindy Saunders, Cynthia Wilson, Michael Meyers, Irene Renfro, Wayne Woodliff, Wendy Junod, Fara Woodliff, Nilsa Swift, C.B. Harper, Sarah Thomas, Jennifer Sandifer, A.R. Hoenninger, Ingrid Giral-Caanen, Peter Soltys, Owen Powell, Frank Slade, Nathan Glavy, Analisa Peace, GEAA, Eva Silverfine, Star McDonald, Dirk Davidek, Frank Zurovec, Hubrey Shipman, Marlin Brown, Colette Laine, Marian Henderson, Thomas Mote, Juanita Proffitt, Danielle Villa, Wendy Junod, Milber Berry, Paul Gescheidle, Bert and Julie Whitaker, Sid and Becky Atkinson, Chris and Michelle Phelps, Mike and Linda Clark, and Tony and Ruth Taylor, all commented expressing concern over the possible adverse impacts from the proposed facility on human health, water quality within the discharge route, terrestrial wildlife, domestic animals, and livestock. GEAA and Sarah Mercer commented, questioning why there is no phosphorus limit in the proposed permit. Sarah Mercer commented, questioning why a Tier 2 review was not performed and whether there should be any further studies on toxicity limits, according to 30 TAC Section 307 for acute and chronic toxic criteria to protect aquatic wildlife and human health.

RESPONSE 2

The health concerns of area residents, as well as those of the public, are considered in reviewing an application for a domestic wastewater discharge permit. The TCEQ takes the concerns and comments expressed by the public, relating to human health, water quality, and protecting the State’s rivers and lakes, into consideration in deciding whether to issue a wastewater discharge permit.

Chapter 26 of the TWC and TCEQ’s water quality are written for the protection of public health, aquatic life, and the environment. Accordingly, the stated policy of both the Water Code and the TSWQS is:

to maintain the quality of water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, and the operation of existing industries, taking into consideration the economic development of the state; to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve

*the waste disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy.*¹

The proposed permit also requires the Applicant to “take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health.

WQD staff evaluated the application as an authorization to discharge treated wastewater into water in the State. Thus, the quality of the discharge and method of achieving that quality must follow the Federal Clean Water Act, TWC, and the TSWQS.

The TSWQS is a primary mechanism for the TCEQ to protect human health, surface and groundwater quality, aquatic life, the environment, and specifically, the designated uses of the receiving waters. The TSWQS require that discharges not cause surface waters to be toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals, not degrade receiving waters, and not result in situations that impair existing, attainable, or designated uses. Likewise, the TPDES program mandates that discharges of treated effluent into water in the state from facilities regulated by TPDES permits meet the requirements of the TSWQS.

As specified in the methodologies from the TCEQ IPs, TPDES permits issued by the TCEQ must maintain water in the state to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three. Relatedly, minor municipal facilities, such as the proposed facility, typically do not have industrial contributors, and therefore, do not have toxins in their effluent. In addition, permits must prevent adverse toxic effects on aquatic life, terrestrial life, livestock, and domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. The design of the proposed permit ensures these water quality standards will be supported.

WQD Staff drafted the proposed permit with provisions to ensure that the TSWQS will be maintained, ensuring the proposed discharge is protective of human health, aquatic life, livestock, domestic animals, and the environment. Likewise, the proposed permit’s effluent limits will protect the uses and quality of the waterbodies in the route of the proposed discharge for the benefit of the aquatic life and terrestrial wildlife that depend on it. WQD Staff determined that the proposed permit complies with the TSWQS, ensuring that the effluent discharged is protective of human health.

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

Protecting the water quality of the creeks and waterbodies of the discharge route are the assigned aquatic life uses themselves, which govern what uses and criteria will apply to protect Segment No. 1806 of the Guadalupe River Basin and the creeks upstream of Segment No. 1806, their uses and the aquatic life that dwell in them, as well as consumption by terrestrial wildlife. The proposed facility is a minor municipal facility that will discharge first via pipe to Cypress Creek, which is unclassified and has a “limited aquatic life” use, and then to the Guadalupe River Above Canyon Lake in Segment No. 1806 of the Guadalupe River Basin. Waterbodies

¹ Texas Water Code § 26.003 and 30 TAC § 307.1.

that support exceptional and high aquatic life uses have associated criteria that protect both the aquatic life that live in the waterbodies and terrestrial wildlife that use the waterbodies as a source of water or food. As such, the proposed discharge must meet a high DO criterion to support an aquatic community with exceptional and high-existing aquatic life uses.

Following the WQD's mission, WQD Staff drafted the proposed permit to preclude significant degradation of water quality in the waterbodies in the route of the proposed discharge by including effluent limits and monitoring requirements designed to ensure protection of the waterbodies according to the TCEQ rules and procedures.

To achieve the goal of supporting a level of water quality sufficient to protect existing uses of waterbodies, the proposed permit contains several water quality-specific parameters or requirements that limit the potential impact of the discharge on the receiving waters of the discharge route.

Correspondingly, an Antidegradation Review of the receiving waters was performed by the Standards Team according to the TSWQS and the TCEQ's IPs, with the Tier 1 review determining that existing water quality uses will not be impaired by the proposed discharge. The Tier 1 review also determined that within the stream reach assessed, no water bodies with exceptional, high, or intermediate aquatic life uses were present, negating the need for a Tier 2 review. Similarly, downstream of the proposed discharge, no significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses and existing uses will be maintained and protected. However, because the proposed discharge is directly to an unclassified water body, the Standards Team reviewed this permitting action in conformity with 30 TAC §§ 307.4(h) and (l) (TSWQS) and determined that for Cypress Creek, an unclassified waterbody, uses are limited aquatic life use with a corresponding DO criteria of 3.0 mg/L DO. The second tier of TCEQ's antidegradation policy generally applies to water bodies that have existing, designated, or presumed uses of intermediate, high, or exceptional aquatic life waters. Because Cypress Creek, an unclassified waterbody, has only a limited aquatic life use, a Tier 2 antidegradation review was not performed.

Alternatively, the proposed permit's effluent limits were developed by WQD Staff on the Modeling Team to maintain and protect the existing uses of the receiving waters (primary contact recreation, public water supply, and high aquatic life), which were identified by WQD Staff on the Standards Team. The Standards Team determined the uses of each waterbody in the discharge route and set the minimum dissolved oxygen criteria that must be met to ensure that the aquatic life uses of the waterbodies are maintained. For the proposed discharge route, Cypress Creek has limited aquatic life use with a corresponding 3.0 mg/L minimum DO criterion while the Guadalupe River above Canyon Lake (Segment No. 1806) has an exceptional aquatic life use with a corresponding 6.0 mg/L minimum DO criterion.

The proposed permit requires the Applicant to "take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health."

Additional protection of human health comes from the rule in 30 TAC § 309.3(g)(1) (Disinfection), which requires disinfection of domestic wastewater into water in the state in a manner conducive to the protection of both public health and aquatic life. The rules do not mandate a specific method of disinfection, as a permittee may disinfect domestic wastewater through use of 1) chlorination, 2) ultra-violet light,

or 3) an equivalent method of disinfection with prior approval from the ED. Whichever form is used, the design criteria for chemical disinfection by chlorine, including safety requirements, in 30 TAC Chapter 217, Subchapter K must be observed. Therefore, in accordance with the TCEQ rules (30 TAC § 309.3(g)(1)), the proposed permit requires the treated effluent to be disinfected prior to discharge in a manner conducive to protect both the public health and aquatic life.

For the proposed facility, the Applicant has chosen chlorine disinfection. Chlorination may be via gaseous, liquid, or tablet forms. Chlorine is one of the most practical and effective means of disinfection because it can kill disease-causing bacteria and nuisance organisms and can eliminate certain noxious odors during disinfection.² The effluent from the proposed facility, disinfected with chlorine, must contain a chlorine residual of at least 1.0 mg/L. The permit limit for maximum total chlorine residual is 4.0 mg/L after a detention time of at least 20 minutes (based on peak flow), which must be monitored five times per week by grab sample.³

Related to phosphorus, a key nutrient necessary for algae growth and often in limited supply in freshwater systems, consistent with TCEQ's IPs (June 2010), a nutrient screening was performed for the proposed discharge and indicated that site-specific conditions in the receiving waters may be conducive to algal growth. Specifically, the nutrient screening indicated that the low phosphorus levels in Hill Country waterways, minimal dilution, the high level of clarity of the water column, and lack of shade along the banks, required that the proposed permit contain a total phosphorus limit of 0.5 mg/L to preclude the excessive accumulation of algae. The likelihood of the proposed discharge stimulating excessive growth of algae or other aquatic vegetation is reduced significantly by restricting the amount of phosphorus in the treated wastewater.

WQD staff developed and designed the proposed permit to be protective of the uses of all water bodies that could be potentially affected by the proposed discharge. Similarly, the discharge is prohibited from causing significant degradation of water quality in any water bodies that exceed fishable/swimmable quality, such as Segment No. 1806. Fishable/swimmable waters are defined as waters that have quality sufficient to support propagation of indigenous fish, shellfish, terrestrial life, and recreation in or on the water. Additionally, the Texas Parks and Wildlife Department is the state agency that oversees and protects wildlife and their habitat. It can be contacted by calling 1-800-792-1112 or by mail at 4200 Smith School Road, Austin, Texas 78744. The TPWD received notice of the application and has not expressed any opposition to the proposed permit.

The ED has determined the proposed permit, if issued, meets all statutory and regulatory requirements and is protective of human health, water quality, and the environment.

COMMENT 3:

Sarah Mercer commented, questioning what values were evaluated in the DO modeling and the apparent discrepancy between the TSWQS listing a minimum of 6.0 mg/L DO for Segment No. 1806 and the Fact Sheet showing 4.0 mg/L DO limit.

² U.S. EPA *Wastewater Technology Fact Sheet- Chlorine Disinfection* (EPA 832-F-99-062)

³ SJWTX, Inc. and Mary Jane Cielencki Draft Permit, Effluent Limitations and Monitoring Requirements, p.2; *see also* 30 TEX. ADMIN. CODE § 309.3(g)(2)

RESPONSE 3:

DO concentrations are critical for the health of waterbodies and the protection of aquatic life. To ensure protective discharge limits in the proposed permit, DO modeling analyses are performed for TPDES permit applications to evaluate the potential instream DO impacts of discharges into surface waters by WQD staff on the Modeling Team. All discharge scenarios are different and are modeled as part of Technical Review, with the dissolved oxygen-related components included to evaluate the potential overall impact on instream DO levels. Instream DO levels are affected by various factors, including potential direct DO impacts by oxygen-demanding constituents in the proposed discharge, such as Five-day Carbonaceous Biological Oxygen Demand (CBOD₅), Ammonia-nitrogen (NH₃-N), and DO, which are the specific discharge limits determined by DO modeling analyses.

Oxygen-demanding constituents often have a larger and more prolonged downstream impact on DO levels in a water body than does the DO concentration of the discharge itself, which tends to have more of a localized impact. This highlights that the difference between a DO criterion and a DO limit is that the DO criteria applies to the waterbodies themselves, whereas DO limits are minimum concentration limits applicable to the proposed discharge and the discharge point, and are included in an individual permit to ensure that instream DO levels in the waterbodies downstream of the proposed discharge will meet the DO criteria applicable to those waterbodies. Consequently, a 4.0 mg/L minimum DO limit may play a greater role in the impact of the overall DO-related “effluent set” on instream DO levels in the immediate receiving water (e.g., a creek with a 3 mg/L DO criterion) than it does in the impact on instream DO levels in waterbodies further downstream (e.g., a classified water body with a 6 mg/L DO criterion).

In order to ensure that the DO modeling analyses and corresponding discharge limits are conservative and protective under all conditions, the proposed discharge was evaluated under what are expected to be the most unfavorable of environmental conditions, specifically hot and dry summertime conditions. These hot and dry conditions are identified in the Critical Conditions review during the Technical Review of the proposed permit, and can be derived from a Receiving Water Assessment (RWA) performed by TCEQ staff to collect data on the physical, chemical, and biological components of a receiving water. RWA are often performed during the “critical period” of the year—July 1 to September 30—when minimum stream flows, maximum temperatures, and minimum DO concentrations typically occur in Texas.⁴ The effluent parameters of a proposed permit must be protective of the receiving water, even during such “critical period” conditions. RWAs are not required as part of the application review process for a wastewater discharge.

Cypress Creek was determined to be an intermittent stream with perennial pools with a limited aquatic life use and was modeled with a presumption of zero background streamflow (i.e. treated effluent was given no dilution), with the only flow present in Cypress Creek at the point of discharge from the proposed discharge. Each proposed flow phase was modeled at its full proposed volume (interim I phase = 0.06 MGD, interim II phase = 0.15 MGD, & final phase = 0.26 MGD) and effluent limit concentrations of 5 mg/L CBOD₅, 2 mg/L NH₃-N, and 4.0 mg/L DO). This combination of conditions is a conservative, worst-case scenario that is unlikely to occur.

⁴ *Surface Water Quality Monitoring Procedures, Volume 1: Physical and Chemical Monitoring Methods*, TCEQ RG-415, August 2012

As such, the Modeling Team will determine and recommend an appropriate “effluent set” that includes individual discharge limits for CBOD₅, NH₃-N, and minimum effluent DO that are intended to ensure that instream DO levels will consistently be protected and maintained above the DO criteria assigned to the waterbodies with the route for the proposed discharge.

Based on the DO modeling analyses, the effluent set in the proposed permit in all phases, based on a 30-day average, are 5 mg/L BOD₅, 5 mg/L TSS, 2.0 mg/L NH₃-N, 0.5 mg/l total phosphorus, 126 colony forming units or most probable number of *E. coli* per 100 ml; with the effluent containing a minimum DO of 4.0 mg/L, which must be monitored once per week by grab sample. These limits are consistent with the requirements of the Edwards Aquifer Rules in 30 TAC Chapter 213.

COMMENT 4:

Sara Mercer commented, asking whether the DO modeling included the requirements that apply to the Guadalupe River past the confluence of Cypress Creek and Canyon Lake and whether stormwater or the cumulative effect of future requests for permits were factored in the DO modeling.

RESPONSE 4:

The DO model included the entire length of Cypress Creek from the point of discharge up to its confluence with the Segment No. 1806. In particular, the proposed discharge was modeled far enough downstream to include the bottom of the predicted “DO sag,” or the point where the lowest downstream DO concentrations were predicted to occur because of the oxygen-demanding constituents present in the proposed discharge. Modeling results indicated that even at the lowest predicted downstream DO concentration for each flow phase, 5.21 mg/L DO in Interim Phase I (0.06 MGD), 4.67 mg/L DO in Interim Phase II (0.15 MGD), and 4.31 mg/L DO in the Final Phase (0.26 MGD) DO levels would still be above the concentration required to demonstrate that the DO criterion for Cypress Creek (3.0 mg/L) will be met and maintained. Modeling results also indicated effluent concentrations would return to ambient concentration levels (i.e., 1.30 mg/L CBOD₅, 0.05 mg/L NH₃-N, and 6.0 mg/L DO) *prior* to the confluence of Cypress Creek and Segment No. 1806. Because the modeling results indicated that the proposed discharge’s effluent concentrations were already at ambient levels prior to entering the Guadalupe River, no impact to the instream DO levels of either the Guadalupe River above Canyon Lake (Segment 1806) or Canyon Lake (Segment 1805) is anticipated as a result of the proposed discharge.

Stormwater was not factored into the DO modeling analyses. As mentioned previously, zero base flow was assigned to Cypress Creek. This zero-base flow assignment is considered conservative as it affords no dilution for the proposed discharge to mix with.

Currently, there are no other discharges into Cypress Creek or any of its tributaries either upstream or downstream of the discharge point. If TCEQ receives future applications that propose to discharge in the same area, the potential combined and cumulative surface water impacts will be considered during future DO modeling.

COMMENT 5:

Sarah Mercer raised the question of why there are discrepancies between the information from the Fact Sheet for the proposed permit and the information provided

by the TSWQS and listed by the application. Specifically, the TSWQS' Appendix A provides a pH value range of 6.5 to 9.0 standard units (S.U.), but the Fact Sheet's pH value range is 6.0 to 9.0 S.U. Likewise, during Interim Phase I, the application lists a 2-hour peak flow of 0.24 MGD, equal to 200 gpm, but the Fact Sheet's 2-hour peak flow is 167 gallons per minute (gpm) for Interim Phase I. Similarly, during Interim Phase II, the application lists 2-hour peak flow of 0.6 MGD, equal to 500 gpm, but the Fact Sheet's 2-hour peak flow is 417 gpm for Interim Phase II.

RESPONSE 5:

The values or limits in the proposed permit are controlling and not the limits of values in the application. However, in response to Ms. Mercer's comment, the 2-hour peak flow limits for the Interim Phases I and II were re-calculated, and determined to be correct. The limits are calculated by converting the number from its MGD-decimal value to its normal form (0.24 MGD ~ 240,000), then dividing that number by 24 hours, then again by 60 minutes, and then converting the number back into its MGD-decimal value. The mathematical equation would be $0.24 \text{ MGD} = 240,000 \div 24 = 10,000 \div 60 = 1,66.67$, rounded up to 167 gpm for the Interim Phase I and $0.6 \text{ MGD} = 600,000 \div 24 = 25,000 \div 60 = 416.67$, rounded up to 417gpm for Interim Phase II.

In a case such as this, end-of-pipe compliance with pH limits between 6.0 and 9.0 S.U. reasonably assures instream compliance with the TSWQS for pH when the authorized discharge is from a minor facility, such as the proposed facility, even when the numeric criteria for pH for the receiving segment is 6.5 S.U. to 9.0 S.U., found at 30 TAC § 307.10(1). This technology-based approach reasonably assures instream compliance with TSWQS criteria due to the relatively smaller discharge volumes authorized by these permits. This conservative assumption is based on TCEQ sampling conducted throughout the state which indicates that instream buffering quickly restores pH levels to ambient conditions. Similarly, this approach has been historically applied within EPA issued NPDES general permits where technology-based pH limits were established to be protective of water quality criteria

COMMENT 6:

Alex Ruiz, Daniel Phillips, Barbara Felux, Gwen Sternberg, C.B. Harper, Margaret Ousset, A.R. Hoenninger, Veronica Garcia, William Warren, Raymond Sawiki, Sarah Mercer, Colette Laine, Owen Powell, Thomas Mote, Juanita Proffitt, Hubrey Shipman, and Sarah Mercer all commented, expressing concern that the proposed discharge is not safe to drink and on the impacts from the proposed discharge on the public water supply in Canyon Lake and nearby drinking water wells.

Ms. Mercer commented that because Segment No. 1806 is classified as Public Water Supply and subject to TCEQ's rules for public drinking water (30 TAC Chapter 290), Ms. Mercer asked whether there will be testing of radioactivity associated with dissolved minerals to ensure no exceedances of levels established by drinking water standards specified in TCEQ rule, why there are no requirements for chlorides, sulfates, total dissolved solids, chlorophyll, or temperature in the proposed permit, and what the effects will be to the public water supply in Canyon Lake will be.

RESPONSE 6:

The drinking water standards of the federal, Safe Drinking Water Act, and the TCEQ's rules found at 30 TAC Chapter 290 (Public Drinking Water) are inapplicable to discharges of domestic wastewater, such as the proposed discharge. This means that

the applicable drinking water standards do not require the proposed discharge to be treated to potable standards before it is discharged to Waters in the State.

Because the proposed discharge is not regulated by drinking water standards, the proposed permit does not test for radioactivity, and does not screen the levels of chlorides, sulfates, and total dissolved solids, as those constituents are only screened in discharges of 1.0 MGD and greater, and the proposed facility and discharge are classified as minor.

COMMENT 7:

Alex Ruiz, Barbara Felux, Gwen Sternberg, C.B. Harper, Margaret Ousset, A.R. Hoenninger, Veronica Garcia, William Warren, Raymond Sawiki, Colette Laine, Owen Powell, Thomas Mote, Juanita Proffitt, Hubrey Shipman, Ann Hennis, Linda Mohr, Daniel Phillips, Vanessa Diaz, Rindy Saunders, Cynthia Wilson, Nilsa Swift, Juli Coen, Jennifer Sandifer, A.R. Hoenninger, Ingrid Giral-Caanan, Debra Allen, Charles Kahn, Frank Slade, Dirk Davidek, Robert Butler, Catherine Martin, Eric Cardenas, Susan Marder, Irene Renfro, Cynthia Biela, Jennifer Powell, Sarah Mercer, and Tony and Ruth Taylor all commented, expressing concern about impacts to drinking water wells and depletion of the area's water supplies that come from aquifers, including the Edwards Aquifer.

RESPONSE 7:

The Executive Director's review of an application for a TPDES permit focuses on controlling the discharge of pollutants into water in the state, which includes both navigable and non-navigable water bodies. The Texas Water Code defines "water" or "water in the state" to mean groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.⁵

Groundwater availability (related to draw down and dry wells) is not under the authority of the TCEQ to consider when evaluating a discharge permit application. Groundwater availability may be under the jurisdiction of a Groundwater Conservation District (GCD). For information on GCDs, please call the ED's Water Availability Division (WSD) at (512) 239-4600. Areas that are not within a GCD are subject to the rule of capture. For more information on groundwater supplies, please contact the Texas Water Development Board at (512) 463-7847.

The legislature has determined that "the goal of groundwater policy in this state is that the existing quality of groundwater is not degraded. This goal of non-degradation does not mean zero-contaminant discharge."⁶ Chapter 26 of the Texas Water Code further states, "discharges of pollutants, disposal of wastes, or other activities subject to regulation by state agencies must be conducted in a manner that will maintain present uses and not impair potential uses of groundwater or pose a public health hazard (TWC § 26.401(c)(2)).

⁵ Texas Water Code § 26.001(5).

⁶ Texas Water Code § 26.401(b)

WQD staff determined that the proposed permit fully complies with the TSWQS, ensuring that the proposed discharge is protective of human health, water quality, aquatic life, and the environment. Further, the WQD has made the determination that if the surface water quality is protected, groundwater quality in the vicinity will not be impacted by the discharge. Thus, the limits of the proposed permit intended to maintain the existing uses and preclude degradation of the surface waters, protect against degradation of groundwater.

Further, 30 TAC § 309.13(c) states that a treatment unit at the proposed facility may not be located closer than 500 feet from a public water well nor 250 feet from a private water well. For public water sources, the provisions of § 309.13(c) bolster the safeguards from TCEQ's Groundwater Rule (GWR) that protect drinking water quality against disease-causing microorganisms.

However, the Ground Water Rule does not address private wells because they are not under the jurisdiction of the Safe Drinking Water Act and thus are not subject to TCEQ regulation. TCEQ does recommend that well owners periodically test their water for microbial and chemical contaminants and properly maintain their well. It is the responsibility of the private well owner to take steps to have his or her water quality tested at least annually for possible constituents of concern, or more often if the well is thought to have a surface water connection.

For further details about the information discussed in this paragraph, please see the Ground Water Links section below. For more information on total coliform and *E.coli* compliance related to the Revised Total Coliform Rule and the GWR, please see TCEQ's guidance, *Coliform Monitoring, Analyzing, and Reporting Guide* (RG-421). If your well tests positive for fecal coliform bacteria, please see Texas A&M AgriLife Extension's guidance, *What to Do About Coliform Bacteria in Well Water*, or TCEQ's guidance, *Disinfecting Your Private Well*. For more information about testing private water wells, please see the National Ground Water Association's *Water Testing*. For more information on groundwater contamination or reporting groundwater contamination, please see the Texas Groundwater Protection Committee's (TGPC) webpages, *Ground Water Contamination and Reporting Contamination*.

The TGPC may be contacted through email at tgpc@tceq.texas.gov, through the TGPC website, or at (512) 239-4600. However, for groundwater emergencies, please contact the TCEQ Regional Office (Region 13) in San Antonio, Tx at (210) 490-3096 or the statewide toll-free number at 1-888-777-3186.

Related to protection of the Edwards Aquifer (the Edwards), the TCEQ's Edwards Aquifer Protection Program (EAPP) regulates facilities that discharge treated wastewater or conduct other regulated activities over the three zones of the Edwards (Recharge, Contributing, Transition). Before commencing construction of facilities over the Edwards, an applicant must receive approval of its application for an Edwards Aquifer Protection Plan. In this case, approval of a Contributing Zone Plan (CZP) is required because TCEQ Regional Staff (Region 13) in the EAPP notified WQD staff that the application's Location Map identified the proposed facility's location and route for the proposed discharge as within the Edwards' Contributing Zone. A CZP is similar in nature to a Water Pollution Abatement Plan required for the same facilities located over the Edwards' Recharge Zone. Correspondingly, WQD staff then conveyed to the Applicant its responsibility to contact and work with TCEQ Regional Staff (Region 11 or 13) in the EAPP to ensure compliance with the Edwards's rules in 30 TAC Chapter 213.

The Applicant has since informed WQD staff that it is aware of the need for a CZP, which will be submitted to the EAPP by the Applicant's land development engineer. The Applicant informed WQD staff that submittal for approval of both the final design of the treatment system (Membrane Bioreactor) and the CZP will be done concurrently.

For more information about the protection of the Edwards Aquifer and the various Protection Plans, please visit the EAPP's website below or contact the TCEQ Regional Offices in San Antonio at (210) 490-3096 (Region 13), in Austin at (512) 339-2929 (Region 11), or the statewide toll-free number at 1-888-777-3186.

Ground Water Links

Coliform Monitoring, Analyzing, and Reporting Guide (RG-421)

<https://www.tceq.texas.gov/downloads/drinking-water/microbial/rg-421.pdf>

National Ground Water Association's webpage *Water Testing*

<http://wellowner.org/water-quality/water-testing/>

What to Do About Coliform Bacteria in Well Water

<https://twon.tamu.edu/wp-content/uploads/sites/3/2021/06/what-to-do-about-coliform-in-well-water.pdf>

Disinfecting Your Private Well

<https://www.tceq.texas.gov/publications/gi/gi-432.html>

Texas Groundwater Protection Committee (TGPC)

<https://tgpc.texas.gov/>

TGPC's *Groundwater Contamination and Reporting Contamination* webpages

<https://tgpc.texas.gov/groundwater-contamination/>

<https://tgpc.texas.gov/groundwater-contamination/#3>

Edwards Aquifer Protection Program

<https://www.tceq.texas.gov/permitting/eapp>.

COMMENT 8:

Alden Jones, Arlene Nosker, Erin Atcherhof, Tony Taylor, William Warren, Marian Henderson, A.R. Hoenninger, Irene Renfro, Wendy Junod, Erin Atcherhof, Heidi White, Sarah Mercer, Maria Broadaway, Charles Kahn, Thomas Mote, Jennifer Powell, Milber Berry and Bert and Julie Whitaker, Wayne and Fara Woodliff, and Sid and Becky Atkinson all commented, expressing concerns about adverse impacts to recreation in the waterbodies of the route of the proposed discharge.

RESPONSE 8:

The ability of the public to recreate in the waters of Texas is given significant consideration in the review of an application for, and the decision to issue a wastewater discharge permit. All waters in the state, whether intermittent or perennial, are considered as having primary contact recreational use, which includes activities that are presumed to involve a significant risk of ingestion of water. Unless otherwise specified in the TSWQS, these activities include wading by children, swimming, water skiing, diving, tubing, surfing, hand-fishing (as defined by Texas Parks and Wildlife Code, § 66.115), and whitewater activities like kayaking, canoeing, and rafting.

The Tier 1 Antidegradation review conducted by WQD Staff during the application's processing, indicates that the existing uses of the receiving streams, including primary contact recreation, will be maintained and protected from discharges made in compliance with the proposed permit. Also protecting the recreational users of Cypress Creek and its primary contact recreation use, is the rule in 30 TAC § 309.3(g)(1) (Disinfection), which requires that disinfection of domestic wastewater must be protective of both public health and aquatic life. The rules do not mandate a specific method of disinfection, as a permittee may disinfect domestic wastewater through use of 1) chlorination, 2) ultra-violet light, or 3) an equivalent method of disinfection with prior approval from the ED. For the CLWT facility, the Applicant has chosen chlorine disinfection. Chlorination may be via gaseous, liquid, or tablet forms; however, the design criteria for chemical disinfection by chlorine, including safety requirements, in 30 TAC Chapter 217, Subchapter K must be observed. Chlorine is the one of the most practical and effective means of disinfection because it can kill disease-causing bacteria and nuisance organisms and can eliminate certain noxious odors during disinfection.⁷ The effluent from the CLWT facility, disinfected with chlorine, must contain a chlorine residual of at least 1.0 mg/l and the permit limit for maximum total chlorine residual is 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow) and must be monitored five times per week by grab sample.⁸

Development of the proposed permit was according to 30 TAC Chapter 307 (TSWQS) and the TCEQ IPs to be protective of water quality and maintain the recreational uses of both Cypress Creek and Segment No. 1806, provided that the Applicant operates and maintains the proposed facility according to TCEQ rules and the proposed permit's requirements.

COMMENT 9:

Maria Broadaway, Nilisa Swift, Raymond Sawiki, Amanda Nicolet, Alejandro Ruiz, Colette Laine, Heidi White, GEAA, Andrew Enochs, Frank Slade, Rebecca Newman, Ingrid Giral-Caenen, Michelle Ornelas, Fara Woodliff, Juli Coen, Tiffany Platt, Nathan Glavy, Thomas Hussion-Frantz, William Wessale, Wendy Junod, and Sid and Becky Atkinson all expressed concerns, generally, about the design of the proposed facility.

Ms. Junod commented, asking if the proposed facility will be an open tank design. Mr. Wessale commented, asking where he can find the design of the proposed facility, did a civil Professional Engineer (P.E.) design, or approve of the proposed facility's design, what the maximum number of people or homes the proposed facility has been designed to accommodate, and if additional homes beyond the stated number in the application are built, what is the process to revise the license for the proposed facility. Mr. Enochs asked who enforces the limits in the proposed permit.

RESPONSE 9:

The quality of the proposed discharge must meet the goals, standards, and requirements of the Federal Clean Water Act, TWC, and the TSWQS. Equally important, the manner and method of achieving that quality must adhere to the same goals, standards, and requirements.

⁷ U.S. EPA *Wastewater Technology Fact Sheet- Chlorine Disinfection* (EPA 832-F-99-062)

⁸ SJWTX, Inc. and Mary Jane Cielencki Draft Permit, Effluent Limitations and Monitoring Requirements, p.2; see also 30 TEX. ADMIN. CODE § 309.3(g)(2)

Sampling, analysis, and reporting for compliance with provisions of the proposed permit must be performed by the Applicant according to the Monitoring and Reporting Requirements section and the Definitions and Standard Permit Conditions section of the proposed permit, which is from the rules found at 30 TAC §§ 319.4 - 319.12. Unless otherwise specified, data from Discharge Monitoring Reports (DMRs) must be submitted each month to the Compliance Monitoring Team of the Enforcement Division. DMRs can also be reviewed onsite by the investigators from the Enforcement Division at the TCEQ Regional Office (Region 13) in San Antonio, TX.

These and other requirements in the proposed permit have historically been effective at keeping applicants informed as to conditions at the facility related to meeting the effluent limits, and avoiding treatment system problems.

Further, the proposed facility must be designed according to the TCEQ rules, found at 30 TAC Chapter 217 (Design Criteria for Domestic Wastewater Systems). The TCEQ's domestic wastewater systems' design criteria identifies types of treatment technologies that achieve the same treatment levels in the proposed permit.

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

Similarly, Other Requirement No. 6 of the proposed permit requires the Applicant to submit a summary transmittal letter according to the requirements in 30 TAC § 217.6(d). If requested by the P&S Review Team, the Applicant must submit plans, specs, and a final engineering design report which complies with 30 TAC Chapter 217, (Design Criteria for Domestic Wastewater Systems). The Applicant must clearly show how the treatment system will meet the permitted effluent limitations required on Pages 2, 2a, and 2b of the proposed permit. The P&S Review Team's evaluation ensures that the plant design can adequately treat the proposed discharge according to the limits in the proposed permit. Once the plans and specifications are approved by the P&S Review Team, the Applicant will be required to build the proposed facility according to that approval.

The Applicant has not designated the treatment units that will have open-tops. The Specs and Review Team will also determine if a treatment technology or unit needs to be enclosed.

TCEQ has not received verification that the proposed facility was designed by a P.E.; however, correspondence with the Applicant indicates that it was. Though the Applicant has not submitted engineering plans and specifications for the proposed facility yet, information provided by the Applicant indicates the treatment system will be a Membrane Bioreactor system, which if properly designed and implemented, is capable of a very high level of performance and can produce effluent that has low levels of CBOD₅, ammonia-nitrogen, and TSS. The system also will utilize an anoxic zone to help reduce nutrients in the discharge. Treatment technologies utilized by the proposed permit and specific to the three phases include one equalization tank, one sludge holding tank, one MBR skid, and one ultra-violet (UV) chamber in Interim Phase I; one equalization tank, one sludge holding tank, two MBR skids, one Pre-Aeration (PA) skid, one sludge press and one UV chamber in Interim Phase II; and two equalization tanks, one sludge holding tank, four MBR skids, two PA skids, one sludge press and one UV chamber in the Final Phase.

The Applicant included Conceptual Layout Drawings as attachments to Domestic Technical Report 1.0 of the application. These drawings provide a general concept as to how the treatment systems and site will be laid out. Copies of the drawings, including a full and complete copy of the application, including a description of the treatment system, flow diagrams, measurements of the treatment units, and design calculations for all three phases of the proposed permit are available for viewing and copying at the TCEQ's Office of the Chief Clerk at the main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor and at the Circulation Desk of the Mammen Family Public Library, located in Bulverde, Texas at 131 Bulverde Crossing. At this point in the permitting process, the actual engineering design drawings or schematics would need to be acquired from the Applicant.

In the Final phase of the proposed permit, when the authorized flow is 260,000 gallons per day, there is sufficient flow for 718 houses, which is based on the TCEQ rules, found at 30 TAC § 217.32(a)(3). These rules provide design flows and loadings of influent for wastewater facilities. If the Applicant decides to increase the flow at the proposed facility due to increased development or accepting wastewater from other producers, it must submit an application for a Major Amendment to its permit.

COMMENT 10:

Nathan Glavy, Maria Broadaway, Nilsa Swift, Raymond Sawiki, Amanda Nicolet, Alejandro Ruiz, Colette Laine, Heidi White, GEAA, Andrew Enochs, Frank Slade, Rebecca Newman, Ingrid Giral-Caanen, Michelle Ornelas, Fara Woodliff, Juli Coen, Tiffany Platt, Thomas Hussion-Frantz, William Wessale, Wendy Junod, and Sid and Becky Atkinson all commented, expressing concerns about spills or malfunctions at the proposed facility and the qualifications of the operator at the proposed facility.

Mr. Wessale also commented that the application specifies a Class C operator's license, and asked for the criteria of plant complexity, technology, and daily effluent flow for plants requiring a Class A, B, and C Operator's licenses.

RESPONSE 10:

Spills are not expected to occur at this facility if it is maintained and operated in accordance with TCEQ rules and the provisions in the proposed permit. If spills occur at the facility, it would be an unauthorized discharge in violation of the proposed permit for which an enforcement action can be brought by TCEQ against the Applicant.

As such, Permit Condition 2(g) prohibits unauthorized discharge of wastewater or any other waste. The Applicant is required at all times to ensure that the proposed facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Consequently, spills should not occur. Nearby residents are protected by the fact that the Applicant can only discharge according to the limits, monitoring requirements, and other conditions listed in the proposed permit. The proposed permit also requires the Applicant to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment.

With respect to operation of the proposed facility, the proposed permit has safeguards intended to minimize the occurrence of operational mishaps. For example, Operational Requirement No. 1 requires the Applicant to ensure that the proposed facility and all its systems of collection, treatment, and disposal are always used and maintained properly. 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. Operational Requirement No. 8(b), requires that the proposed facility's plans and specifications must be approved by the P&S Review Team, and failure to secure approval before commencing construction or making a discharge is a violation of the permit and each day is an additional violation until approval has been secured. The P&S Review Team ensures that the plant design can adequately treat the proposed discharge according to the limits in the proposed permit.⁹ The proposed permit also requires the Applicant to report any unauthorized discharge to TCEQ within 24 hours.¹⁰

According to 30 TAC § 305.125(9), any noncompliance which may endanger human health or safety or the environment shall be reported by the Applicant to the TCEQ. Except as allowed by 30 TAC § 305.132, the report of noncompliance must be provided orally or by facsimile transmission to the Regional Office (Region 13) within 24 hours of becoming aware of the noncompliance. A written submission of the report of noncompliance information must also be provided by the Applicant to the Regional Office (Region 13) *and* the Compliance Monitoring Team of the Enforcement Division within five working days of becoming aware of the noncompliance.

The written submission must contain a description of the noncompliance and its cause; the potential danger to human health or safety or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.

All of these permit provisions are designed to help prevent unauthorized discharges of raw sewage.

Related to the category of the proposed facility and the required class of operator to run the proposed facility, the permit application does not specify either. The requirements for designating the minimum class of operator for the proposed facility are located in the TCEQ rules, found at 30 TAC § 30.350(e), and historically have been effective to ensure proper operation of wastewater facilities of various flow limits and designs. Thus, the Applicant may employ a Class B or Class A Operator for the proposed facility, but the proposed permit requires the Applicant to have at least a Class C operator, as the Class of operator needed, is dependent on the Category of the facility.

- A minimum Class C through A operator licenses satisfy the needs for a pond system preceded by primary treatment units for all discharge flow limits for a Pond System;
- A Class C operator license satisfies the needs for an activated sludge system operated in the extended aeration mode and oxidation systems with flow limits up to 1,000,000 gallons per day;

⁹ SJWTX, Inc. and Mary Jane Cielencki Draft Permit, Other Requirements, Item 6, p.34, *see also* 30 TEX. ADMIN. CODE § 217.6(d).

¹⁰ SJWTX, Inc. and Mary Jane Cielencki Draft Permit, Monitoring and Reporting Requirements, Item 7, p. 7.

- a Class B operator license satisfies the needs for an activated sludge system operated in the extended aeration mode and oxidation systems with flow limits up to 10,000,000 gallons per day;
- a Class A operator license satisfies the needs for an activated sludge system operated in the extended aeration mode and oxidation systems with flow limits above 10,000,000 gallons per day;
- a Class C operator license satisfies the needs for an activated sludge system operated in modes other than extended aeration with flow limits up to 1,000,000 gallons per day;
- a Class B operator license satisfies the needs for an activated sludge system operated in modes other than extended aeration with flow limits up to 10,000,000 gallons per day;
- a Class A operator license satisfies the needs for an activated sludge system operated in modes other than extended aeration with flow limits above 10,000,000 gallons per day;
- a Class C operator license satisfies the needs for trickling filter, rotating biological contactor, or other fixed film processes with flow limits up to 2,000,000 gallons per day;
- a Class B operator license satisfies the needs for trickling filter, rotating biological contactor, or other fixed film processes with flow limits up to 10,000,000 gallons per day; and
- a Class A operator license satisfies the needs for trickling filter, rotating biological contactor, or other fixed film processes with flow limits above 10,000,000 gallons per day.
- The rules at 30 TAC §35.350(f) require that a wastewater treatment facility requiring nutrient reduction shall require a wastewater operator with at least a Class C wastewater license.

The proposed facility has an authorized flow limit of no greater than 260,000 gallons per day and falls within the Class C operator requirements for all levels of technology, which meets the requirement of 30 TAC §35.350(f).

COMMENT 11:

Ann Hennis, Susan Marder, Irene Renfro, Mark Carlson, Nathan Glavy, Analisa Peace, GEAA, Eva Silverfine, Star McDonald, Collette Laine, Raul Flores, Linda Mohr, Alden Jones, Heidi White, Irma Llanas-Garza, Maria Broadaway, Gwen Sternberg, Frank Slade, Milber Berry, Collette Laine, Ed Lette, Keith Hutchison, Owen and Jennifer Powell, Chris and Michelle Phelps, and Mike and Linda Clark all commented that the proposed permit is not needed as the option to use septic systems is available or other reuse options. Many individuals requested that the proposed discharge is piped to Rebecca Creek Golf Course that is near the location of the proposed facility if the Applicant does not enlarge the subdivision plots to accommodate septic systems.

RESPONSE 11:

If the Applicant decides to utilize individual septic tanks to serve the proposed residential area, it will be subject to 30 TAC Chapter 285, relating to “On-site Sewage

Facilities (OSSF).”¹¹ However, the wastewater strength, or organic loading, of CBOD₅ and NH₃-N in untreated sewage from a residential subdivision is estimated to be 250-400 mg/l and 15 - 75 mg/l, respectively.¹² The proposed permit, for example, requires that the treated effluent shall not exceed 5 mg/l CBOD₅ with 2.0 mg/l NH₃-N.¹³ Therefore, the proposed facility will be required to achieve a more than 90%-95% reduction in CBOD₅ concentration in the treated effluent prior to discharge. In comparison, a well-maintained septic tank treats sewage to approximately 100 mg/l BOD₅ prior to discharging into the underground drain field or soil absorption field.

TWC § 26.027, authorizes the TCEQ to issue permits for discharges into waters in the state but does not give TCEQ the authority to mandate the method of disposal of treated effluent if the applicant adheres to the rules and provisions under TWC Chapter 26 and 30 TAC Chapters 217, 305, 307 and 309.

Instead, WQD staff evaluate applications for TPDES permits based on the information provided in the application. The sole responsibility of proposing the manner of treatment and disposal of the effluent is the Applicant’s. WQD staff can only recommend issuance or denial of an application based on the application’s compliance with the TWC and TCEQ regulations after reviewing the proposed wastewater treatment technologies and the effect(s) of the proposed discharge on the uses of the receiving waterbodies.

The proposed discharge may be disposed of via land application with a Texas Land Application Permit (TLAP) which authorizes the disposal of treated effluent by means of surface irrigation, subsurface irrigation, or evaporation. The effluent must be treated to the pollutant concentrations prescribed in 30 TAC § 309.4. However, a TLAP is a separate TCEQ authorization with its own application, regulatory requirements, and Technical Review.

A Chapter 210 reuse authorization is also a separate authorization from the TPDES permit. The TCEQ’s rules applicable to the beneficial reuse of reclaimed wastewater, found in 30 TAC Chapter 210, require that for the Applicant to obtain a beneficial reuse authorization, the Applicant must first have a TPDES permit or a no-discharge TLAP permit, which is a state permit for disposal of wastewater.¹⁴ TCEQ’s rules provide that use of reclaimed water may only be authorized for “on a demand” use, which prevents treated water from being provided during times it cannot be beneficially used and allows the reclaimed water user to refuse delivery of reclaimed water at any time.¹⁵ Subsequently, the reclaimed water producer must have a guaranteed method of effluent disposal via either a TPDES or TLAP permit. The TCEQ does not have the authority to require the Applicant to obtain a Chapter 210 reuse authorization. The Applicant may also choose to reuse any volume or up to 100% of the permitted volume, based on demand and need. TCEQ regulates reuse through a 210 authorization up to the amount of flow authorized in a TPDES permit. However, any of the options for the Applicant to use a different method for disposal of wastewater referenced above, would need to be made directly to and negotiated with

¹¹ 30 TEX. ADMIN. CODE § 285.4

¹² 30 TEX. ADMIN. CODE § 217.32(a)(3)

¹³ SJWTX, Inc. and Mary Jane Cielencki Draft Permit, Effluent Limitations and Monitoring Requirements, p. 2.

¹⁴ 30 TEX. ADMIN. CODE § 210.5(a)

¹⁵ 30 TEX. ADMIN. CODE § 210.7

the Applicant and be a decision for the Applicant to make and would be separate from the permitting process for this TPDES permit.

COMMENT 12:

Alden Jones, Catherine Martin, A.R. Hoenninger, Bed Hudson, Peter Soltys, James Mayer, Sarah Mercer, Jen Crownover, Megan Stockwell, Paul Gescheidle, Nilsa Swift, and Sid and Becky Atkinson all commented, expressing skepticism of the Applicant and the TCEQ related to the public notices for and with the transparency of the permitting process. Ms. Swift commented that there is a nefarious motive in having the public meeting on last day of comment period.

RESPONSE 12:

Notice provisions for Applicants and the TCEQ are found in 30 TAC Chapter 39 (Public Notice). When the ED determines that an application is administratively complete, the Chief Clerk mails this determination, along with a Notice of Receipt of Application and Intent to Obtain Permit (NORI), to the Applicant.¹⁶ Not later than 30 days after the ED determines that the application is administratively complete, the Applicant must publish the NORI in the newspaper that has the largest circulation within the county or municipality in which the facility is located.¹⁷ The Applicant must also make a copy of the administratively complete application available for public viewing in the county in which the facility is located.¹⁸ Finally, the Applicant, using county deed records, must identify all landowners adjacent to the proposed facility and discharge and submit the list to the TCEQ Chief Clerk's office so it can mail timely copies of the public notices for the application to the adjacent landowners.

After completing the technical review of an application, the ED files the preliminary determination and the proposed permit with the Chief Clerk.¹⁹ The Chief Clerk must mail the preliminary decision, along with the Notice of Application and Preliminary Decision (NAPD), to the Applicant, who must then publish the NAPD in the same newspaper as the NORI.²⁰ The Chief Clerk must also mail the NAPD to adjacent landowners and to persons who have filed public comment or hearing requests.²¹

The NAPD must set a deadline for filing public comments with the Chief Clerk that is no earlier than 30 days after its publication in a newspaper.²² If the ED holds a public meeting on the application after the 30 day period, then the public comment period is automatically extended to the end of the public meeting.²³ The ED may hold a public meeting at any time in the county where the facility is located if there is evidence of substantial public interest or if a legislator representing the general area where the facility will be located requests a meeting.²⁴ As the public comment period has ended, the ED must file this Response to Public Comments, addressing all timely,

¹⁶ 30 TAC § 39.418(a).

¹⁷ 30 TAC § 39.405(f).

¹⁸ 30 TAC § 39.405(g).

¹⁹ 30 TAC § 39.419(a).

²⁰ 30 TAC § 39.419(b).

²¹ 30 TAC § 39.413.

²² 30 TAC § 39.551(c)(3).

²³ 30 TAC § 55.152(b).

²⁴ 30 TAC § 55.154(c).

relevant and material, or significant public comments submitted during the comment period, regardless of whether the comments were withdrawn.²⁵

The notices are not intended to provide a full description of the application, but rather to provide instructions on where to obtain additional information, such as more comprehensive description of the information in the application. Documents associated with the application are made public at the locations below to allow the public to review them and determine if they have additional comments or questions.

In this case, the TCEQ received the application for a new permit on October 7, 2021, and the TCEQ Application Review and Processing Team performed an administrative review of the application which includes verifying that the landowners map and landowners list was prepared according to TCEQ policies and regulations. The Applicant provided the required landowners list and map to TCEQ, and the NORI and NAPD were mailed out to each person and address on the list. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in English on January 9, 2022 in the *Herald Zeitung* newspaper. The application was determined technically complete on April 13, 2022, and the Applicant published the Notice of Application and Preliminary Decision (NAPD) in English on May 31, 2022, in the *Herald Zeitung* newspaper. The Applicant also published the Notice of Public Meeting for the proposed permit in English on July 6, 2022, in the *Herald Zeitung* newspaper. The comment period for this application opened on January 9, 2022, with the publishing of the NORI and closed on August 11, 2022, at the close of the public meeting. As required by 30 TAC § 55.152 of the TCEQ's rules, the comment period was automatically extended to the close of the public meeting. If no public meeting had been held the comment period would have closed 30 days after the last publication date of the NAPD.

The Copies of the NORI, NAPD, and Notice of Hearing were mailed out to each person on the landowners list. Additionally, a copy of the permit application (including location maps) and the NAPD notice with a URL link to the TCEQ on-line location map (showing the location of the 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 the Chief Clerk) and at Mammen Family Public Library, Circulation Desk, 131 Bulverde Crossing, Bulverde, Texas. Additionally, during regular business hours, the public may review or copy the public file for this application, which includes the application, its attachments, the comment letters, this Response to Public Comment, and any other communications made during the review of this application, at TCEQ's Office of the Chief Clerk.

COMMENT 13:

Linda Mohr, Juli Coen, A.R. Hoenninger, Marlin Brown, Peter Soltys, Sarah Mercer, and Tony and Ruth Taylor all commented that an Environmental Impact Statement must be performed before the proposed permit is issued.

RESPONSE 13:

The National Environmental Policy Act (NEPA) requires federal agencies to integrate environmental values into their decision-making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. To meet this requirement, federal agencies must prepare detailed statements

²⁵ 30 TAC § 55.156.

which include an Environmental Assessment and either a Finding of No Significant Impact or Environmental Impact Statement. However, these requirements pertain to a proposed federal action. An environmental impact statement and compliance with NEPA are not required as part of the TPDES permitting process.

COMMENT 14:

Andrew Enochs commented questioning the identity of the Applicant, and if the Applicant, its subsidiaries, owners, or other companies owned by those owners, donated to political campaigns. Mr. Enochs asked if any of the parties have agreed to any community projects, whether and which politicians or representatives are running those projects, if there are financial beneficiaries from the proposed facility, if septic companies can discharge into the proposed facility and whether the Applicant is insured for that and the maximum expected loss in case the of a catastrophe.

RESPONSE 14:

SJWTX, Inc. doing business as Canyon Lake Water Service Company is the Applicant for the proposed permit and is registered with the Secretary of State's Office to do business in the State of Texas.

Disclosures concerning community projects, relationships with elected officials, political affiliations, the financial matters related to the proposed facility, the dollar amount of insurance covered and losses that could be incurred by the Applicant, is not information required to be provided in the application for a TPDES permit.

The Applicant has a duty to comply with all conditions of the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Health and Safety Code and is grounds for enforcement action, for permit amendment, revocation, or suspension, or for denial of a permit renewal application or an application for a permit for another facility.

It is possible site inspections to be delayed because circumstances beyond the control of TCEQ (e.g., natural that required TCEQ's attention elsewhere). However, TCEQ continues to strive to meet goals and benchmarks for compliance inspections of wastewater treatment facilities with available staff.

COMMENT 15:

Heidi White, Frank Slade, Rebecca Newman, Ingrid Giral-Caanen, Michelle Ornelas, Fara Woodliff, Juli Coen, Tiffany Platt, Thomas Hussion-Frantz, Jennifer Sandifer, Wendy Junod, and William Wessale all commented expressing concerns, about the dangers of industrial chemicals, pesticides, insecticides, prescriptions drugs, and illegal drugs possibly being present in the proposed discharge.

RESPONSE 15:

One group of Contaminants of Emerging Concern in water currently under investigation by the EPA, as well medical schools across the country, is Pharmaceutical and Personal Care Products (PPCPs). Examples of pharmaceuticals in water bodies are chemicals from prescription drugs such as antibiotics, analgesics, antidepressants, blood thinners, heart medications, pain killers, and over-the-counter medications. Examples of personal care products in water bodies are skin lotions, sunscreens, chemicals in cosmetics and fragrances, and detergents from shampoos and other soap.

While research is ongoing, there has not been any link or direct evidence of adverse human health effects from PPCPs in the environment. Additionally, the science on PPCPs is currently evolving, and while the EPA and other agencies continue to study the presence of PPCPs, there is currently no clear regulatory regime available to address the treatment necessary to remove PPCPs in domestic wastewater.

Similarly, wastewater treatment facilities are not currently designed to remove PPCPs from water. Nor are the water treatment facilities that treat the water to Drinking Water standards. Yet a certain amount of pharmaceutical contamination is removed when water gets treated for other purposes. For example, some research shows that conventional treatment methods result in a 90% decrease in the amount of ibuprofen and naproxen in the wastewater discharges. While some aspects of wastewater treatment may remove pharmaceuticals from the water, but the result is often increases to concentrations in sewage sludge, which may be used as fertilizer, so the pharmaceuticals are still getting into the environment.

Still, PPCP removal during municipal wastewater treatment has been documented in scientific literature.²⁶ Drinking-water treatment may also get rid of some pharmaceutical contamination as chlorine is used to kill bacteria and other pathogens, but it also seems to degrade or remove acetaminophen, codeine, and the antibiotic sulfathiazole. However, standard removal efficiencies have not been established for either type of facility, and neither the TCEQ, nor the EPA, has promulgated rules placing limits on PPCPs, nor rules on the treatment of PPCPs in domestic wastewater.

Until the availability of technologies required to remove PPCPs from the nation's waters, the EPA has taken a four-pronged approach that involves public education, stepped-up monitoring of water supplies, partnerships with health care facilities and agribusinesses to reduce waste, and eventually, perhaps, new regulations. As an introductory step toward possible regulation, the EPA has added 10 pharmaceutical compounds, one antibiotic and nine hormones, to its watch list of potentially harmful contaminants that warrant greater investigation.

Neither the TCEQ nor the EPA has rules on the treatment of illegal drugs in domestic wastewater. TCEQ encourages anyone who has knowledge of illegal activities such as illegal drug manufacturing or the presence of drug cartels in the area to contact the local law enforcement authorities and report the activity immediately.

At this time, TCEQ requires testing only for certain pesticides and other chemicals when a permit application is submitted for a major discharger (facilities with an authorized annual average flow limit of 1,000,000 gallons per day or more), or if water quality-based effluent limits for a pesticide(s)/insecticide(s) has been placed in a major discharger's permit due to a failed screening of that constituent(s) from analytical data submitted with the application.

The TCEQ does not anticipate that there will be any industrial wastewater, insecticides, and banned chemicals not allowed to be disposed of and routed to a water treatment plant; therefore, hazardous liquids and chemicals are not expected to be discharged into the collection system and enter the treatment system of the proposed facility. Additionally, Minor municipal facilities with conventional domestic sewage do not typically contain toxic compounds in measurable quantities that might

²⁶ *Treating Contaminants of Emerging Concern: A Literature Review Database*, EPA-8220-R-10-002, August 2010

result in toxic effects in the receiving waterbodies, unless there are significant industrial users contributing wastewater.

COMMENT 16:

Ann Hennis, Wendy Junod, and Hubrey Shipman commented, expressing concerns about foul odors from the proposed facility.

RESPONSE 16:

Instances of foul odors from a discharge of treated wastewater can exist when there are insufficient levels of dissolved oxygen (DO) present in the effluent; and therefore, all wastewater treatment facilities (WWTF) have the potential to generate odors. To prevent odors from occurring, the number of oxygen-demanding constituents must be controlled. The proposed effluent limits, specifically the minimum dissolved oxygen limit, restrict the amount of oxygen-demanding constituents and are set at levels to significantly reduce the odors in the effluent being discharged and prevent degradation of the receiving waters. Additionally, nuisance-odor controls have been incorporated into the proposed permit.

To control and abate odors, the TCEQ rules require domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor according to 30 TAC § 309.13(e), which provides options for applicants to satisfy the nuisance odor abatement and control requirements. The options are: 1) ownership of the buffer zone area; 2) restrictive easement from the adjacent property owners for any part of the buffer zone not owned by the Applicant; or 3) providing nuisance odor control.

According to the application, the proposed facility intends to comply with the requirement to abate and control nuisance odors by locating the treatment units at least 150 feet from the nearest property line and by ownership of the buffer zone. These requirements and legal restrictions are incorporated in the proposed permit. Therefore, nuisance odors are not expected to occur because of the permitted activities at the proposed facility if the Applicant operates the proposed facility in compliance with TCEQ's rules and the terms and conditions of the proposed permit.

COMMENT 17:

Cathy Allen, Debra Allen, Wayne Woodliff, William Wessale, Irene Renfro, Hubrey Shipman, Sarah Mercer, Wendy Junod, Colette Laine, Charles Kahn, Frank Slade, Ed Lette, Thomas Mote, and Tony and Ruth Taylor, among many others, commented, expressing concerns related to property values, noise, traffic, the negatives of urban growth and development, adverse economic impacts to tourism, border crime, road maintenance, political motivations, and air quality.

RESPONSE 17:

The ED acknowledges the significance of these concerns, however, while the ED encourages the participation of all citizens in the environmental permitting process, there are certain concerns of citizens that the TCEQ cannot address in the review of a wastewater discharge permit, as the scope of the ED's jurisdiction in a TPDES application is limited to the issues set out by statute. The Texas Legislature has given the TCEQ the responsibility to protect water quality, and section 26.027 of the Texas Water Code authorizes the TCEQ to issue permits to control the discharge of wastes or pollutants into the state's waters and to protect the water quality of the state's rivers, lakes, and coastal waters. As discussed above, the proposed permit protects water

quality according to the TCEQ rules and the Texas Water Code. However, the ED, through his Water Quality Division, has no jurisdiction to address fluctuations in property values, traffic or road maintenance, noise from the proposed facility, negative impacts from urban development and growth, border crime, or political motivations in the wastewater permitting process. The ED's jurisdiction is limited to controlling the discharge of pollutants into waters in the state and protecting the water quality of the state's waterbodies.

Alternatively, nothing in the proposed permit limits the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property.

Nor does the proposed permit limit the ability of a nearby landowner to seek relief from a court in response to activities that may or do interfere with the use and enjoyment of their property. If the Applicant's activities create any nuisance conditions, the TCEQ may be contacted to investigate whether a permit violation has occurred. Potential permit violations may be reported to the TCEQ Regional Office (Region 11) in Austin, TX at (512) 339-2929, or by calling the statewide toll-free number at 1-888-777-3186. Complaints may be filed electronically by using the methods described above in the third subsection of Background Information (Access to Rules, Laws, and Records).

The issuance of a permit by the TCEQ does not authorize any injury to persons or property or an invasion of others property rights. In addition, the scope of TCEQ's regulatory jurisdiction does not, nor does the proposed permit, limit the ability of nearby landowners to seek relief from a court or use common law remedies in response to trespass, nuisance, other causes of action in response to activities that may or do interfere with the use and enjoyment of their property, or that may or do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property. If the Applicant's activities create any nuisance conditions, the TCEQ may be contacted to investigate whether a permit violation has occurred.

Related to air quality, the TCEQ is the agency responsible for enforcing air pollution laws. The Texas Clean Air Act provides that certain facilities may be exempt from the requirements of an air quality permit if, upon review, it is found that those facilities will not make a significant contribution of air contaminants to the atmosphere and that human health and the environment will be protected. According to the TCEQ rules in 30 TAC § 106.532, wastewater facilities have undergone this review, and their air emissions are permitted by rule provided the facility performs only the functions listed in the rule. The Applicant indicated in its application that the treatment process of the proposed facility would use the Membrane Bioreactor process, which does not make a significant contribution of air contaminants to the atmosphere pursuant to the Texas Health and Safety Code's Texas Clean Air Act § 382.057 and § 382.05196, and is therefore permitted by rule.

CHANGES MADE TO THE PERMIT IN RESPONSE TO COMMENT

No changes to the proposed permit were made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Toby Baker, Executive Director

Charmaine Backens, Deputy Director
Environmental Law Division



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

REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on October 27, 2022, the Executive Director's Response to Public Comment for Permit No. WQ0016107001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



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

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

November 9, 2022

TO: All interested persons.

RE: SJWTX, Inc. and Mary Jane Cielencki
TPDES Permit No. WQ0016052001

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** This decision will be considered by the commissioners at a regularly scheduled public meeting before any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter are instructions to view the Executive Director's Response to Public Comment (RTC) on the Internet. Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov. A complete copy of the RTC (including the mailing list), complete application, draft permit and related documents, including public comments, are available for review at the TCEQ Central Office. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Mammen Family Public Library, Circulation Desk, 131 Bulverde Crossing, Bulverde, 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 COMMENT
for
SJWTX, Inc. and Mary Jane Cielencki
TPDES Permit No. WQ0016052001

The Executive Director has made the Response to Public Comment (RTC) for the application by SJWTX, Inc. and Mary Jane Cielencki for TPDES Permit No. WQ0016052001 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 (WQ0016052001) and click the "Search" button. The search results will display a link to the RTC.

Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov.

Additional Information

For more information on the public participation process, you may contact the Office of the Public Interest Counsel at (512) 239-6363 or call the Public Education Program, toll free, at (800) 687-4040.

A complete copy of the RTC (including the mailing list), the complete application, the draft permit, and related documents, including comments, at the TCEQ Central Office in Austin, Texas. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Mammen Family Public Library, Circulation Desk, 131 Bulverde Crossing, Bulverde, Texas.

MAILING LIST
for
SJWTX, Inc. and Mary Jane Cielencki
TPDES Permit No. WQ0016052001

FOR THE APPLICANT:

Austin Clements, Process Engineer
Integrated Water Services, Inc.
4001 North Valley Drive
Mead, Colorado 80504

Jamie Miller, Director of Engineering
Integrated Water Services, Inc.
4001 North Valley Drive
Mead, Colorado 80504

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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157 GLADIOLA ST
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859 COYOTE TRL
SPRING BRANCH TX 78070-6335

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ARTHUR , DAVID & DEBORAH
552 RIVER HAWK
SPRING BRANCH TX 78070-5062

ASHER , NINA
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SAN ANTONIO TX 78245-3557

BAILEY , JESSICA
957 GOLF COURSE DR E
SPRING BRANCH TX 78070-4429

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2009 MOUNTAIN FRST
SPRING BRANCH TX 78070-7033

BARNETT , LESLIE
1201 PHANTOM RIDER TRL
SPRING BRANCH TX 78070-6299

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161 RIDDLE RD
SPRING BRANCH TX 78070-5436

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1645 CROSSBOW DR
CANYON LAKE TX 78133-4198

BESSELMAN , CAROLYN
522 BLACKBIRD DR
SPRING BRANCH TX 78070-5280

BIEDERMANN , THE HONORABLE KYLE STATE
REPRESENTATIVE
TEXAS HOUSE OF REPRESENTATIVES DISTRICT 73
PO BOX 2910
AUSTIN TX 78768-2910

BIEDERMANN , THE HONORABLE KYLE STATE
REPRESENTATIVE
TEXAS HOUSE OF REPRESENTATIVES DISTRICT 73
STE 101
616 W MAIN ST
FREDERICKSBURG TX 78624-3132

BIELA , CYNTHIA A
10020 REBECCA CREEK RD
SPRING BRANCH TX 78070-4806

BLEASDELL , GARY
527 HIDDEN SPRINGS DR
SPRING BRANCH TX 78070-5148

BROADAWAY , ANN
STE 100-115
113 STARGRASS
SPRING BRANCH TX 78070-5164

BROADAWAY , MARIA
514 ARTHUR CT
SPRING BRANCH TX 78070-5448

BROWN , MARLIN K
31567 HIGH RIDGE DR
BULVERDE TX 78163-2184

BUTLER , ROBERT C
381 BENT OAK DR
SPRING BRANCH TX 78070-6313

BUZEN , EVITA
386 LANTANA XING
SPRING BRANCH TX 78070-6285

CARDENAS , MR ERIC
5034 KENILWORTH BLVD
SPRING BRANCH TX 78070-7237

CARLSON , DANIEL MARK
148 SERENE ST
SPRING BRANCH TX 78070-5297

CARLSON , MARK
148 SERENE ST
SPRING BRANCH TX 78070-5297

CASTILLO QUINTERO, JAZIEL &
QUINTERO, EDGAR
1313 PALADIN TRL
SPRING BRANCH TX 78070-4957

CLARK , LINDA
PO BOX 8
SPRING BRANCH TX 78070-0008

CLARK , LINDA & MIKE
PO BOX 8
SPRING BRANCH TX 78070-0008

COEN , JULI
PO BOX 921
SPRING BRANCH TX 78070-0921

CORBIN , BARRY
432 WHISTLERS WAY
SPRING BRANCH TX 78070-0089

CRIST , MAJ WAYNE W
522 SAXET TRL
SPRING BRANCH TX 78070-4966

CROWNOVER , MRS JEN
COMAL COUNTY COMMISSIONER PRECINT 4
150 N SEGUIN AVE
NEW BRAUNFELS TX 78130-5146

CROWNOVER , JEN
100 MAIN PLZ
NEW BRAUNFELS TX 78130-5115

CUMMINGS , JEAN
1223 PHANTOM RIDER TRL
SPRING BRANCH TX 78070-6299

DAILY , ISAIAH WILSON
2705 CONNIE DR
CANYON LAKE TX 78133-5266

DAVIDEK , DIRK
APT 851
144 LANDA ST
NEW BRAUNFELS TX 78130-7998

DIAZ , JOSEPH L
226 GAUNTLET
SPRING BRANCH TX 78070-5396

DIAZ , VANESSA M
226 GAUNTLET
SPRING BRANCH TX 78070-5396

DOWLEN , STUART
412 REDLAND DR
SPRING BRANCH TX 78070-6047

DUVALL , DOUGLAS
207 RODNEY LN
CANYON LAKE TX 78133-1903

DUVALL , SHARON
207 RODNEY LN
CANYON LAKE TX 78133-1903

ENOCHS , ANDREW
3059 VIEW RIDGE DR
SPRING BRANCH TX 78070-6806

EVANS , ROBERT L
810 HIDDEN OAKS DR
BULVERDE TX 78163-3036

EVERGRACE , TIFFANY
3600 TANGLEWOOD TRL
SPRING BRANCH TX 78070-5394

FASANO , ANTHONY & LEATINE
216 MELODY MDWS
SPRING BRANCH TX 78070-6525

FELUX , BARBARA
454 PHANTOM RIDER TRL
SPRING BRANCH TX 78070-5880

FILIP , DIANNE
31884 CAST IRON CV
BULVERDE TX 78163-4045

FINLEY , KASI
1162 THUNDER CLOUD
SPRING BRANCH TX 78070-5841

FLORES , RAUL
NO 284
132 BLAZING MEADOW RD
SPRING BRANCH TX 78070-6393

FOLEY , TERRENCE J
576 RIVER WAY
SPRING BRANCH TX 78070-6028

GARCIA , MR & MRS ALEX
2175 FRONTIER
SPRING BRANCH TX 78070-5999

GARCIA , RONALD J
15060 HIGHWAY 46 W
SPRING BRANCH TX 78070-7061

GARCIA , VERONICA
15060 HIGHWAY 46 W
SPRING BRANCH TX 78070-7061

GASS , DUSTIN
901 BRENT SPRINGS RD
SPRING BRANCH TX 78070-4976

GASS , GLORIA
PO BOX 31
SPRING BRANCH TX 78070-0031

GASS , SHELLY
859 BRENT SPRINGS RD
SPRING BRANCH TX 78070-4987

GESCHEIDLE , CHERYL
1340 NIGHTINGALE
SPRING BRANCH TX 78070-4729

GESCHEIDLE , PAUL
1340 NIGHTINGALE
SPRING BRANCH TX 78070-4729

GIRAL-CAANEN , INGRID
PO BOX 677
SPRING BRANCH TX 78070-0677

GLAVY , MR NATHAN M
GREATER EDWARDS AQUIFER ALLIANCE
1809 BLANCO RD
SAN ANTONIO TX 78212-2616

GLAVY , MR NATHAN M
GREATER EDWARDS AQUIFER ALLIANCE
PO BOX 15618
SAN ANTONIO TX 78212-8818

GRAINGER , STEVEN
130 STALLION SPRINGS DR
FISCHER TX 78623-1855

GRIMES , SYLVIA
211 SCOUT LN
SPRING BRANCH TX 78070-3780

GRIMES , WILLIAM
211 SCOUT LN
SPRING BRANCH TX 78070-3780

HARPER , LT COL C B
1441 WHISPERING WATER
SPRING BRANCH TX 78070-5615

HARRISON , NANCY H
PO BOX 923
SPRING BRANCH TX 78070-0923

HENDERSON , MARIAN F
1116 SANTA ROSA CT
CANYON LAKE TX 78133-4797

HENNIS , ANN
ANN HENNIS PC
PO BOX 613
SPRING BRANCH TX 78070-0613

HENNIS , ANN
148 SERENE ST
SPRING BRANCH TX 78070-5297

HEWETT , DEBORAH
PO BOX 916
BLANCO TX 78606-0916

HOENNINGER , A R
1984 CAMPFIRE
SPRING BRANCH TX 78070-6903

HOENNINGER , DONNA
1984 HOENNINGER
SPRING BRANCH TX 78070

HUDSON , BEN
510 TARA DR
SAN ANTONIO TX 78216-3752

HUDSON , MR BEN
STE 115-618
20540 HIGHWAY 46 W
SPRING BRANCH TX 78070-6821

HUGHES , DAVID
2286 WHISPERING WATER
SPRING BRANCH TX 78070-8000

HUSSION-FRANTZ , THOMAS
5469 CHIMNEY ROCK
CANYON LAKE TX 78133-3929

HUTCHISON , KEITH
PO BOX 1032
SPRING BRANCH TX 78070-1032

INSALATA , JENNIFER
702 EMORY DR
FREDERICKSBURG TX 78624-5386

JOHNSON , ALAN
1410 MISTY LN
SPRING BRANCH TX 78070-5869

JONES , ALDEN
26719 RUSTIC BRK
SAN ANTONIO TX 78261-2384

JULIAN , ANDREA
10038 CREEKWOOD PASS
SPRING BRANCH TX 78070-7019

JUNOD , WENDY
1121 WHISPERING WATER
SPRING BRANCH TX 78070-5618

KAHN , DR. CHARLES D
772 PACIFIC PL
SPRING BRANCH TX 78070-4079

KELLY , JEROME
267 STEEPLEBROOK
SPRING BRANCH TX 78070-6044

KNOLL , MRS SANDRA KAY
1167 MYSTIC PKWY
SPRING BRANCH TX 78070-5417

LAINE , MRS COLETTE
NO 284
132 BLAZING MEADOW RD
SPRING BRANCH TX 78070-6393

LAUDERDALE , KAREN & TOM
1422 LEDGEBROOK
SPRING BRANCH TX 78070-4961

LEACH , KELLY
STE 105-114
1141 N LOOP 1604 E
SAN ANTONIO TX 78232-1339

LEMIRE , CELESTE
184 ALGERITA LN
SPRING BRANCH TX 78070-6764

LETTE , EDWARD
1245 PHANTOM RIDER TRL
SPRING BRANCH TX 78070-6299

LETTE , KAREN
1245 PHANTOM RIDER TRL
SPRING BRANCH TX 78070-6299

LLANAS-GARZA , IRMA
5034 APACHE MOON
SPRING BRANCH TX 78070-3902

MANNING , KATRINA D
210 OVERVIEW PL
SPRING BRANCH TX 78070-5523

MARDER , JOEL
6017 CORNWALL DR
SPRING BRANCH TX 78070-7222

MARDER , SUSAN
6017 CORNWALL DR
SPRING BRANCH TX 78070-7222

MARTIN , CATHERINE
2146 COMAL SPGS
CANYON LAKE TX 78133-5986

MAYER , JAMES A MAYOR
CITY OF SPRING BRANCH
PO BOX 1143
SPRING BRANCH TX 78070-1143

MAYNE , GARY & KAREN
1088 FOUR WINDS DR
CANYON LAKE TX 78133-2122

MCDONALD , STAR
27111 BOERNE FRST
BOERNE TX 78006-5226

MERCER , SARAH
106 CIELO VIS
CANYON LAKE TX 78133-4444

MESZLER , JANNINE
300 BLAZING MEADOW RD
SPRING BRANCH TX 78070-6354

MOELLER , DENNIS
209 HIGH POINT CIR
SPRING BRANCH TX 78070-5065

MOHR , LINDA HOLLEY
6013 CORNWALL DR
SPRING BRANCH TX 78070-7222

MONARREZ , ALVARO
103 CASCADA PT
SPRING BRANCH TX 78070-4858

MOTE , THOMAS
PO BOX 1013
SPRING BRANCH TX 78070-1013

MYERS , MARYLIN & MICHAEL
187 CYPRESS SPRINGS DR
SPRING BRANCH TX 78070-4639

MYERS , MICHAEL C
202 SWIFT PL
SPRING BRANCH TX 78070-5063

NEWMAN , REBECCA C
745 PACIFIC PL
SPRING BRANCH TX 78070-4079

NICOLET , AMANDA
28906 FRONT GATE
FAIR OAKS RANCH TX 78015-5126

NOSKER , ARLENE
1052 FABLED WAY
SPRING BRANCH TX 78070-5483

ORNELAS , MICHELLE
463 HAVASU PT
SPRING BRANCH TX 78070-5522

OSULLIVAN , LISA
11023 PORTSMOUTH DR
SPRING BRANCH TX 78070-6419

OUSSET , MARGARET
9020 CREEKWOOD PASS
SPRING BRANCH TX 78070-7018

PARKER , MARTI
31665 TRES LOMAS
BULVERDE TX 78163-4174

PATTERSON , JOHN & JUDY
230 WINDING MEADOW LN
SPRING BRANCH TX 78070-6357

PEACE , ANNALISA
GREATER EDWARDS AQUIFER ALLIANCE
1809 BLANCO RD
SAN ANTONIO TX 78212-2616

PEACE , ANNALISA
GREATER EDWARDS AQUIFER ALLIANCE
PO BOX 15618
SAN ANTONIO TX 78212-8818

PEHELPS , CHRIS & MICHELLE
8195 US HIGHWAY 281 N
SPRING BRANCH TX 78070-0077

PHILLIPS , DANIEL H
520 LANTANA RDG
SPRING BRANCH TX 78070-5692

PHILLIPS , LYNN
25035 LONGBRANCH RUN
SAN ANTONIO TX 78261-2392

PITTMAN , TERRY
325 STEAMBOAT
CANYON LAKE TX 78133-6946

PLATT , TIFFANY
11019 CANTERBURY RD
SPRING BRANCH TX 78070-7211

POOL , CHESTER
117 MILFOIL LN
SPRING BRANCH TX 78070-5599

POWELL , JENNIFER
270 FAWN LN
SPRING BRANCH TX 78070-5603

POWELL , MR OWEN
270 FAWN LN
SPRING BRANCH TX 78070-5603

POWER , CHRYSTINA
88 CALENDULA ST
SPRING BRANCH TX 78070-5269

PRINCE , THERESA
259 STEEPLEBROOK
SPRING BRANCH TX 78070-6044

PROFFITT , JUANITA MARGA
740 CRAIG LN
SPRING BRANCH TX 78070-6316

RENFRO , IRENE M
251 LANDONS WAY
SPRING BRANCH TX 78070-4949

RICHARDSON , KAREN
813 LANDING PT
SPRING BRANCH TX 78070-5445

RIOS , MIKAELA
539 RIVER HAWK
SPRING BRANCH TX 78070-5062

RIVAS , RAYMOND
PERALES ALLMON & ICE PC
1206 SAN ANTONIO ST
AUSTIN TX 78701-1834

RIVERA JR , IVAN
5005 BLUE IVY
BULVERDE TX 78163-2378

RODRIGUEZ , JACKELINE
29650 ANCESTRAL TRL
BULVERDE TX 78163-4308

ROSALES , JOSEPHINE
179 PRAIRIE DAWN
SPRING BRANCH TX 78070-5183

ROSAS , SYLVIA
32912 MONICA VW
BULVERDE TX 78163-1838

ROSE , VICTORIA
SAVE OUR SPRINGS ALLIANCE
STE D401
4701 W GATE BLVD
AUSTIN TX 78745-1479

RUIZ , MR ALEJANDRO
3218 BUCK MEADOW TRL
SPRING BRANCH TX 78070-6390

RUIZ , SILVIA
3218 BUCK MEADOW TRL
SPRING BRANCH TX 78070-6390

RYAN , DAN
1127 AGUAYO DR
CANYON LAKE TX 78133-3025

SANDIFER , JENNIFER
6528 FALCON RDG
SPRING BRANCH TX 78070-6536

SAUNDERS , AMANDA
5237 ASCOT AVE
SPRING BRANCH TX 78070-6427

SAUNDERS , RINDY
5237 ASCOT AVE
SPRING BRANCH TX 78070-6427

SAWICKI , RAYMOND
235 PUZZLE PASS
SPRING BRANCH TX 78070-5536

SHAW , LINDA JEAN
1123 LAKE DR
SPRING BRANCH TX 78070-3880

SHIPMAN , HUBREY G
PO BOX 1267
SPRING BRANCH TX 78070-1267

SILVERFINE , EVA
1309 THE LOW RD
SAN MARCOS TX 78666-1821

SLADE , FRANK G
302 STALLION ESTATES DR
SPRING BRANCH TX 78070-3738

SLOANE , KATHRYN
11006 CANTERBURY RD
SPRING BRANCH TX 78070-2200

SMITH , CAROL & DAVE
424 REDLAND DR
SPRING BRANCH TX 78070-6047

SOLTYS , DR. PETER P
225 GAUNTLET
SPRING BRANCH TX 78070-5396

ST CLAIR , SHARI
8507 TRIPLE CROWN
FAIR OAKS RANCH TX 78015-4618

STERNBERG , GWEN S
120 SIRONA WAY
SPRING BRANCH TX 78070-5252

STOCKWELL , MAX R
PO BOX 1321
SPRING BRANCH TX 78070-1321

STOCKWELL , MEGAN
PO BOX 1321
SPRING BRANCH TX 78070-1321

SWIFT , NILSA
29650 ANCESTRAL TRL
BULVERDE TX 78163-4308

TAYLOR , RUTH & TONY
520 CRAIG LN
SPRING BRANCH TX 78070-6314

TAYLOR , TONY WADE
520 CRAIG LN
SPRING BRANCH TX 78070-6314

THOMAS , SARAH
6018 CREEKWOOD PASS
SPRING BRANCH TX 78070-7100

VALENCIA , LYNSEY
1514 VINTAGE WAY
NEW BRAUNFELS TX 78132-2670

VILLA , DANIELLE
359 RESTLESS WIND
SPRING BRANCH TX 78070

WARREN , WILLIAM HUNTER
APT 313
317 LEXINGTON AVE
SAN ANTONIO TX 78215-1901

WAYNE , WANDA
107 S CONTOUR DR
SPRING BRANCH TX 78070-3887

WELSH , DEE
1408 PHANTOM RIDER TRL
SPRING BRANCH TX 78070-6415

WESSALE , KRISTEN & WILLIAM
360 BENT OAK DR
SPRING BRANCH TX 78070-6312

WESSALE , WILLIAM DON
360 BENT OAK DR
SPRING BRANCH TX 78070-6312

WHITAKER , BERT & JULIE
880 WIESNER RD
SPRING BRANCH TX 78070-7264

WHITE , HEIDI
854 MAYBERRY ML
NEW BRAUNFELS TX 78130-6845

WILLIAMS , SARA
1414 ENSENADA DR
CANYON LAKE TX 78133-4464

WILSON , CYNTHIA
708 SHADY COVE LN
SPRING BRANCH TX 78070-6054

WOGULIS , RONALD
3225 BARTON HILL DR
BULVERDE TX 78163-4615

WOODLIFF , FARA
3159 CAMPESTRES
SPRING BRANCH TX 78070-2218

WOODLIFF SR , MR WAYNE
3159 CAMPESTRES
SPRING BRANCH TX 78070-2218

YOUNG , LARRY
6 MORGANS BLF
SAN ANTONIO TX 78216-8504

ZUROVEC , FRANK J
30551 BARTELS RD
BULVERDE TX 78163-1909

TCEQ DOCKET NO. 2023-0120-MWD

**APPLICATION BY SJWTX, INC.
AND MARY JANE CIELENCKI
FOR NEW TPDES PERMIT NO.
WQ0016052001**

**§
§
§
§**

**BEFORE THE TEXAS
COMMISSION ON
ENVIRONMENTAL
QUALITY**

EXECUTIVE DIRECTOR’S RESPONSE TO HEARING REQUESTS

I. INTRODUCTION

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Hearing Requests on the application by SJWTX, Inc. and Mary Jane Cielencki (Applicant) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016052001 (proposed permit), authorizing the discharge of treated domestic wastewater (proposed discharge) at a daily average flow limit of 0.06/ 0.15/ 0.26 million gallons per day (MGD) in the Interim I/ Interim II/ Final phases, respectively, from the Simmons Valley Wastewater Treatment Facility (proposed facility).

Owen Powell, Annette Gass, Rita Acker, Catherine Martin, Amanda Saunders, Eric Cardenas, Josephine Rosales, Lisa O’Sullivan, Susan Marder, Linda Mohr, Edward Lette, Kasi Finley, Marlin Brown, Juli Coen, Eva Silverfine, Alejandro Ruiz, Star McDonald, Dirk Davidek, Colette Laine, Nathan Segovia, Robert Evans, Ben Hudson, Jessica Bailey, Juanita Proffitt, Chris and Michelle Phelps, Mike and Linda Clark, Becky and Sidney Atkinson, Ruth and Tony Taylor, Kristen and William Wessale, Angela and Robert Butler, and the group “The Neighbors of Spring Branch,” all filed timely hearing requests (requests). The requests filed on this application fall into three categories. Categories 1 and 2 can be characterized as requests that are deficient on their face. Category 3 includes requests that are characterized as valid on their face.

II. ATTACHMENTS FOR COMMISSION CONSIDERATION

- Attachment A - ED's GIS Map and its Appendix

III. FACILITY/DISCHARGE ROUTE DESCRIPTION AND THE ED’S TECHNICAL REVIEW

If this permit is issued, the proposed facility will be located 0.25 miles northwest of the intersection of Rebecca Clark Road and U.S. Highway 281 North, in Comal County, Texas, serve the Simmons Valley Subdivision, and will be a Membrane Bioreactor (MBR) facility. Treatment units throughout the three phases of the proposed permit include an ultra-violet (UV) disinfection chamber, a sludge press, multiple equalization and sludge holding tanks, and multiple MBR and Pre-Aeration skids. The route of the proposed discharge is via pipe to Cypress Creek, then to the Guadalupe River Above Canyon Lake (Segment No. 1806 of the Guadalupe River Basin).

The TCEQ has primary authority over water quality in Texas and also federal regulatory authority for the TPDES program, which controls discharges of pollutants into Texas surface waterbodies. The Texas Water Code (TWC) § 26.027, authorizes the TCEQ to issue permits for discharges into water in the state, and the ED evaluates applications for discharge permits based on the information provided in the application and can recommend issuance or denial of an application based on its compliance with the TWC and TCEQ rules. Specifically, the ED’s review evaluates

impacts from the proposed discharge on the receiving waters in the route for the proposed discharge, starting at the discharge point (via pipe to Cypress Creek).

The designated uses for Segment No. 1806, as listed at 30 TAC § 307.10, Appendix A (Texas Surface Water Quality Standards (TSWQS)) are primary contact recreation, public water supply, aquifer protection, and exceptional aquatic life use. The ED must provide the proper effluent limitations (limits) to protect these uses.

The Technical Review process for surface water quality is conducted by staff in the ED's Water Quality Division, (WQD staff) on the Standards Implementation Team (Standards Team), and WQD staff in the Water Quality Assessment Section (Modeling Team).

With a goal of maintaining a level of water quality sufficient to protect the existing uses of the receiving waters, during the Technical Review of the application process WQD Staff reviewed the application according to the TSWQS and TCEQ's *Implementation procedures for the Texas Surface Water Quality Standards-June 2010 (IPs)*. WQD staff performed multiple analyses during the Technical Review of the proposed permit, including but not limited to a review of the receiving waters of the route for the proposed discharge route by the Standards Team, and Water Quality Modeling runs by the Modeling Team using an "uncalibrated QUAL-TX" model.

Reviewing the receiving waters of the discharge route, along with other available information, allows the Standards Team to preliminarily determine the aquatic life uses in the area of the proposed discharge's possible impact and assign the corresponding Minimum Dissolved Oxygen (DO) criterion as stipulated at 30 TAC § 307.5 (TSWQS) and in the TCEQ's IPs. For every new discharge, the Standards Team performs an antidegradation analysis of the proposed discharge. As with all determinations, reviews, or analyses related to the Technical review of the proposed permit, the above and below can be reexamined and subsequently modified upon receipt of new information or information that conflicts with the bases employed in the applicable review or analysis.

Segment No. 1806 is currently listed on the State's inventory of impaired and threatened waters (the 2020 CWA § 303(d) list). The listing is for bacteria from the confluence of Honey Creek in Comal County upstream to the confluence of Big Joshua Creek in Kendall County (AU 1806_08). The proposed facility is designed to provide adequate disinfection and, when operated properly, should not add to the bacterial impairment of the segment. In addition, in order to ensure that the proposed discharge meets the stream bacterial standard, an effluent limit of 126 CFU or MPN of *E. coli* per 100 ml has been added to the proposed permit.

One Total Maximum Daily Load for Bacteria in the Guadalupe River Above Canyon Lake for Segment No. 1806 (TMDL Project No. 65) has been approved for the segment. The TMDL was adopted by TCEQ on July 25, 2007, and it was approved by the U.S. Environmental Protection Agency (EPA) on September 25, 2007. Field investigations identified that excessive bacteria concentrations are confined to two small assessment areas within the City of Kerrville. The TMDL does not call for reduced bacteria limits for wastewater treatment facilities, so current or future facilities that discharge to the affected area are subject to the standard bacteria limits described in the Bacteria Rule.

The proposed permit's water quality-related limits, established by WQD staff's modeling results using an uncalibrated QUAL-TX model, will maintain and protect the existing instream uses. Similarly, conventional effluent parameters such as DO, Five-

day Carbonaceous Biochemical Oxygen Demand (CBOD₅), Total Suspended Solids (TSS), and Ammonia Nitrogen (NH₃-N) 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.

Based on the Modeling Team's results, effluent limits for all flow phases of 5.0 mg/L CBOD₅, 2.0 mg/L NH₃-N, and 4.0 mg/L DO, based on a 30-day average, is predicted to ensure that DO levels will be maintained above the criterion established by the Standards Team for Cypress Creek (3.0 mg/L DO). Coefficients and kinetics used in the model are a combination of site specific, standardized default, and estimated values.

The effluent limits and conditions in the proposed permit meet requirements for secondary treatment and disinfection according to 30 TAC Chapter 309 (Subchapter A: Effluent Limits) and comply with the TSWQS (30 TAC §§ 307.1-10, *eff.* 7/22/2010) and the EPA-approved portions of the TSWQS (*eff.* 3/6/2014).

No priority watershed of critical concern has been identified in Segment 1806. However, the Peck's cave amphipod (*Stygobromus pecki*), Comal Springs dryopid beetle (*Stygoparnus comalensis*), Comal Springs Riffle Beetle (*Heterelmis comalensis*), and the fountain darter (*Etheostoma fonticula*) can occur in Comal County. This determination is based on the United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System (TPDES); September 14, 1998; October 21, 1998 update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic dependent species occurring in critical concern or high priority watersheds, as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. EPA review is not required for the determination of the presence of endangered or threatened species.

IV. PROCEDURAL HISTORY

The TCEQ received the application on October 7, 2021, and declared it administratively complete on December 14, 2021. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in Comal County, Texas in the *Herald Zeitung* on January 9, 2022. The ED completed the technical review of the application on April 13, 2022, and prepared the proposed permit, which if approved, would establish the conditions under which the proposed facility must operate. The Applicant published the Notice of Application and Preliminary Decision (NAPD) and Notice of Public Meeting in Comal County, Texas in the *Herald Zeitung* on May 31, 2022, and July 6, 2022 (respectively). The public comment period ended on August 11, 2022, at the close of the public meeting. The period for filing a request a Contested Case Hearing (requests) ended on December 9, 2022. Because this application was received after September 1, 2015, and because it was declared administratively complete after September 1, 1999, it is subject to both the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999, and the procedural requirements and rules implementing Senate Bill 709, 84th Legislature, 2015, which are implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55.

V. ACCESS TO RULES, LAWS AND RECORDS

- All administrative rules: Secretary of State Website: www.sos.state.tx.us
- TCEQ rules: Title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac/ (select TAC Viewer on the right, then Title 30 Environmental Quality)
- Texas statutes: www.statutes.capitol.texas.gov
- TCEQ website: www.tceq.texas.gov (for downloadable rules in WordPerfect or Adobe PDF formats, select “Rules, Policy, & Legislation,” then “Current TCEQ Rules,” then “Download TCEQ Rules”)
- Federal rules: Title 40 of the Code of Federal Regulations (C.F.R.)
http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40tab_02.tpl
- Federal environmental laws: <http://www.epa.gov/lawsregs/>

Commission records for the Proposed facility are available for viewing and copying at TCEQ’s main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk, for the current application until final action is taken). Some documents located at the Office of the Chief Clerk may also be located in the TCEQ Commissioners’ Integrated Database at www.tceq.texas.gov/goto/cid. The permit application has been available for viewing and copying at the circulation desk of the Mammen Family Public Library located at 131 Bulverde Crossing, Bulverde, Texas 78163, since publication of the NORI. The final permit application, proposed permit, statement of basis/technical summary, and the ED’s preliminary decision have been available for viewing and copying at the same location since publication of the NAPD.

If you would like to file a complaint about the proposed facility concerning its compliance with the provisions of its permit, the TCEQ rules, or to address potential permit violations, you may contact the TCEQ Regional Office (Region 13) in San Antonio, TX at (210) 490-3096 or the statewide toll-free number at 1-888-777-3186. In addition, environmental or citizen complaints may be filed electronically at: https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaint_s.html (select “use our online form”) or through sending an email to the following address: cmplaint@TCEQ.state.tx.us.

If an inspection by the Regional Office finds that the Applicant is not complying with all the requirements of the proposed permit, or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.

VI. EVALUATION OF HEARING REQUESTS

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings, specifically regarding public notice and public comment and the Commission’s consideration of hearing requests (Requests). The Commission implemented HB 801 by adopting procedural rules in 30 TAC chapters 39, 50, and 55. Senate Bill 709 revised the requirements for submitting public comment and the commission’s consideration of Requests. This application was declared administratively complete on March 23, 2022; therefore, it is subject to the procedural requirements adopted pursuant to both HB 801 and SB 709.

A. **LEGAL AUTHORITY TO RESPOND TO HEARING REQUESTS**

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

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

B. HEARING REQUEST REQUIREMENTS

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

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

A hearing request must substantially comply with the following:

- (1) give the name, address, telephone number, and where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and where possible, fax number, who is responsible for receiving all official communications and documents for the group;
- (2) identify the person's justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
- (4) for applications filed;

(B) on or after September 1, 2015, list all relevant and material disputed issues of fact that were raised by the requestor during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the ED's responses to the requestor's comments that the requestor disputes, the factual basis of the dispute, list any disputed issues of law; and

- (5) provide any other information specified in the public notice of application.

C. REQUIREMENT THAT REQUESTOR BE AN AFFECTED PERSON

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

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

D. REFERRAL TO THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

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

- (1) involves a disputed question of fact or a mixed question of law and fact;
- (2) was raised during the public comment period by an affected person; and

(3) is relevant and material to the decision on the application.”

VII. ANALYSIS OF THE HEARING REQUESTS

For this permit application the relevant public comment period ended on July 25, 2022, and the period for filing a Request for Reconsideration or a Request ended on October 31, 2022. The ED’s analyses determined whether the Requests followed TCEQ rules, if Dana Garrett and Shalaina Walker qualify as affected persons, what issues may be referred for a possible hearing, and the length of that hearing.

A. **WHETHER THE REQUEST COMPLIED WITH 30 TAC §§ 55.201(C) AND (D).**

Category 1: Chris and Michelle Phelps, Mike and Linda Clark, Colette Laine, Lisa O’Sullivan, Ingrid Giral-Caenen, Amanda Saunders, Edwards Lette, Marlin Brown, Juli Coen, Dirk Davidek, Robert Evans, Ben Hudson, and Jessica Bailey all filed timely requests that only provided the requisite contact information and requested a hearing. These Category 1 requests lacked written explanations plainly describing the requestors locations and distances relative to the facility and why these requestors believe they will be affected by the application in a way not common to the public.

The ED recommends finding that the Category 1 requests of Robert Butler, Chris and Michelle Phelps, Mike and Linda Clark, Colette Laine, Lisa O’Sullivan, Ingrid Giral-Caenen, Amanda Saunders, Edwards Lette, Marlin Brown, Juli Coen, Dirk Davidek, Robert Evans, Ben Hudson, and Jessica Bailey did not substantially comply with 30 TAC §§ 55.201(c) and (d).

Category 2: Kristen and William Wessale, Ruth and Tony Taylor, Becky and Sidney Atkinson, Angela and Robert Butler, Owen Powell, Catherine Martin, Eric Cardenas, Josephine Rosales, Susan Marder, Linda Mohr, Kasi Finley, Eva Silverfine, Star McDonald, Nathan Segovia, and Juanita Proffitt all filed timely requests that provided the requisite contact information, requested a hearing, and raised possibly relevant issues. However, these Category 2 requests lacked written explanations plainly describing the requestors’ locations and distances relative to the facility and why these requestors believe they will be affected by the application in a way not common to the public.

The ED recommends finding that the Category 2 requests of Kristen and William Wessale, Ruth and Tony Taylor, Becky and Sidney Atkinson, Angela and Robert Butler, Owen Powell, Catherine Martin, Eric Cardenas, Josephine Rosales, Susan Marder, Linda Mohr, Kasi Finley, Eva Silverfine, Star McDonald, Nathan Segovia, and Juanita Proffitt did not substantially comply with 30 TAC §§ 55.201(c) and (d).

Category 3: Annette Gass, Rita Acker, Alejandro Ruiz, and the group the “Neighbors of Spring Branch” filed timely requests that provided the requisite contact information, requested a hearing, and included written explanations plainly describing the requestors locations and distances relative to the facility and why these requestors believe they will be affected by the application in a way not common to the public.

Annette Gass: Although Ms. Gass’ timely requests provided her contact information, requested a hearing, included a written explanation plainly describing her location and distance relative to the proposed facility and why she believes she will be affected by the application in a way not common to the public, Ms. Gass’ requests did not comply

with 30 TAC § 55.201(c) because Ms. Gass failed to make timely comments during the comment period.

The ED recommends finding that the Category 3 request of Annette Gass did not substantially comply with 30 TAC §§ 55.201(c) and (d).

Rita Acker: Although Ms. Acker's timely request provided her contact information, requested a hearing, included a written explanation plainly describing her location and distance relative to the proposed facility and why she believes she will be affected by the application in a way not common to the public, Ms. Acker's request did not comply with 30 TAC § 55.201(c) because Ms. Acker failed to make timely comments during the comment period.

The ED recommends finding that the Category 3 request of Rita Acker did not substantially comply with 30 TAC §§ 55.201(c) and (d).

Alejandro Ruiz: Mr. Ruiz's timely request provided his contact information, requested a hearing, included a written explanation plainly describing his location and distance relative to the proposed facility and why he believes he will be affected by the application in a way not common to the public, and raised issues that form the basis of his request in timely comments not withdrawn before the RTC was filed.

Mr. Ruiz's request complied with 30 TAC §§ 55.201(c), and (d) because it effectively identified a personal justiciable interest in a written explanation plainly describing why he believes he will be affected by the application in a way not common to the public.

Mr. Ruiz's request stated he lives in proximity to the proposed facility and along the proposed discharge route and raised concerns about the possible adverse impacts to human health, the environment, and wildlife from spills at the proposed facility and from the proposed discharge, which are relevant issues to a decision on the application.

The ED recommends finding that Alejandro Ruiz's request substantially complied with 30 TAC §§ 55.201(c) and (d).

"Neighbors of Spring Branch" (NSB): NSB filed timely requests that provided the requisite contact information for a single member responsible for receiving all official communications and documents for the group, stated its interests and that the interests NSB seeks to protect are germane to the organization's purpose, requested a hearing, included a written explanation plainly describing the location and distance relative to the proposed facility of a member who has standing to request a hearing in their own right, and raised issues that form the basis of the request in timely comments not withdrawn before the RTC was filed.

The ED recommends finding that the Neighbors of Spring Branch's request substantially complied with 30 TAC §§ 55.205.

B. WHETHER REQUESTOR IS AN AFFECTED PERSON UNDER 30 TAC § 55.203.

Category 1: Because Chris and Michelle Phelps, Mike and Linda Clark, Colette Laine, Lisa O'Sullivan, Ingrid Giral-Caanan, Amanda Saunders, Edwards Lette, Marlin Brown, Juli Coen, Dirk Davidek, Robert Evans, Ben Hudson, and Jessica Bailey filed timely requests that only provided the requisite contact information and requested a hearing, their requests failed to identify a personal, justiciable interest affected by the application.

The ED recommends that the Commission find that Robert Butler, Chris and Michelle Phelps, Mike and Linda Clark, Colette Laine, Lisa O'Sullivan, Ingrid Giral-Caanen, Amanda Saunders, Edwards Lette, Marlin Brown, Juli Coen, Dirk Davidek, Robert Evans, Ben Hudson, and Jessica Bailey are not Affected Persons under 30 TAC § 55.203.

Category 2: Because Kristen and William Wessale, Ruth and Tony Taylor, Becky and Sidney Atkinson, Angela and Robert Butler, Owen Powell, Catherine Martin, Eric Cardenas, Josephine Rosales, Susan Marder, Linda Mohr, Kasi Finley, Eva Silverfine, Star McDonald, Nathan Segovia, and Juanita Proffitt filed timely requests that provided the requisite contact information, requested a hearing, and raised possibly relevant issues, but lacked a written explanation plainly describing the requestors' locations and distances relative to the facility, and why these requestors believe they will be affected by the application in a way not common to the public, their requests failed to identify a personal, justiciable interest affected by the application.

The ED recommends that the Commission find that Kristen and William Wessale, Ruth and Tony Taylor, Becky and Sidney Atkinson, Angela and Robert Butler, Owen Powell, Catherine Martin, Eric Cardenas, Josephine Rosales, Susan Marder, Linda Mohr, Kasi Finley, Eva Silverfine, Star McDonald, Nathan Segovia, and Juanita Proffitt are not Affected Persons under 30 TAC § 55.203.

Category 3 – Annette Gass: Ms. Gass' timely requests failed to identify a personable justiciable interest affected by the application because she did not file timely comments, and therefore, her requests were not based on issues from timely comments not withdrawn before the RTC was filed.

The ED recommends finding that the Commission find that Annette Gass is not Affected Person under 30 TAC § 55.203.

Category 3 – Rita Acker: Ms. Acker's timely request failed to identify a personable justiciable interest affected by the application because she did not file timely comments, and therefore, her request was not based on issues from timely comments not withdrawn before the RTC was filed.

The ED recommends finding that the Commission find that Rita Acker is not Affected Person under 30 TAC § 55.203.

Category 3 – Alejandro Ruiz: Mr. Ruiz filed a timely request that effectively identified a personal, justiciable interest affected by the application. Mr. Ruiz's request stated that the proposed facility will be in proximity to his home, which according to the GIS map prepared by the ED's staff is only 1.06 linear miles from the proposed facility and is along the proposed discharge route within proximity to the discharge point. This increases the likelihood that Mr. Ruiz will be affected in a way not common to the general public. Mr. Ruiz's request raised relevant issues to a decision on the application, including the possible adverse impacts to human health, the environment, and wildlife from spills at the proposed facility and from the proposed discharge.

Mr. Ruiz's proximity, which was explained briefly and specifically, in plain language in his request, and his concerns related to possible adverse effects on human health, the environment, and wildlife from the proposed discharge and from spills at the proposed facility, are issues related to the interests of the requestor, demonstrating a reasonable relationship exists between the interests claimed and the activity regulated,

which increases the likelihood Mr. Ruiz will be personally affected in a way not common to the general public.

Category 3 – “Neighbors of Spring Branch” (NSB): NSB filed timely requests that effectively identified a personal, justiciable interest affected by the application.

NSB’s timely request identified a member, Annette Gass, who has standing to request a hearing in her own right. NSB’s request included a written explanation plainly describing the location and distance of Ms. Gass relative to the proposed facility, and raised issues that form the basis of the request in timely comments not withdrawn before the RTC was filed.

NSB’s request stated that the proposed facility will be in proximity to Ms. Gass’ home, which according to the GIS map prepared by the ED’s staff is only 0.49 linear miles from the proposed facility and is along the proposed discharge route within proximity to the discharge point. This increases the likelihood that Ms. Gass would be affected in a way not common to the general public. NSB’s request raised relevant issues to a decision on the application, including the possible adverse impacts to human health, the environment, and livestock from the proposed facility and from the proposed discharge.

Ms. Gass’ proximity, which was explained briefly and specifically, in plain language in NSB’s request, and NSB’s concerns related to possible adverse effects on human health, the environment, and livestock from the proposed facility and discharge, are issues related to the interests of NSB, demonstrating a reasonable relationship exists between the interests claimed and the activity regulated, which increases the likelihood that NSB will be personally affected in a way not common to the general public.

The ED recommends finding that the Commission find that the Neighbors of Spring Branch is an Affected Group under 30 TAC §§ 55.203 and 55.205.

VIII. ISSUES RAISED IN THE HEARING REQUEST:

The following issues were raised in Mr. Ruiz’s and NSB’s requests.

1. Whether the draft permit will protect human health and the environment.

(RTC Response Nos. 2, 8, and 15) These are issues of fact. If it can be shown that these issues are factually accurate, that information would be relevant and material to a decision on the application.

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

2. Whether the proposed facility will protect against spills at the proposed facility if the Applicant maintains and operates it according to the TCEQ’s rules and the draft permit.

(RTC Response No.10) This is an issue of fact. If it can be shown that this issue is factually accurate, that information would be relevant and material to a decision on the application.

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

3. **Whether the draft permit and proposed discharge is protective of animal life.**

(RTC Response No. 2) This is an issue of fact. If it can be shown that this issue is factually accurate, that information would be relevant and material to a decision on the application.

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

4. **Whether the draft permit's nuisance odor controls comply with TCEQ rules.**

(RTC Response No. 16) This is an issue of fact. If it can be shown that this issue is factually accurate, that information would be relevant and material to a decision on the application, however, this issue was raised solely in NSB's request and not in its timely comments.

The ED concludes this issue is relevant and material; however, if this case is referred to SOAH, the ED recommends the Commission not referring this issue.

IX. CONTESTED CASE HEARING DURATION

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

X. REQUESTS FOR RECONSIDERATION

Owen Powell, Marian Henderson, and Marilyn and Michael Myers, all filed timely Requests for Reconsideration (RFR). However, all three of the RFRs failed to raise any new information for the ED to analyze. Therefore, the ED recommends denying all three RFRs.

XI. EXECUTIVE DIRECTOR'S RECOMMENDATION

The ED recommends the following actions by the Commission:

1. Find that Alejandro Ruiz and the Neighbors of Spring Branch is an affected person and an affected group under 30 TAC §§ 55.203 and 55.205.
2. Grant the requests of Alejandro Ruiz and the Neighbors of Spring Branch, and deny all other requests.
3. Should the Commission decide to refer this case to SOAH:
 - a. refer the case to Alternative Dispute Resolution for a reasonable time; and
 - b. refer the identified issues above in section (C)(1)-(3) to SOAH for a contested case hearing.

Respectfully submitted,

Texas Commission on Environmental Quality

Erin Chancellor, *Interim Executive Director*

Charmaine Backens, *Acting Director*
Office of Legal Services

Guy Henry, *Acting Deputy Director*
Environmental Law Division



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

REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on January 30, 2023, the Executive Director's Response to Hearing Requests for TPDES Permit No. WQ0016052001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk, and a copy was served to all persons listed on the attached mailing list via hand delivery, electronic delivery, inter-agency mail, or by deposit in the U.S. Mail.



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

Attachment A

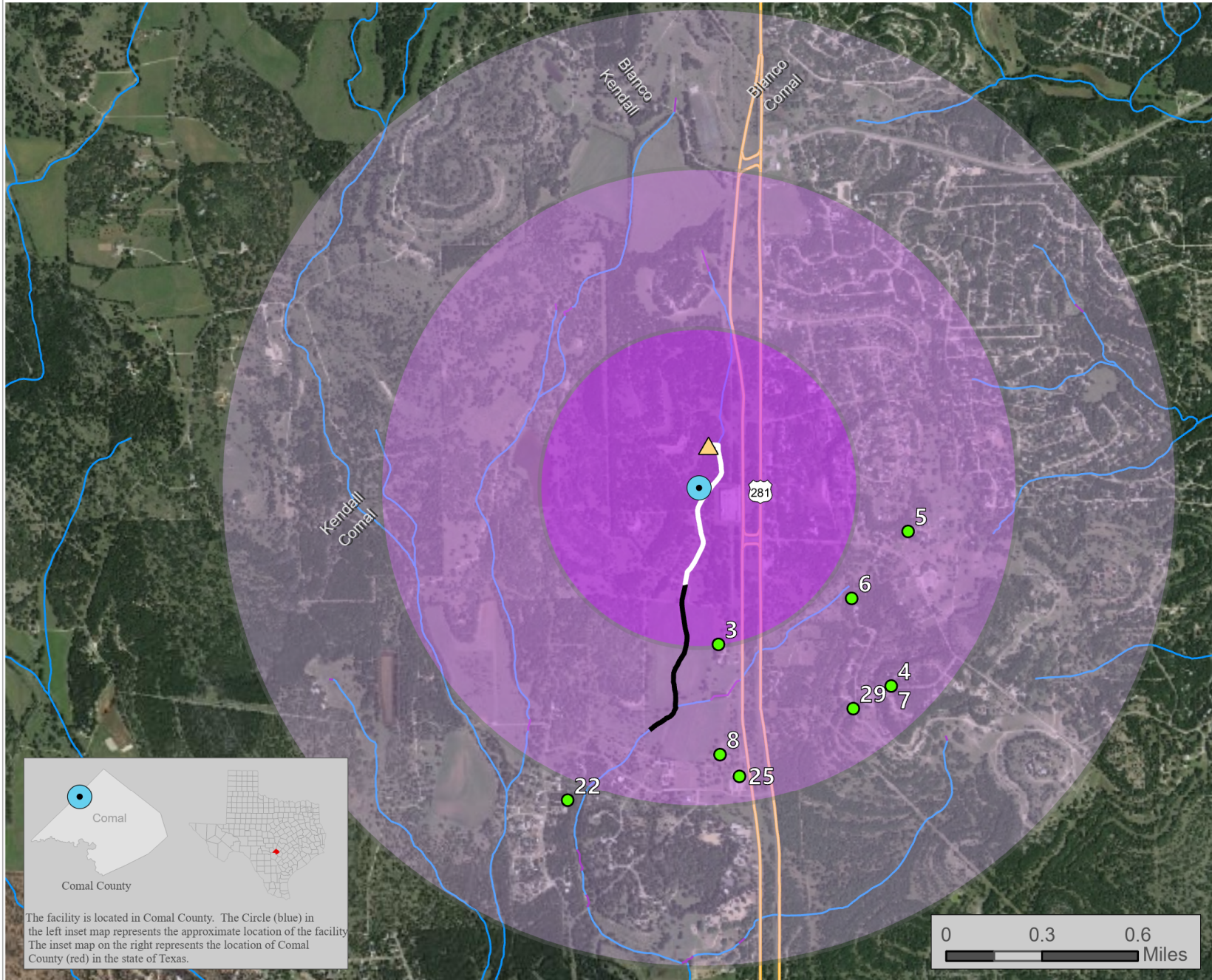
SJWTX, Inc. and Mary Jane Cielencki GIS Map



*Protecting Texas by
Reducing and
Preventing Pollution*

Map Requested by TCEQ Office of Legal Services
for Commissioners' Agenda

Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
Date: 1/19/2023
CRF 0082826
Cartographer: A.Banda

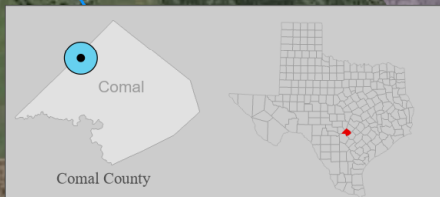


- Facility Point
- ▲ Outfall Point - 16052-001
- Requestors
- 0.5-Mile Facility Point Radius
- 1.0-Mile Facility Point Radius
- 1.5-Mile Facility Point Radius
- 0.5-Mile Discharge Route
- 1.0-Mile Discharge Route
- NHD Flowline**
- Connector
- Canal/Ditch
- Pipeline
- Stream/River
- Artificial Path
- Coastline
- County Boundary

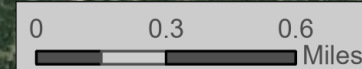
Please refer to Appendix A for a list of distances from the Facility Point to the Requestors. The distance between the Facility Point and the Outfall is 0.14 miles.

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor.

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



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



**Appendix A: Distances from Requestor to Facility Point
of SJWTX, Inc. and Mary Jane Cielencki GIS Map**

#	NAME	Distance (Mi)
1	Ingrid Giral-Caanen	62.28
2	Owen Powell	4.29
*3	Annette Gass (4)	0.49
*4	Angela and Robert Butler (6)	0.86
*5	Becky and Sidney Atkinson (4)	0.67
*6	Ruth and Tony Taylor (4)	3.02
*7	Kristen and William Wessale (5)	0.86
*8	Rita Acker	0.84
9	Catherine Martin	8.08
10	Amanda Saunders	6.77
11	Eric Cardenas	7.84
12	Josephine Rosales	3.05
13	Lisa O'Sullivan	6.23
14	Susan Marder	7.82
15	Linda Mohr	7.94
16	Edward Lette	3.82
17	Kasi Finley	6.81
18	Marlin Brown	11.17
19	Chris and Michelle Phelps	4.64
20	Mike and Linda Clark	4.64
21	Eva Silverfine	15.77
*22	Alejandro Ruiz	1.06
23	Star McDonald	22.11
24	Dirk Davidek	22.55
*25	Colette Laine (2)	0.91
26	Robert Evans	13.23
27	Ben Hudson	27.51
28	Jessica Bailey	2.53
*29	Juanita Proffitt	0.84

* Located within the 1.5-mile radius from the Facility Point

MAILING LIST
MARY JANE CIELENCKI AND SJWTX, INC.
DOCKET NO. 2023-0120-MWD; PERMIT NO. WQ0016052001

FOR THE APPLICANT

via electronic mail:

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Fax: (512) 239-4015
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Docket Clerk
Texas Commission on Environmental Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711
Tel: (512) 239-3300
Fax: (512) 239-3311
www.tceq.texas.gov/goto/efilings

REQUESTER(S)/INTERESTED PERSON(S):

See attached list

REQUESTERS

Rita Acker
12133 US HWY 281 North
Spring Branch, TX 78070- 6307

Becky and Sidney Atkinson
13084 Rebecca Creek Road
Spring Branch, TX 78070- 6320

Jessica Bailey
957 Golf Course Drive East
Spring Branch, TX 78070-4429

Marlin Brown
31567 High Ridge Drive
Bulverde, TX 78163-2184

Angela and Robert Butler
381 Bent Oak Drive
Spring Branch, TX 78070-6313

Eric Cardenas
5034 Kenilworth Boulevard
Spring Branch, TX 78070-7237

Mike and Linda Clark
8195 US HWY 281 North
Spring Branch, TX 78070-0077

Juli Coen
PO Box 921
Spring Branch, TX 78070-0921

Dirk Davidek
144 Landa Street
New Braunfels, TX 78130-7998

Robert Evans
810 Hidden Oaks Drive
Bulverde, TX 78163-3036

Kasi Finley
1162 Thunder Cloud
Spring Branch, TX 78070-5841

Annette Gass
12471 US HWY 281 North
Spring Branch, TX 78070-6318

Ingrid Giral-Caanan
530 Windy Hill Drive
Spring Branch, TX 78070-2236

Ben Hudson
510 Tara Drive
San Antonio, TX 78216-3752

Colette Laine
132 Blazing Meadow Road
Spring Branch, TX 78070-6393

Edward Lette
1245 Phantom Rider Trail
Spring Branch, TX 78070-6299

Susan Marder
6017 Cornwall Drive
Spring Branch, TX 78070-7222

Catherine Martin
2146 Comal Springs
Canyon Lake, TX 78133-5986

Linda Mohr
6013 Cornwall Drive
Spring Branch, TX 78070-7222

Star McDonald
27111 Boerne Forest
Boerne, TX 78006-5226

Chris and Michelle Phelps
8195 US HWY 281 North
Spring Branch, TX 78070-0077

Owen Powell
270 Fawn Lane
Spring Branch, TX 78070-5603

Juanita Proffitt
740 Craig Lane
Spring Branch, TX 78070-6316

Josephine Rosales
179 Prairie Dawn
Spring Branch, TX 78070-5183

Alejandro Ruiz
3218 Buck Meadow Trail
Spring Branch, TX 78070-6390

Amanda Saunders
5237 Ascot Avenue
Spring Branch, TX 78070-6427

Nathan Segovia
Email: nathansegoviacoa@gmail.com

Eva Silverfine
1309 The Low Road
San Marcos, TX 78666-1821

Lisa O'Sullivan
11023 Portsmouth Drive
Spring Branch, TX 78070-6419

Ruth and Tony Taylor
520 Craig Lane
Spring Branch, TX 78070-6314

Kristen and William Wessale
360 Bent Oak Drive
Spring Branch, TX 78070-6312

**STATEMENT OF BASIS/TECHNICAL SUMMARY
AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION**

DESCRIPTION OF APPLICATION

Applicant: SJWTX, Inc. and Mary Jane Cielencki;
Texas Pollutant Discharge Elimination System (TPDES) Permit No.
WQ0016052001, EPA I.D. No. TX0141828

Regulated Activity: Domestic Wastewater Permit

Type of Application: New Permit

Request: New Permit

Authority: Federal Clean Water Act (CWA) § 402; Texas Water Code § 26.027; 30
Texas Administrative Code (TAC) Chapters 30, 305, 307, 309, 312, and
319; Commission policies; and United States Environmental Protection
Agency (EPA) guidelines.

EXECUTIVE DIRECTOR RECOMMENDATION

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The draft permit includes an expiration date of **five years from the date of issuance**.

REASON FOR PROJECT PROPOSED

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.06 million gallons per day (MGD) in the Interim I phase, a daily average flow not to exceed 0.15 MGD in the Interim II phase and a daily average flow not to exceed 0.26 MGD in the Final phase. The proposed wastewater treatment facility will serve the Simmons Valley Subdivision.

PROJECT DESCRIPTION AND LOCATION

The Simmons Valley Wastewater Treatment Facility will be a Membrane bioreactor (MBR) plant. Treatment units in the Interim I phase will include one equalization tank, one sludge holding tank, one MBR skid and one ultra-violet (UV) chamber. Treatment units in the Interim II phase will include one equalization tank, one sludge holding tank, two MBR skids, one Pre-Aeration (PA) skid, one sludge press and one UV chamber. Treatment units in the Final phase will include two equalization tanks, one sludge holding tank, four MBR skids, two PA skids, one sludge press and one UV chamber. The facility has not been constructed.

The draft permit also authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

The plant site will be located approximately 0.25 miles northwest of the intersection of Rebecca Creek Road and U.S. Highway 281 North, in Comal County, Texas 78070.

Outfall Location:

Outfall Number	Latitude	Longitude
001	29.925067 N	98.413367 W

The treated effluent will be discharged via pipe to Cypress Creek, thence to the Guadalupe River Above Canyon Lake in Segment No. 1806 of the Guadalupe River Basin. The unclassified receiving water use is

limited aquatic life use for Cypress Creek. The designated uses for Segment No. 1806 are primary contact recreation, public water supply, aquifer protection, and exceptional aquatic life use. The effluent limitations in the draft permit will maintain and protect the existing instream uses. In accordance with 30 Texas Administrative Code §307.5 and the TCEQ implementation procedures (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. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

Effluent limitations for the conventional effluent parameters (i.e., Five-Day Biochemical Oxygen Demand or Five-Day Carbonaceous Biochemical Oxygen Demand, Ammonia Nitrogen, etc.) are based on stream standards and waste load allocations for water-quality limited streams as established in the Texas Surface Water Quality Standards (TSWQS) and the State of Texas Water Quality Management Plan (WQMP).

In a case such as this, end-of-pipe compliance with pH limits between 6.0 and 9.0 standard units reasonably assures instream compliance with the TSWQS for pH when the discharge authorized is from a minor facility. This technology-based approach reasonably assures instream compliance with TSWQS criteria due to the relatively smaller discharge volumes authorized by these permits. This conservative assumption is based on TCEQ sampling conducted throughout the state which indicates that instream buffering quickly restores pH levels to ambient conditions. Similarly, this approach has been historically applied within EPA issued NPDES general permits where technology-based pH limits were established to be protective of water quality criteria.

The effluent limits recommended above have been reviewed for consistency with the WQMP. The proposed limits are not contained in the approved WQMP. However, these limits will be included in the next WQMP update.

No priority watershed of critical concern has been identified in Segment 1806. However, the Peck's cave amphipod (*Stygobromus pecki*), Comal Springs dryopid beetle (*Stygoparnus comalensis*), Comal Springs Riffle Beetle (*Heterelmis comalensis*), and the fountain darter (*Etheostoma fonticula*) can occur in Comal County. This determination is based on the United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas authorization of the TPDES (September 14, 1998, October 21, 1998 update). To make this determination for TPDES permits, TCEQ and EPA only consider aquatic or aquatic dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species. This determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion.

Segment No. 1806 is currently listed on the state's inventory of impaired and threatened waters (the 2020 CWA § 303(d) list). The listing is for bacteria from the confluence of Honey Creek in Comal County upstream to the confluence of Big Joshua Creek in Kendall County (AU 1806_o8). This facility is designed to provide adequate disinfection and, when operated properly, should not add to the bacterial impairment of the segment. In addition, in order to ensure that the proposed discharge meets the stream bacterial standard, an effluent limitation of 126 colony-forming units (CFU) or most probable number (MPN) of *Escherichia coli* (*E. coli*) per 100 ml has been added to the draft permit.

One Total Maximum Daily Load for Bacteria in the Guadalupe River Above Canyon Lake for Segment No. 1806 (TMDL Project No. 65) has been approved for the segment. The TMDL was adopted by TCEQ on July 25, 2007 and it was approved by the U.S. Environmental Protection Agency (EPA) on September 25, 2007. Field investigations identified that excessive bacteria concentrations are confined to two small assessment areas within the City of Kerrville. The TMDL does not call for reduced bacteria limits for WWTFs, so current or future facilities that discharge to the affected area are subject to the standard bacteria limits described in the Bacteria Rule.

SUMMARY OF EFFLUENT DATA

Self-reporting data is not available since the facility is not in operation.

DRAFT PERMIT CONDITIONS

The draft permit authorizes a discharge of treated domestic wastewater at an Interim I volume not to exceed a daily average flow of 0.06 MGD, an Interim II volume not to exceed a daily average flow of 0.15 MGD and a Final volume not to exceed a daily average flow of 0.26 MGD.

The effluent limitations in all phases of the draft permit, based on a 30-day average, are 5 mg/l five-day carbonaceous biochemical oxygen demand (CBOD₅), 5 mg/l total suspended solids (TSS), 2 mg/l ammonia-nitrogen (NH₃-N), 0.5 mg/l total phosphorus, 126 CFU or MPN of *E. coli* per 100 ml, and 4.0 mg/l minimum dissolved oxygen (DO). The permittee shall utilize an ultraviolet light (UV) system for disinfection purposes and shall not exceed a daily average *E. coli* limit of 126 CFU or MPN per 100 ml.

The permittee shall comply with the requirements of 30 TAC § 309.13(a) through (d). In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC § 309.13(e).

The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal, and Transportation. The draft permit also authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

SUMMARY OF CHANGES FROM APPLICATION

The applicant requested effluent limitations, based on a 30-day average, of 5 mg/l CBOD₅, 5 mg/l TSS, 2 mg/l NH₃-N, 126 CFU or MPN of *E. coli* per 100 ml and 2.0 mg/l minimum DO. However, effluent limitations in all phases of the draft permit, based on a 30-day average, are 5 mg/l CBOD₅, 5 mg/l TSS, 2 mg/l NH₃-N, 0.5 mg/l total phosphorus, 126 CFU or MPN of *E. coli* per 100 ml and 4.0 mg/l minimum DO.

BASIS FOR DRAFT PERMIT

The following items were considered in developing the draft permit:

1. Application received on October 7, 2021.
2. The effluent limitations and conditions in the draft permit comply with EPA-approved portions of the 2018 Texas Surface Water Quality Standards (TSWQS), 30 TAC §§ 307.1 - 307.10, effective March 1, 2018; 2014 TSWQS, effective March 6, 2014; 2010 TSWQS, effective July 22, 2010; and 2000 TSWQS, effective July 26, 2000.

3. The effluent limitations in the draft permit meet the requirements for secondary treatment and the requirements for disinfection according to 30 TAC Chapter 309, Subchapter A: Effluent Limitations.
4. Interoffice Memoranda from the Water Quality Assessment Section of the TCEQ Water Quality Division.
5. Consistency with the Coastal Management Plan: The facility is not located in the Coastal Management Program boundary.
6. *Procedures to Implement the Texas Surface Water Quality Standards (IP)*, Texas Commission on Environmental Quality, June 2010, as approved by EPA, and the IP, January 2003, for portions of the 2010 IP not approved by EPA.
7. Texas 2020 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, March 25, 2020; approved by the U.S. Environmental Protection Agency on May 12, 2020.
8. Texas Natural Resource Conservation Commission, Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits, Document No. 98-001.000-OWR-WQ, May 1998.
9. *One Total Maximum Daily Load for Bacteria in the Guadalupe River Above Canyon Lake for Segment No. 1806* (TMDL Project No. 65)

PROCEDURES FOR FINAL DECISION

When an application is declared administratively complete, the Chief Clerk sends a letter to the applicant advising the applicant to publish the Notice of Receipt of Application and Intent to Obtain Permit in the newspaper. In addition, the Chief Clerk instructs the applicant to place a copy of the application in a public place for review and copying in the county where the facility is or will be located. This application will be in a public place throughout the comment period. The Chief Clerk also mails this notice to any interested persons and, if required, to landowners identified in the permit application. This notice informs the public about the application and provides that an interested person may file comments on the application or request a contested case hearing or a public meeting.

Once a draft permit is completed, it is sent, along with the Executive Director's preliminary decision, as contained in the technical summary or fact sheet, to the Chief Clerk. At that time, the Notice of Application and Preliminary Decision will be mailed to the same people and published in the same newspaper as the prior notice. This notice sets a deadline for making public comments. The applicant must place a copy of the Executive Director's preliminary decision and draft permit in the public place with the application.

Any interested person may request a public meeting on the application until the deadline for filing public comments. A public meeting is intended for the taking of public comment and is not a contested case proceeding.

After the public comment deadline, the Executive Director prepares a response to all significant public comments on the application or the draft permit raised during the public comment period. The Chief Clerk then mails the Executive Director's response to comments and final decision to people who have filed comments, requested a contested case hearing, or requested to be on the mailing list. This notice provides that if a person is not satisfied with the Executive Director's response and decision, they can request a contested case hearing or file a request to reconsider the Executive Director's decision within 30 days after the notice is mailed.

SJWTX, Inc. and Mary Jane Cielencki
TPDES Permit No. WQ0016052001
Statement of Basis/Technical Summary and Executive Director's Preliminary Decision

The Executive Director will issue the permit unless a written hearing request or request for reconsideration is filed within 30 days after the Executive Director's response to comments and final decision is mailed. If a hearing request or request for reconsideration is filed, the Executive Director will not issue the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If the Executive Director calls a public meeting or the Commission grants a contested case hearing as described above, the Commission will give notice of the date, time, and place of the meeting or hearing. If a hearing request or request for reconsideration is made, the Commission will consider all public comments in making its decision and shall either adopt the Executive Director's response to public comments or prepare its own response.

For additional information about this application, contact Krishna L. Winston at (512) 239-4735.

Krishna L. Winston

Krishna L. Winston
Municipal Permits Team
Wastewater Permitting Section (MC 148)

April 13, 2022

Date



TPDES PERMIT NO. WQ0016052001
[For TCEQ office use only - EPA I.D.
No. TX0141828]

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
P.O. Box 13087
Austin, Texas 78711-3087

PERMIT TO DISCHARGE WASTES
under provisions of
Section 402 of the Clean Water Act
and Chapter 26 of the Texas Water Code

SJWTX, Inc. and Mary Jane Cielencki

whose mailing address is

P.O. Box 1742
Canyon Lake, Texas 78133

is authorized to treat and discharge wastes from the Simmons Valley Wastewater Treatment Facility,
SIC Code 4952

located approximately 0.25 miles northwest of the intersection of Rebecca Creek Road and U.S.
Highway 281 North, in Comal County, Texas 78070

via pipe to Cypress Creek, thence to the Guadalupe River Above Canyon Lake in Segment No. 1806 of
the Guadalupe River Basin

only according to effluent limitations, monitoring requirements, and other conditions set forth in this
permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ), the laws of the
State of Texas, and other orders of the TCEQ. The issuance of this permit does not grant to the
permittee the right to use private or public property for conveyance of wastewater along the discharge
route described in this permit. This includes, but is not limited to, property belonging to any individual,
partnership, corporation, or other entity. Neither does this permit authorize any invasion of personal
rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the
permittee to acquire property rights as may be necessary to use the discharge route.

This permit shall expire at midnight, **five years from the date of issuance.**

ISSUED DATE:

For the Commission

INTERIM I EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the date of issuance and lasting through the completion of expansion to the 0.15 million gallons per day (MGD) facility, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.06 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 167 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Min. Self-Monitoring Requirements</u>	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Single Grab Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Five/week	Instantaneous
Carbonaceous Biochemical Oxygen Demand (5-day)	5 (2.5)	10	20	30	One/week	Grab
Total Suspended Solids	5 (2.5)	10	20	30	One/week	Grab
Ammonia Nitrogen	2 (1.0)	5	10	15	One/week	Grab
Total Phosphorus	0.5 (0.25)	1	2	3	One/week	Grab
<i>E. coli</i> , colony-forming units or most probable number per 100 ml	126	N/A	N/A	399	Five/week	Grab

2. The permittee shall utilize an Ultraviolet Light (UV) system for disinfection purposes. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.
3. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per month by grab sample.
4. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
5. Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.
6. The effluent shall contain a minimum dissolved oxygen of 4.0 mg/l and shall be monitored once per week by grab sample.

INTERIM II EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the completion of expansion to the 0.15 million gallons per day (MGD) facility and lasting through the completion of expansion to the 0.26 MGD facility, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.15 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 417 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Min. Self-Monitoring Requirements</u>	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Single Grab Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Five/week	Instantaneous
Carbonaceous Biochemical Oxygen Demand (5-day)	5 (6.3)	10	20	30	One/week	Grab
Total Suspended Solids	5 (6.3)	10	20	30	One/week	Grab
Ammonia Nitrogen	2 (2.5)	5	10	15	One/week	Grab
Total Phosphorus	0.5 (0.63)	1	2	3	One/week	Grab
<i>E. coli</i> , colony-forming units or most probable number per 100 ml	126	N/A	N/A	399	Five/week	Grab

2. The permittee shall utilize an Ultraviolet Light (UV) system for disinfection purposes. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.
3. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per month by grab sample.
4. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
5. Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.
6. The effluent shall contain a minimum dissolved oxygen of 4.0 mg/l and shall be monitored once per week by grab sample.

FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the completion of expansion to the 0.26 million gallons per day (MGD) facility and lasting through the date of expiration, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.26 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 722 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Min. Self-Monitoring Requirements</u>	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Measurement Frequency	Single Grab Sample Type
Flow, MGD	Report	N/A	Report	N/A	Five/week	Instantaneous
Carbonaceous Biochemical Oxygen Demand (5-day)	5 (11)	10	20	30	One/week	Grab
Total Suspended Solids	5 (11)	10	20	30	One/week	Grab
Ammonia Nitrogen	2 (4.3)	5	10	15	One/week	Grab
Total Phosphorus	0.5 (1.1)	1	2	3	One/week	Grab
<i>E. coli</i> , colony-forming units or most probable number per 100 ml	126	N/A	N/A	399	Five/week	Grab

2. The permittee shall utilize an Ultraviolet Light (UV) system for disinfection purposes. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.
3. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per month by grab sample.
4. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
5. Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.
6. The effluent shall contain a minimum dissolved oxygen of 4.0 mg/l and shall be monitored once per week by grab sample.

DEFINITIONS AND STANDARD PERMIT CONDITIONS

As required by Title 30 Texas Administrative Code (TAC) Chapter 305, certain regulations appear as standard conditions in waste discharge permits. 30 TAC § 305.121 - 305.129 (relating to Permit Characteristics and Conditions) as promulgated under the Texas Water Code (TWC) §§ 5.103 and 5.105, and the Texas Health and Safety Code (THSC) §§ 361.017 and 361.024(a), establish the characteristics and standards for waste discharge permits, including sewage sludge, and those sections of 40 Code of Federal Regulations (CFR) Part 122 adopted by reference by the Commission. The following text includes these conditions and incorporates them into this permit. All definitions in TWC § 26.001 and 30 TAC Chapter 305 shall apply to this permit and are incorporated by reference. Some specific definitions of words or phrases used in this permit are as follows:

1. Flow Measurements

- a. Annual average flow - the arithmetic average of all daily flow determinations taken within the preceding 12 consecutive calendar months. The annual average flow determination shall consist of daily flow volume determinations made by a totalizing meter, charted on a chart recorder and limited to major domestic wastewater discharge facilities with one million gallons per day or greater permitted flow.
- b. Daily average flow - the arithmetic average of all determinations of the daily flow within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily flow, the determination shall be the arithmetic average of all instantaneous measurements taken during that month. Daily average flow determination for intermittent discharges shall consist of a minimum of three flow determinations on days of discharge.
- c. Daily maximum flow - the highest total flow for any 24-hour period in a calendar month.
- d. Instantaneous flow - the measured flow during the minimum time required to interpret the flow measuring device.
- e. 2-hour peak flow (domestic wastewater treatment plants) - the maximum flow sustained for a two-hour period during the period of daily discharge. The average of multiple measurements of instantaneous maximum flow within a two-hour period may be used to calculate the 2-hour peak flow.
- f. Maximum 2-hour peak flow (domestic wastewater treatment plants) - the highest 2-hour peak flow for any 24-hour period in a calendar month.

2. Concentration Measurements

- a. Daily average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar month, consisting of at least four separate representative measurements.
 - i. For domestic wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values in the previous four consecutive month period consisting of at least four measurements shall be utilized as the daily average concentration.

- ii. For all other wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values taken during the month shall be utilized as the daily average concentration.
- b. 7-day average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar week, Sunday through Saturday.
- c. Daily maximum concentration - the maximum concentration measured on a single day, by the sample type specified in the permit, within a period of one calendar month.
- d. Daily discharge - the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the sampling day.

The daily discharge determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the daily discharge determination of concentration shall be the arithmetic average (weighted by flow value) of all samples collected during that day.

- e. Bacteria concentration (*E. coli* or Enterococci) - Colony Forming Units (CFU) or Most Probable Number (MPN) of bacteria per 100 milliliters effluent. The daily average bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month. The geometric mean shall be determined by calculating the n th root of the product of all measurements made in a calendar month, where n equals the number of measurements made; or, computed as the antilogarithm of the arithmetic mean of the logarithms of all measurements made in a calendar month. For any measurement of bacteria equaling zero, a substituted value of one shall be made for input into either computation method. If specified, the 7-day average for bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
 - f. Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as (Flow, MGD x Concentration, mg/l x 8.34).
 - g. Daily maximum loading (lbs/day) - the highest daily discharge, in terms of mass (lbs/day), within a period of one calendar month.
3. Sample Type
- a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (b).

- b. Grab sample - an individual sample collected in less than 15 minutes.
4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.
5. The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids that have not been classified as hazardous waste separated from wastewater by unit processes.
6. The term "biosolids" is defined as sewage sludge that has been tested or processed to meet Class A, Class AB, or Class B pathogen standards in 30 TAC Chapter 312 for beneficial use.
7. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

MONITORING AND REPORTING REQUIREMENTS

1. Self-Reporting

Monitoring results shall be provided at the intervals specified in the permit. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall conduct effluent sampling and reporting in accordance with 30 TAC §§ 319.4 - 319.12. Unless otherwise specified, effluent monitoring data shall be submitted each month, to the Compliance Monitoring Team of the Enforcement Division (MC 224), by the 20th day of the following month for each discharge which is described by this permit whether or not a discharge is made for that month. Monitoring results must be submitted online using the NetDMR reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver. Monitoring results must be signed and certified as required by Monitoring and Reporting Requirements No. 10.

As provided by state law, the permittee is subject to administrative, civil and criminal penalties, as applicable, for negligently or knowingly violating the Clean Water Act (CWA); TWC §§ 26, 27, and 28; and THSC § 361, including but not limited to knowingly making any false statement, representation, or certification on any report, record, or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, or falsifying, tampering with or knowingly rendering inaccurate any monitoring device or method required by this permit or violating any other requirement imposed by state or federal regulations.

2. Test Procedures

- a. Unless otherwise specified in this permit, test procedures for the analysis of pollutants shall comply with procedures specified in 30 TAC §§ 319.11 - 319.12. Measurements, tests, and calculations shall be accurately accomplished in a representative manner.
- b. All laboratory tests submitted to demonstrate compliance with this permit must meet the requirements of 30 TAC § 25, Environmental Testing Laboratory Accreditation and Certification.

3. Records of Results

- a. Monitoring samples and measurements shall be taken at times and in a manner so as to

be representative of the monitored activity.

- b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use or biosolids and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, records of all data used to complete the application for this permit, and the certification required by 40 CFR § 264.73(b)(9) shall be retained at the facility site, or shall be readily available for review by a TCEQ representative for a period of three years from the date of the record or sample, measurement, report, application or certification. This period shall be extended at the request of the Executive Director.
- c. Records of monitoring activities shall include the following:
 - i. date, time and place of sample or measurement;
 - ii. identity of individual who collected the sample or made the measurement.
 - iii. date and time of analysis;
 - iv. identity of the individual and laboratory who performed the analysis;
 - v. the technique or method of analysis; and
 - vi. the results of the analysis or measurement and quality assurance/quality control records.

The period during which records are required to be kept shall be automatically extended to the date of the final disposition of any administrative or judicial enforcement action that may be instituted against the permittee.

4. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit using approved analytical methods as specified above, all results of such monitoring shall be included in the calculation and reporting of the values submitted on the approved self-report form. Increased frequency of sampling shall be indicated on the self-report form.

5. Calibration of Instruments

All automatic flow measuring or recording devices and all totalizing meters for measuring flows shall be accurately calibrated by a trained person at plant start-up and as often thereafter as necessary to ensure accuracy, but not less often than annually unless authorized by the Executive Director for a longer period. Such person shall verify in writing that the device is operating properly and giving accurate results. Copies of the verification shall be retained at the facility site and/or shall be readily available for review by a TCEQ representative for a period of three years.

6. Compliance Schedule Reports

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later

than 14 days following each schedule date to the Regional Office and the Compliance Monitoring Team of the Enforcement Division (MC 224).

7. Noncompliance Notification

- a. In accordance with 30 TAC § 305.125(9) any noncompliance which may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ. Except as allowed by 30 TAC § 305.132, report of such information shall be provided orally or by facsimile transmission (FAX) to the Regional Office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the Regional Office and the Compliance Monitoring Team of the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. For Publicly Owned Treatment Works (POTWs), effective December 21, 2025, the permittee must submit the written report for unauthorized discharges and unanticipated bypasses that exceed any effluent limit in the permit using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.
 - b. The following violations shall be reported under Monitoring and Reporting Requirement 7.a.:
 - i. Unauthorized discharges as defined in Permit Condition 2(g).
 - ii. Any unanticipated bypass that exceeds any effluent limitation in the permit.
 - iii. Violation of a permitted maximum daily discharge limitation for pollutants listed specifically in the Other Requirements section of an Industrial TPDES permit.
 - c. In addition to the above, any effluent violation which deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the Regional Office and the Compliance Monitoring Team of the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.
 - d. Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Compliance Monitoring Team of the Enforcement Division (MC 224) as promptly as possible. For effluent limitation violations, noncompliances shall be reported on the approved self-report form.
8. In accordance with the procedures described in 30 TAC §§ 35.301 - 35.303 (relating to Water Quality Emergency and Temporary Orders) if the permittee knows in advance of the need for a bypass, it shall submit prior notice by applying for such authorization.
9. Changes in Discharges of Toxic Substances

All existing manufacturing, commercial, mining, and silvicultural permittees shall notify the Regional Office, orally or by facsimile transmission within 24 hours, and both the Regional

Office and the Compliance Monitoring Team of the Enforcement Division (MC 224) in writing within five (5) working days, after becoming aware of or having reason to believe:

- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant listed at 40 CFR Part 122, Appendix D, Tables II and III (excluding Total Phenols) which is not limited in the permit, if that discharge will exceed the highest of the following “notification levels”:
 - i. One hundred micrograms per liter (100 µg/L);
 - ii. Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
 - iii. Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
 - iv. The level established by the TCEQ.
- b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following “notification levels”:
 - i. Five hundred micrograms per liter (500 µg/L);
 - ii. One milligram per liter (1 mg/L) for antimony;
 - iii. Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
 - iv. The level established by the TCEQ.

10. Signatories to Reports

All reports and other information requested by the Executive Director shall be signed by the person and in the manner required by 30 TAC § 305.128 (relating to Signatories to Reports).

11. All POTWs must provide adequate notice to the Executive Director of the following:

- a. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to CWA § 301 or § 306 if it were directly discharging those pollutants;
- b. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit; and
- c. For the purpose of this paragraph, adequate notice shall include information on:
 - i. The quality and quantity of effluent introduced into the POTW; and
 - ii. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

PERMIT CONDITIONS

1. General

- a. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in an application or in any report to the Executive Director, it shall promptly submit such facts or information.
- b. This permit is granted on the basis of the information supplied and representations made by the permittee during action on an application, and relying upon the accuracy and completeness of that information and those representations. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked, in whole or in part, in accordance with 30 TAC Chapter 305, Subchapter D, during its term for good cause including, but not limited to, the following:
 - i. Violation of any terms or conditions of this permit;
 - ii. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
 - iii. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- c. The permittee shall furnish to the Executive Director, upon request and within a reasonable time, any information to determine whether cause exists for amending, revoking, suspending or terminating the permit. The permittee shall also furnish to the Executive Director, upon request, copies of records required to be kept by the permit.

2. Compliance

- a. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment and agreement that such person will comply with all the terms and conditions embodied in the permit, and the rules and other orders of the Commission.
- b. The permittee has a duty to comply with all conditions of the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Health and Safety Code, and is grounds for enforcement action, for permit amendment, revocation, or suspension, or for denial of a permit renewal application or an application for a permit for another facility.
- c. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
- d. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment.
- e. Authorization from the Commission is required before beginning any change in the permitted facility or activity that may result in noncompliance with any permit requirements.

- f. A permit may be amended, suspended and reissued, or revoked for cause in accordance with 30 TAC §§ 305.62 and 305.66 and TWC§ 7.302. The filing of a request by the permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- g. There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Other Requirements section of this permit.
- h. In accordance with 30 TAC § 305.535(a), the permittee may allow any bypass to occur from a TPDES permitted facility which does not cause permitted effluent limitations to be exceeded or an unauthorized discharge to occur, but only if the bypass is also for essential maintenance to assure efficient operation.
- i. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under TWC §§ 7.051 - 7.075 (relating to Administrative Penalties), 7.101 - 7.111 (relating to Civil Penalties), and 7.141 - 7.202 (relating to Criminal Offenses and Penalties) for violations including, but not limited to, negligently or knowingly violating the federal CWA §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under the CWA § 402, or any requirement imposed in a pretreatment program approved under the CWA §§ 402 (a)(3) or 402 (b)(8).

3. Inspections and Entry

- a. Inspection and entry shall be allowed as prescribed in the TWC Chapters 26, 27, and 28, and THSC § 361.
- b. The members of the Commission and employees and agents of the Commission are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit or other order of the Commission. Members, employees, or agents of the Commission and Commission contractors are entitled to enter public or private property at any reasonable time to investigate or monitor or, if the responsible party is not responsive or there is an immediate danger to public health or the environment, to remove or remediate a condition related to the quality of water in the state. Members, employees, Commission contractors, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials. If any member, employee, Commission contractor, or agent is refused the right to enter in or on public or private property under this authority, the Executive Director may invoke the remedies authorized in TWC § 7.002. The statement above, that Commission entry shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection, is not grounds for denial or restriction of entry to any part of the facility, but merely describes the Commission's duty to observe appropriate rules and regulations during an inspection.

4. Permit Amendment and/or Renewal

- a. The permittee shall give notice to the Executive Director as soon as possible of any planned physical alterations or additions to the permitted facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements. Notice shall also be required under this paragraph when:
 - i. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in accordance with 30 TAC § 305.534 (relating to New Sources and New Dischargers); or
 - ii. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations in the permit, nor to notification requirements in Monitoring and Reporting Requirements No. 9; or
 - iii. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
- b. Prior to any facility modifications, additions, or expansions that will increase the plant capacity beyond the permitted flow, the permittee must apply for and obtain proper authorization from the Commission before commencing construction.
- c. The permittee must apply for an amendment or renewal at least 180 days prior to expiration of the existing permit in order to continue a permitted activity after the expiration date of the permit. If an application is submitted prior to the expiration date of the permit, the existing permit shall remain in effect until the application is approved, denied, or returned. If the application is returned or denied, authorization to continue such activity shall terminate upon the effective date of the action. If an application is not submitted prior to the expiration date of the permit, the permit shall expire and authorization to continue such activity shall terminate.
- d. Prior to accepting or generating wastes which are not described in the permit application or which would result in a significant change in the quantity or quality of the existing discharge, the permittee must report the proposed changes to the Commission. The permittee must apply for a permit amendment reflecting any necessary changes in permit conditions, including effluent limitations for pollutants not identified and limited by this permit.
- e. In accordance with the TWC § 26.029(b), after a public hearing, notice of which shall be given to the permittee, the Commission may require the permittee, from time to time, for good cause, in accordance with applicable laws, to conform to new or additional conditions.
- f. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under CWA § 307(a) for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition. The permittee shall comply with effluent standards or prohibitions

established under CWA § 307(a) for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

5. Permit Transfer

- a. Prior to any transfer of this permit, Commission approval must be obtained. The Commission shall be notified in writing of any change in control or ownership of facilities authorized by this permit. Such notification should be sent to the Applications Review and Processing Team (MC 148) of the Water Quality Division.
- b. A permit may be transferred only according to the provisions of 30 TAC § 305.64 (relating to Transfer of Permits) and 30 TAC § 50.133 (relating to Executive Director Action on Application or WQMP update).

6. Relationship to Hazardous Waste Activities

This permit does not authorize any activity of hazardous waste storage, processing, or disposal that requires a permit or other authorization pursuant to the Texas Health and Safety Code.

7. Relationship to Water Rights

Disposal of treated effluent by any means other than discharge directly to water in the state must be specifically authorized in this permit and may require a permit pursuant to TWC Chapter 11.

8. Property Rights

A permit does not convey any property rights of any sort, or any exclusive privilege.

9. Permit Enforceability

The conditions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

10. Relationship to Permit Application

The application pursuant to which the permit has been issued is incorporated herein; provided, however, that in the event of a conflict between the provisions of this permit and the application, the provisions of the permit shall control.

11. Notice of Bankruptcy

- a. Each permittee shall notify the Executive Director, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code (11 USC) by or against:
 - i. the permittee;
 - ii. an entity (as that term is defined in 11 USC, § 101(14)) controlling the permittee or listing the permit or permittee as property of the estate; or

- iii. an affiliate (as that term is defined in 11 USC, § 101(2)) of the permittee.
- b. This notification must indicate:
 - i. the name of the permittee;
 - ii. the permit number(s);
 - iii. the bankruptcy court in which the petition for bankruptcy was filed; and
 - iv. the date of filing of the petition.

OPERATIONAL REQUIREMENTS

1. The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control. Process control, maintenance, and operations records shall be retained at the facility site, or shall be readily available for review by a TCEQ representative, for a period of three years.
2. Upon request by the Executive Director, the permittee shall take appropriate samples and provide proper analysis in order to demonstrate compliance with Commission rules. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall comply with all applicable provisions of 30 TAC Chapter 312 concerning sewage sludge or biosolids use and disposal and 30 TAC §§ 319.21 - 319.29 concerning the discharge of certain hazardous metals.
3. Domestic wastewater treatment facilities shall comply with the following provisions:
 - a. The permittee shall notify the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, in writing, of any facility expansion at least 90 days prior to conducting such activity.
 - b. The permittee shall submit a closure plan for review and approval to the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, for any closure activity at least 90 days prior to conducting such activity. Closure is the act of permanently taking a waste management unit or treatment facility out of service and includes the permanent removal from service of any pit, tank, pond, lagoon, surface impoundment and/or other treatment unit regulated by this permit.
4. The permittee is 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.
5. Unless otherwise specified, the permittee shall provide a readily accessible sampling point and, where applicable, an effluent flow measuring device or other acceptable means by which effluent flow may be determined.

6. The permittee shall remit an annual water quality fee to the Commission as required by 30 TAC Chapter 21. Failure to pay the fee may result in revocation of this permit under TWC § 7.302(b)(6).

7. Documentation

For all written notifications to the Commission required of the permittee by this permit, the permittee shall keep and make available a copy of each such notification under the same conditions as self-monitoring data are required to be kept and made available. Except for information required for TPDES permit applications, effluent data, including effluent data in permits, draft permits and permit applications, and other information specified as not confidential in 30 TAC §§ 1.5(d), any information submitted pursuant to this permit may be claimed as confidential by the submitter. Any such claim must be asserted in the manner prescribed in the application form or by stamping the words confidential business information on each page containing such information. If no claim is made at the time of submission, information may be made available to the public without further notice. If the Commission or Executive Director agrees with the designation of confidentiality, the TCEQ will not provide the information for public inspection unless required by the Texas Attorney General or a court pursuant to an open records request. If the Executive Director does not agree with the designation of confidentiality, the person submitting the information will be notified.

8. Facilities that generate domestic wastewater shall comply with the following provisions; domestic wastewater treatment facilities at permitted industrial sites are excluded.
 - a. Whenever flow measurements for any domestic sewage treatment facility reach 75% of the permitted daily average or annual average flow for three consecutive months, the permittee must initiate engineering and financial planning for expansion and/or upgrading of the domestic wastewater treatment and/or collection facilities. Whenever the flow reaches 90% of the permitted daily average or annual average flow for three consecutive months, the permittee shall obtain necessary authorization from the Commission to commence construction of the necessary additional treatment and/or collection facilities. In the case of a domestic wastewater treatment facility which reaches 75% of the permitted daily average or annual average flow for three consecutive months, and the planned population to be served or the quantity of waste produced is not expected to exceed the design limitations of the treatment facility, the permittee shall submit an engineering report supporting this claim to the Executive Director of the Commission.

If in the judgment of the Executive Director the population to be served will not cause permit noncompliance, then the requirement of this section may be waived. To be effective, any waiver must be in writing and signed by the Director of the Enforcement Division (MC 219) of the Commission, and such waiver of these requirements will be reviewed upon expiration of the existing permit; however, any such waiver shall not be interpreted as condoning or excusing any violation of any permit parameter.

- b. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit 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.

- c. Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment, and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.
9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.
10. For Publicly Owned Treatment Works (POTWs), the 30-day average (or monthly average) percent removal for BOD and TSS shall not be less than 85%, unless otherwise authorized by this permit.
11. Facilities that generate industrial solid waste as defined in 30 TAC § 335.1 shall comply with these provisions:
 - a. Any solid waste, as defined in 30 TAC § 335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.
 - b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.
 - c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC § 335.8(b)(1), to the Corrective Action Section (MC 127) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.
 - d. Construction of any industrial solid waste management unit requires the prior written notification of the proposed activity to the Registration and Reporting Section (MC 129) of the Permitting and Registration Support Division. No person shall dispose of industrial solid waste, including sludge or other solids from wastewater treatment processes, prior to fulfilling the deed recordation requirements of 30 TAC § 335.5.

- e. The term “industrial solid waste management unit” means a landfill, surface impoundment, waste-pile, industrial furnace, incinerator, cement kiln, injection well, container, drum, salt dome waste containment cavern, or any other structure vessel, appurtenance, or other improvement on land used to manage industrial solid waste.
- f. The permittee shall keep management records for all sludge (or other waste) removed from any wastewater treatment process. These records shall fulfill all applicable requirements of 30 TAC § 335 and must include the following, as it pertains to wastewater treatment and discharge:
 - i. Volume of waste and date(s) generated from treatment process;
 - ii. Volume of waste disposed of on-site or shipped off-site;
 - iii. Date(s) of disposal;
 - iv. Identity of hauler or transporter;
 - v. Location of disposal site; and
 - vi. Method of final disposal.

The above records shall be maintained on a monthly basis. The records shall be retained at the facility site, or shall be readily available for review by authorized representatives of the TCEQ for at least five years.

- 12. For industrial facilities to which the requirements of 30 TAC § 335 do not apply, sludge and solid wastes, including tank cleaning and contaminated solids for disposal, shall be disposed of in accordance with THSC § 361.

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SLUDGE PROVISIONS

The permittee is authorized to dispose of sludge or biosolids only at a Texas Commission on Environmental Quality (TCEQ) authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge. **The disposal of sludge or biosolids by land application on property owned, leased or under the direct control of the permittee is a violation of the permit unless the site is authorized with the TCEQ. This provision does not authorize Distribution and Marketing of Class A or Class AB Biosolids. This provision does not authorize the permittee to land apply biosolids on property owned, leased or under the direct control of the permittee.**

SECTION I. REQUIREMENTS APPLYING TO ALL SEWAGE SLUDGE OR BIOSOLIDS LAND APPLICATION

A. General Requirements

1. The permittee shall handle and dispose of sewage sludge or biosolids in accordance with 30 TAC § 312 and all other applicable state and federal regulations in a manner that protects public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that may be present in the sludge or biosolids.
2. In all cases, if the person (permit holder) who prepares the sewage sludge supplies the sewage sludge to another person for land application use or to the owner or lease holder of the land, the permit holder shall provide necessary information to the parties who receive the sludge to assure compliance with these regulations.
3. The land application of processed or unprocessed chemical toilet waste, grease trap waste, grit trap waste, milk solids, or similar non-hazardous municipal or industrial solid wastes, or any of the wastes listed in this provision combined with biosolids, WTP residuals or domestic septage is prohibited unless the grease trap waste is added at a fats, oil and grease (FOG) receiving facility as part of an anaerobic digestion process.

B. Testing Requirements

1. Sewage sludge or biosolids shall be tested once during the term of this permit in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I [Toxicity Characteristic Leaching Procedure (TCLP)] or other method that receives the prior approval of the TCEQ for the contaminants listed in 40 CFR Part 261.24, Table 1. Sewage sludge or biosolids failing this test shall be managed according to RCRA standards for generators of hazardous waste, and the waste's disposition must be in accordance with all applicable requirements for hazardous waste processing, storage, or disposal. Following failure of any TCLP test, the management or disposal of sewage sludge or biosolids at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge or biosolids no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Permitting and Registration Support Division and the Regional Director (MC Region 13) within seven (7) days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Permitting and Registration Support Division (MC 129), Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 13) and the Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30th of each year. The permittee must submit this annual report using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver.

2. Biosolids shall not be applied to the land if the concentration of the pollutants exceeds the pollutant concentration criteria in Table 1. The frequency of testing for pollutants in Table 1 is found in Section I.C. of this permit.

TABLE 1

<u>Pollutant</u>	<u>Ceiling Concentration</u> <u>(Milligrams per kilogram)*</u>
Arsenic	75
Cadmium	85
Chromium	3000
Copper	4300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
PCBs	49
Selenium	100
Zinc	7500

* Dry weight basis

3. Pathogen Control

All sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site must be treated by one of the following methods to ensure that the sludge meets either the Class A, Class AB or Class B biosolids pathogen requirements.

- a. For sewage sludge to be classified as Class A biosolids with respect to pathogens, the density of fecal coliform in the sewage sludge must be less than 1,000 most probable number (MPN) per gram of total solids (dry weight basis), or the density of *Salmonella* sp. bacteria in the sewage sludge must be less than three MPN per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed. In addition, one of the alternatives listed below must be met:

Alternative 1 - The temperature of the sewage sludge that is used or disposed shall be maintained at or above a specific value for a period of time. See 30 TAC § 312.82(a)(2)(A) for specific information;

Alternative 5 (PFRP) - Sewage sludge that is used or disposed of must be treated in one of the Processes to Further Reduce Pathogens (PFRP) described in 40 CFR Part 503, Appendix B. PFRP include composting, heat drying, heat treatment, and thermophilic aerobic digestion; or

Alternative 6 (PFRP Equivalent) - Sewage sludge that is used or disposed of must be treated in a process that has been approved by the U. S. Environmental Protection Agency as being equivalent to those in Alternative 5.

- b. For sewage sludge to be classified as Class AB biosolids with respect to pathogens, the density of fecal coliform in the sewage sludge must be less than 1,000 MPN per gram of total solids (dry weight basis), or the density of *Salmonella* sp. bacteria in the sewage sludge be less than three MPN per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed. In addition, one of the alternatives listed below must be met:

Alternative 2 - The pH of the sewage sludge that is used or disposed shall be raised to above 12 std. units and shall remain above 12 std. units for 72 hours.

The temperature of the sewage sludge shall be above 52° Celsius for 12 hours or longer during the period that the pH of the sewage sludge is above 12 std. units.

At the end of the 72-hour period during which the pH of the sewage sludge is above 12 std. units, the sewage sludge shall be air dried to achieve a percent solids in the sewage sludge greater than 50%; or

Alternative 3 - The sewage sludge shall be analyzed for enteric viruses prior to pathogen treatment. The limit for enteric viruses is less than one Plaque-forming Unit per four grams of total solids (dry weight basis) either before or following pathogen treatment. See 30 TAC § 312.82(a)(2)(C)(i-iii) for specific information. The sewage sludge shall be analyzed for viable helminth ova prior to pathogen treatment. The limit for viable helminth ova is less than one per four grams of total solids (dry weight basis) either before or following pathogen treatment. See 30 TAC § 312.82(a)(2)(C)(iv-vi) for specific information; or

Alternative 4 - The density of enteric viruses in the sewage sludge shall be less than one Plaque-forming Unit per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed. The density of viable helminth ova in the sewage sludge shall be less than one per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed.

- c. Sewage sludge that meets the requirements of Class AB biosolids may be classified a Class A biosolids if a variance request is submitted in writing that is supported by substantial documentation demonstrating equivalent methods for reducing odors and written approval is granted by the executive director. The executive director may deny the variance request or revoke that approved variance if it is determined that the variance may potentially endanger human health or the environment, or create nuisance odor conditions.

- d. Three alternatives are available to demonstrate compliance with Class B biosolids criteria.

Alternative 1

- i. A minimum of seven random samples of the sewage sludge shall be collected within 48 hours of the time the sewage sludge is used or disposed of during each monitoring episode for the sewage sludge.
- ii. The geometric mean of the density of fecal coliform in the samples collected shall be less than either 2,000,000 MPN per gram of total solids (dry weight basis) or 2,000,000 Colony Forming Units per gram of total solids (dry weight basis).

Alternative 2 - Sewage sludge that is used or disposed of shall be treated in one of the Processes to Significantly Reduce Pathogens (PSRP) described in 40 CFR Part 503, Appendix B, so long as all of the following requirements are met by the generator of the sewage sludge.

- i. Prior to use or disposal, all the sewage sludge must have been generated from a single location, except as provided in paragraph v. below;
- ii. An independent Texas Licensed Professional Engineer must make a certification to the generator of a sewage sludge that the wastewater treatment facility generating the sewage sludge is designed to achieve one of the PSRP at the permitted design loading of the facility. The certification need only be repeated if the design loading of the facility is increased. The certification shall include a statement indicating the design meets all the applicable standards specified in Appendix B of 40 CFR Part 503;
- iii. Prior to any off-site transportation or on-site use or disposal of any sewage sludge generated at a wastewater treatment facility, the chief certified operator of the wastewater treatment facility or other responsible official who manages the processes to significantly reduce pathogens at the wastewater treatment facility for the permittee, shall certify that the sewage sludge underwent at least the minimum operational requirements necessary in order to meet one of the PSRP. The acceptable processes and the minimum operational and record keeping requirements shall be in accordance with established U.S. Environmental Protection Agency final guidance;
- iv. All certification records and operational records describing how the requirements of this paragraph were met shall be kept by the generator for a minimum of three years and be available for inspection by commission staff for review; and
- v. If the sewage sludge is generated from a mixture of sources, resulting from a person who prepares sewage sludge from more than one wastewater treatment facility, the resulting derived product shall meet one of the PSRP, and shall meet the certification, operation, and record keeping requirements of this paragraph.

Alternative 3 - Sewage sludge shall be treated in an equivalent process that has been approved by the U.S. Environmental Protection Agency, so long as all of the following requirements are met by the generator of the sewage sludge.

- i. Prior to use or disposal, all the sewage sludge must have been generated from a single location, except as provided in paragraph v. below;
- ii. Prior to any off-site transportation or on-site use or disposal of any sewage sludge generated at a wastewater treatment facility, the chief certified operator of the wastewater treatment facility or other responsible official who manages the processes to significantly reduce pathogens at the wastewater treatment facility for the permittee, shall certify that the sewage sludge underwent at least the minimum operational requirements necessary in order to meet one of the PSRP. The acceptable processes and the minimum operational and record keeping requirements shall be in accordance with established U.S. Environmental Protection Agency final guidance;
- iii. All certification records and operational records describing how the requirements of this paragraph were met shall be kept by the generator for a minimum of three years and be available for inspection by commission staff for review;
- iv. The Executive Director will accept from the U.S. Environmental Protection Agency a finding of equivalency to the defined PSRP; and
- v. If the sewage sludge is generated from a mixture of sources resulting from a person who prepares sewage sludge from more than one wastewater treatment facility, the resulting derived product shall meet one of the Processes to Significantly Reduce Pathogens, and shall meet the certification, operation, and record keeping requirements of this paragraph.

In addition to the Alternatives 1 – 3, the following site restrictions must be met if Class B biosolids are land applied:

- i. Food crops with harvested parts that touch the biosolids /soil mixture and are totally above the land surface shall not be harvested for 14 months after application of biosolids.
- ii. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of biosolids when the biosolids remain on the land surface for 4 months or longer prior to incorporation into the soil.
- iii. Food crops with harvested parts below the surface of the land shall not be harvested for 38 months after application of biosolids when the biosolids remain on the land surface for less than 4 months prior to incorporation into the soil.
- iv. Food crops, feed crops, and fiber crops shall not be harvested for 30 days after application of biosolids.
- v. Domestic livestock shall not be allowed to graze on the land for 30 days after application of biosolids.
- vi. Turf grown on land where biosolids are applied shall not be harvested for 1 year after application of the biosolids when the harvested turf is placed on either land with a high potential for public exposure or a lawn.
- vii. Public access to land with a high potential for public exposure shall be restricted

for 1 year after application of biosolids.

viii. Public access to land with a low potential for public exposure shall be restricted for 30 days after application of biosolids.

ix. Land application of biosolids shall be in accordance with the buffer zone requirements found in 30 TAC § 312.44.

4. Vector Attraction Reduction Requirements

All bulk sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site shall be treated by one of the following Alternatives 1 through 10 for vector attraction reduction.

Alternative 1 - The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38%.

Alternative 2 - If Alternative 1 cannot be met for an anaerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30° and 37° Celsius. Volatile solids must be reduced by less than 17% to demonstrate compliance.

Alternative 3 - If Alternative 1 cannot be met for an aerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge with percent solids of two percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20° Celsius. Volatile solids must be reduced by less than 15% to demonstrate compliance.

Alternative 4 - The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20° Celsius.

Alternative 5 - Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40° Celsius and the average temperature of the sewage sludge shall be higher than 45° Celsius.

Alternative 6 - The pH of sewage sludge shall be raised to 12 or higher by alkali addition and, without the addition of more alkali shall remain at 12 or higher for two hours and then remain at a pH of 11.5 or higher for an additional 22 hours at the time the sewage sludge is prepared for sale or given away in a bag or other container.

Alternative 7 - The percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75% based on the moisture content and total solids prior to mixing with other materials. Unstabilized solids are defined as organic materials in sewage sludge that have not been

treated in either an aerobic or anaerobic treatment process.

Alternative 8 - The percent solids of sewage sludge that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90% based on the moisture content and total solids prior to mixing with other materials at the time the sludge is used. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.

Alternative 9 -

- i. Biosolids shall be injected below the surface of the land.
- ii. No significant amount of the biosolids shall be present on the land surface within one hour after the biosolids are injected.
- iii. When sewage sludge that is injected below the surface of the land is Class A or Class AB with respect to pathogens, the biosolids shall be injected below the land surface within eight hours after being discharged from the pathogen treatment process.

Alternative 10-

- i. Biosolids applied to the land surface or placed on a surface disposal site shall be incorporated into the soil within six hours after application to or placement on the land.
- ii. When biosolids that is incorporated into the soil is Class A or Class AB with respect to pathogens, the biosolids shall be applied to or placed on the land within eight hours after being discharged from the pathogen treatment process.

C. Monitoring Requirements

Toxicity Characteristic Leaching Procedure (TCLP) Test - once during the term of this permit
 PCBs - once during the term of this permit

All metal constituents and fecal coliform or *Salmonella* sp. bacteria shall be monitored at the appropriate frequency shown below, pursuant to 30 TAC § 312.46(a)(1):

<u>Amount of biosolids (*) metric tons per 365-day period</u>	<u>Monitoring Frequency</u>
0 to less than 290	Once/Year
290 to less than 1,500	Once/Quarter
1,500 to less than 15,000	Once/Two Months
15,000 or greater	Once/Month

(*) *The amount of bulk biosolids applied to the land (dry wt. basis).*

Representative samples of sewage sludge shall be collected and analyzed in accordance with

the methods referenced in 30 TAC § 312.7

Identify each of the analytic methods used by the facility to analyze enteric viruses, fecal coliforms, helminth ova, *Salmonella* sp., and other regulated parameters.

Identify in the following categories (as applicable) the sewage sludge or biosolids treatment process or processes at the facility: preliminary operations (e.g., sludge or biosolids grinding and degritting), thickening (concentration), stabilization, anaerobic digestion, aerobic digestion, composting, conditioning, disinfection (e.g., beta ray irradiation, gamma ray irradiation, pasteurization), dewatering (e.g., centrifugation, sludge drying beds, sludge lagoons), heat drying, thermal reduction, and methane or biogas capture and recovery.

Identify the nature of material generated by the facility (such as a biosolid for beneficial use or land-farming, or sewage sludge or biosolids for disposal at a monofill) and whether the material is ultimately conveyed off-site in bulk or in bags.

SECTION II. REQUIREMENTS SPECIFIC TO BULK SEWAGE SLUDGE FOR APPLICATION TO THE LAND MEETING CLASS A, CLASS AB or B BIOSOLIDS PATHOGEN REDUCTION AND THE CUMULATIVE LOADING RATES IN TABLE 2, OR CLASS B PATHOGEN REDUCTION AND THE POLLUTANT CONCENTRATIONS IN TABLE 3

For those permittees meeting Class A, Class AB or B pathogen reduction requirements and that meet the cumulative loading rates in Table 2 below, or the Class B pathogen reduction requirements and contain concentrations of pollutants below listed in Table 3, the following conditions apply:

A. Pollutant Limits

Table 2

<u>Pollutant</u>	Cumulative Pollutant Loading Rate (pounds per acre)*
Arsenic	36
Cadmium	35
Chromium	2677
Copper	1339
Lead	268
Mercury	15
Molybdenum	Report Only
Nickel	375
Selenium	89
Zinc	2500

Table 3

<u>Pollutant</u>	Monthly Average Concentration (milligrams per kilogram)*
Arsenic	41
Cadmium	39
Chromium	1200
Copper	1500
Lead	300
Mercury	17
Molybdenum	Report Only
Nickel	420
Selenium	36
Zinc	2800

*Dry weight basis

B. Pathogen Control

All bulk sewage sludge that is applied to agricultural land, forest, a public contact site, a reclamation site, shall be treated by either Class A, Class AB or Class B biosolids pathogen reduction requirements as defined above in Section I.B.3.

C. Management Practices

1. Bulk biosolids shall not be applied to agricultural land, forest, a public contact site, or a reclamation site that is flooded, frozen, or snow-covered so that the bulk biosolids enters a wetland or other waters in the State.
2. Bulk biosolids not meeting Class A biosolids requirements shall be land applied in a manner which complies with Applicability in accordance with 30 TAC §312.41 and the Management Requirements in accordance with 30 TAC § 312.44.
3. Bulk biosolids shall be applied at or below the agronomic rate of the cover crop.
4. An information sheet shall be provided to the person who receives bulk Class A or AB biosolids sold or given away. The information sheet shall contain the following information:
 - a. The name and address of the person who prepared the Class A or AB biosolids that are sold or given away in a bag or other container for application to the land.
 - b. A statement that application of the biosolids to the land is prohibited except in accordance with the instruction on the label or information sheet.
 - c. The annual whole sludge application rate for the biosolids application rate for the biosolids that does not cause any of the cumulative pollutant loading rates in Table 2 above to be exceeded, unless the pollutant concentrations in Table 3 found in Section II above are met.

D. Notification Requirements

1. If bulk biosolids is applied to land in a State other than Texas, written notice shall be provided prior to the initial land application to the permitting authority for the State in which the bulk biosolids are proposed to be applied. The notice shall include:
 - a. The location, by street address, and specific latitude and longitude, of each land application site.
 - b. The approximate time period bulk biosolids will be applied to the site.
 - c. The name, address, telephone number, and National Pollutant Discharge Elimination System permit number (if appropriate) for the person who will apply the bulk biosolids.
2. The permittee shall give 180 days prior notice to the Executive Director in care of the Wastewater Permitting Section (MC 148) of the Water Quality Division of any change planned in the biosolids disposal practice.

E. Record Keeping Requirements

The documents will be retained at the facility site and/or shall be readily available for review by a TCEQ representative. The person who prepares bulk sewage sludge or a biosolids material shall develop the following information and shall retain the information at the facility site and/or shall be readily available for review by a TCEQ representative for a period

of five years. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for record keeping found in 30 TAC § 312.47 for persons who land apply.

1. The concentration (mg/kg) in the sludge of each pollutant listed in Table 3 above and the applicable pollutant concentration criteria (mg/kg), or the applicable cumulative pollutant loading rate and the applicable cumulative pollutant loading rate limit (lbs/ac) listed in Table 2 above.
2. A description of how the pathogen reduction requirements are met (including site restrictions for Class AB and Class B biosolids, if applicable).
3. A description of how the vector attraction reduction requirements are met.
4. A description of how the management practices listed above in Section II.C are being met.
5. The following certification statement:

“I certify, under penalty of law, that the applicable pathogen requirements in 30 TAC § 312.82(a) or (b) and the vector attraction reduction requirements in 30 TAC § 312.83(b) have been met for each site on which bulk biosolids are applied. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the management practices have been met. I am aware that there are significant penalties for false certification including fine and imprisonment.”

6. The recommended agronomic loading rate from the references listed in Section II.C.3. above, as well as the actual agronomic loading rate shall be retained. The person who applies bulk biosolids shall develop the following information and shall retain the information at the facility site and/or shall be readily available for review by a TCEQ representative indefinitely. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for record keeping found in 30 TAC § 312.47 for persons who land apply:
 - a. A certification statement that all applicable requirements (specifically listed) have been met, and that the permittee understands that there are significant penalties for false certification including fine and imprisonment. See 30 TAC § 312.47(a)(4)(A)(ii) or 30 TAC § 312.47(a)(5)(A)(ii), as applicable, and to the permittee’s specific sludge treatment activities.
 - b. The location, by street address, and specific latitude and longitude, of each site on which biosolids is applied.
 - c. The number of acres in each site on which bulk biosolids are applied.
 - d. The date and time biosolids are applied to each site.
 - e. The cumulative amount of each pollutant in pounds/acre listed in Table 2 applied to each site.
 - f. The total amount of biosolids applied to each site in dry tons.

The above records shall be maintained on-site on a monthly basis and shall be made available to the Texas Commission on Environmental Quality upon request.

F. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 13) and Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30th of each year the following information. The permittee must submit this annual report using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver.

1. Identify in the following categories (as applicable) the sewage sludge or biosolids treatment process or processes at the facility: preliminary operations (e.g., sludge or biosolids grinding and degritting), thickening (concentration), stabilization, anaerobic digestion, aerobic digestion, composting, conditioning, disinfection (e.g., beta ray irradiation, gamma ray irradiation, pasteurization), dewatering (e.g., centrifugation, sludge drying beds, sludge lagoons), heat drying, thermal reduction, and methane or biogas capture and recovery.
2. Identify the nature of material generated by the facility (such as a biosolid for beneficial use or land-farming, or sewage sludge for disposal at a monofill) and whether the material is ultimately conveyed off-site in bulk or in bags.
3. Results of tests performed for pollutants found in either Table 2 or 3 as appropriate for the permittee's land application practices.
4. The frequency of monitoring listed in Section I.C. that applies to the permittee.
5. Toxicity Characteristic Leaching Procedure (TCLP) results.
6. PCB concentration in sludge or biosolids in mg/kg.
7. Identity of hauler(s) and TCEQ transporter number.
8. Date(s) of transport.
9. Texas Commission on Environmental Quality registration number, if applicable.
10. Amount of sludge or biosolids disposal dry weight (lbs/acre) at each disposal site.
11. The concentration (mg/kg) in the sludge of each pollutant listed in Table 1 (defined as a monthly average) as well as the applicable pollutant concentration criteria (mg/kg) listed in Table 3 above, or the applicable pollutant loading rate limit (lbs/acre) listed in Table 2 above if it exceeds 90% of the limit.
12. Level of pathogen reduction achieved (Class A, Class AB or Class B).
13. Alternative used as listed in Section I.B.3.(a. or b.). Alternatives describe how the pathogen reduction requirements are met. If Class B biosolids, include information on how site restrictions were met.
14. Identify each of the analytic methods used by the facility to analyze enteric viruses, fecal coliforms, helminth ova, *Salmonella* sp., and other regulated parameters.
15. Vector attraction reduction alternative used as listed in Section I.B.4.

16. Amount of sludge or biosolids transported in dry tons/year.
17. The certification statement listed in either 30 TAC § 312.47(a)(4)(A)(ii) or 30 TAC § 312.47(a)(5)(A)(ii) as applicable to the permittee's sludge or biosolids treatment activities, shall be attached to the annual reporting form.
18. When the amount of any pollutant applied to the land exceeds 90% of the cumulative pollutant loading rate for that pollutant, as described in Table 2, the permittee shall report the following information as an attachment to the annual reporting form.
 - a. The location, by street address, and specific latitude and longitude.
 - b. The number of acres in each site on which bulk biosolids are applied.
 - c. The date and time bulk biosolids are applied to each site.
 - d. The cumulative amount of each pollutant (i.e., pounds/acre) listed in Table 2 in the bulk biosolids applied to each site.
 - e. The amount of biosolids (i.e., dry tons) applied to each site.

The above records shall be maintained on a monthly basis and shall be made available to the Texas Commission on Environmental Quality upon request.

SECTION III. REQUIREMENTS APPLYING TO ALL SEWAGE SLUDGE OR BIOSOLIDS DISPOSED IN A MUNICIPAL SOLID WASTE LANDFILL

- A. The permittee shall handle and dispose of sewage sludge or biosolids in accordance with 30 TAC § 330 and all other applicable state and federal regulations to protect public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that may be present. The permittee shall ensure that the sewage sludge or biosolids meets the requirements in 30 TAC § 330 concerning the quality of the sludge disposed in a municipal solid waste landfill.
- B. If the permittee generates sewage sludge or biosolids and supplies that sewage sludge or biosolids to the owner or operator of a municipal solid waste landfill (MSWLF) for disposal, the permittee shall provide to the owner or operator of the MSWLF appropriate information needed to be in compliance with the provisions of this permit.
- C. The permittee shall give 180 days prior notice to the Executive Director in care of the Wastewater Permitting Section (MC 148) of the Water Quality Division of any change planned in the sewage sludge or biosolids disposal practice.
- D. Sewage sludge or biosolids shall be tested once during the term of this permit in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I (Toxicity Characteristic Leaching Procedure) or other method, which receives the prior approval of the TCEQ for contaminants listed in Table 1 of 40 CFR § 261.24. Sewage sludge or biosolids failing this test shall be managed according to RCRA standards for generators of hazardous waste, and the waste's disposition must be in accordance with all applicable requirements for hazardous waste processing, storage, or disposal.

Following failure of any TCLP test, the management or disposal of sewage sludge or biosolids at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge or biosolids no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Permitting and Registration Support Division and the Regional Director (MC Region 13) of the appropriate TCEQ field office within 7 days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Permitting and Registration Support Division (MC 129), Texas Commission on Environmental Quality, P. O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 13) and the Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year.

- E. Sewage sludge or biosolids shall be tested as needed, in accordance with the requirements of 30 TAC Chapter 330.
- F. Record Keeping Requirements

The permittee shall develop the following information and shall retain the information for five years.

1. The description (including procedures followed and the results) of all liquid Paint Filter Tests performed.
2. The description (including procedures followed and results) of all TCLP tests performed.

The above records shall be maintained on-site on a monthly basis and shall be made available to the Texas Commission on Environmental Quality upon request.

G. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 13) and Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30th of each year the following information. The permittee must submit this annual report using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver.

1. Identify in the following categories (as applicable) the sewage sludge or biosolids treatment process or processes at the facility: preliminary operations (e.g., sludge or biosolids grinding and dewatering), thickening (concentration), stabilization, anaerobic digestion, aerobic digestion, composting, conditioning, disinfection (e.g., beta ray irradiation, gamma ray irradiation, pasteurization), dewatering (e.g., centrifugation, sludge drying beds, sludge lagoons), heat drying, thermal reduction, and methane or biogas capture and recovery.
2. Toxicity Characteristic Leaching Procedure (TCLP) results.
3. Annual sludge or biosolids production in dry tons/year.
4. Amount of sludge or biosolids disposed in a municipal solid waste landfill in dry tons/year.
5. Amount of sludge or biosolids transported interstate in dry tons/year.
6. A certification that the sewage sludge or biosolids meets the requirements of 30 TAC § 330 concerning the quality of the sludge disposed in a municipal solid waste landfill.
7. Identity of hauler(s) and transporter registration number.
8. Owner of disposal site(s).
9. Location of disposal site(s).
10. Date(s) of disposal.

The above records shall be maintained on-site on a monthly basis and shall be made available to the Texas Commission on Environmental Quality upon request.

SECTION IV. REQUIREMENTS APPLYING TO SLUDGE OR BIOSOLIDS TRANSPORTED TO ANOTHER FACILITY FOR FURTHER PROCESSING

These provisions apply to sludge or biosolids that is transported to another wastewater treatment facility or facility that further processes sludge or biosolids. These provisions are intended to allow transport of sludge or biosolids to facilities that have been authorized to accept sludge or biosolids. These provisions do not limit the ability of the receiving facility to determine whether to accept the sludge or biosolids, nor do they limit the ability of the receiving facility to request additional testing or documentation.

A. General Requirements

1. The permittee shall handle and dispose of sewage sludge or biosolids in accordance with 30 TAC Chapter 312 and all other applicable state and federal regulations in a manner that protects public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that may be present in the sludge.
2. Sludge or biosolids may only be transported using a registered transporter or using an approved pipeline.

B. Record Keeping Requirements

1. For sludge or biosolids transported by an approved pipeline, the permittee must maintain records of the following:
 - a. the amount of sludge or biosolids transported;
 - b. the date of transport;
 - c. the name and TCEQ permit number of the receiving facility or facilities;
 - d. the location of the receiving facility or facilities;
 - e. the name and TCEQ permit number of the facility that generated the waste; and
 - f. copy of the written agreement between the permittee and the receiving facility to accept sludge or biosolids.
2. For sludge transported by a registered transporter, the permittee must maintain records of the completed trip tickets in accordance with 30 TAC § 312.145(a)(1)-(7) and amount of sludge or biosolids transported.
3. The above records shall be maintained on-site on a monthly basis and shall be made available to the TCEQ upon request. These records shall be retained for at least five years.

C. Reporting Requirements

The permittee shall report the following information annually to the TCEQ Regional Office (MC Region 13) and Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30th of each year. The permittee must submit this annual report using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver.

1. Identify in the following categories (as applicable) the sewage sludge or biosolids treatment process or processes at the facility: preliminary operations (e.g., sludge or biosolids grinding and degritting), thickening (concentration), stabilization, anaerobic digestion, aerobic digestion, composting, conditioning, disinfection (e.g., beta ray irradiation, gamma ray irradiation, pasteurization), dewatering (e.g., centrifugation, sludge drying beds, sludge lagoons), heat drying, thermal reduction, and methane or biogas capture and recovery.
2. the annual sludge or biosolids production;
3. the amount of sludge or biosolids transported;
4. the owner of each receiving facility;
5. the location of each receiving facility; and
6. the date(s) of disposal at each receiving facility.

OTHER REQUIREMENTS

1. The permittee shall 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.

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.

2. The facility is not located in the Coastal Management Program boundary.
3. The permittee shall comply with the requirements of 30 TAC § 309.13(a) through (d). In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC § 309.13(e).
4. The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.
5. In accordance with 30 TAC § 319.9, a permittee that has at least twelve months of uninterrupted compliance with its bacteria limit may notify the commission in writing of its compliance and request a less frequent measurement schedule. To request a less frequent schedule, the permittee shall submit a written request to the TCEQ Wastewater Permitting Section (MC 148) for each phase that includes a different monitoring frequency. The request must contain all of the reported bacteria values (Daily Avg. and Daily Max/Single Grab) for the twelve consecutive months immediately prior to the request. If the Executive Director finds that a less frequent measurement schedule is protective of human health and the environment, the permittee may be given a less frequent measurement schedule. For this permit, 5/week may be reduced to 3/week in all phases. **A violation of any bacteria limit by a facility that has been granted a less frequent measurement schedule will require the permittee to return to the standard frequency schedule and submit written notice to the TCEQ Wastewater Permitting Section (MC 148).** The permittee may not apply for another reduction in measurement frequency for at least 24 months from the date of the last violation. The Executive Director may establish a more frequent measurement schedule if necessary to protect human health or the environment.
6. Prior to construction of the Interim I, Interim II and Final phase treatment facilities, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) a summary transmittal letter in accordance with the requirements in 30 TAC § 217.6(d). If requested by the Wastewater Permitting Section, the permittee shall submit plans and specifications and a final engineering design report which comply with 30 TAC Chapter 217, Design Criteria for Domestic Wastewater Systems. The permittee shall clearly show how the treatment system will meet the permitted effluent limitations required on Page 2, 2a and 2b of this permit. A copy of the summary transmittal letter shall be available at the plant site for inspection by authorized representatives of the TCEQ.
7. Reporting requirements according to 30 TAC §§ 319.1-319.11 and any additional effluent reporting requirements contained in this permit are suspended from the effective date of the permit until plant startup or discharge from the facility described by this permit, whichever occurs first. The permittee shall provide written notice to the TCEQ Regional Office (MC Region 13) and the Applications Review

and Processing Team (MC 148) of the Water Quality Division, in writing at least forty-five days prior to plant startup or anticipated discharge, whichever occurs first, and prior to completion of each additional phase on Notification of Completion Form 20007.



Compliance History Report

Compliance History Report for CN605941608, RN111349809, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator:	CN605941608, CIELENCKI, MARY JANE	Classification:	NOT APPLICABLE	Rating:	N/A
Regulated Entity:	RN111349809, SIMMONS VALLEY WWTF	Classification:	NOT APPLICABLE	Rating:	N/A
Complexity Points:	N/A	Repeat Violator:	N/A		
CH Group:	14 - Other				
Location:	PROPOSED WWTF WILL BE LOCATED APPROX 25 MILES NW OF INTERSECTION US 281 N AND REBECCA CREEK RD IN SPRING BRANCH COMAL COUNTY TX COMAL, TX, COMAL COUNTY				
TCEQ Region:	REGION 13 - SAN ANTONIO				
ID Number(s):					
WASTEWATER EPA ID	TX0141828	WASTEWATER PERMIT	WQ0016052001		
Compliance History Period:	September 01, 2016 to August 31, 2021	Rating Year:	2021	Rating Date:	09/01/2021
Date Compliance History Report Prepared:	April 06, 2022				
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.				
Component Period Selected:	October 07, 2016 to April 06, 2022				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	WH			Phone:	(512) 239-3581

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A



Compliance History Report

Compliance History Report for CN602969396, RN111349809, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator:	CN602969396, Sjwtx, Inc.	Classification:	SATISFACTORY	Rating:	4.82
Regulated Entity:	RN111349809, SIMMONS VALLEY WWTF	Classification:	NOT APPLICABLE	Rating:	N/A
Complexity Points:	N/A	Repeat Violator:	N/A		
CH Group:	14 - Other				
Location:	PROPOSED WWTF WILL BE LOCATED APPROX 25 MILES NW OF INTERSECTION US 281 N AND REBECCA CREEK RD IN SPRING BRANCH COMAL COUNTY TX COMAL, TX, COMAL COUNTY				
TCEQ Region:	REGION 13 - SAN ANTONIO				
ID Number(s):					
WASTEWATER EPA ID	TX0141828	WASTEWATER PERMIT	WQ0016052001		
Compliance History Period:	September 01, 2016 to August 31, 2021	Rating Year:	2021	Rating Date:	09/01/2021
Date Compliance History Report Prepared:	April 06, 2022				
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.				
Component Period Selected:	October 07, 2016 to April 06, 2022				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	WH	Phone:	(512) 239-3581		

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):
A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.
N/A

F. Environmental audits:
N/A

G. Type of environmental management systems (EMSs):
N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A