

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Office of Chief Clerk Date: April 8, 2024
From: Michael Parr, Staff Attorney, Environmental Law Division
Subject: Transmittal of Documents for Administrative Record

Applicant: North Texas Municipal Water District
Proposed Permit No.: WQ0005323000
Program: Water Quality Division
TCEQ Docket No.: 2023-0529-SLG

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

Sincerely,



Michael Parr II
Staff Attorney
Environmental Law Division

TCEQ DOCKET NO. 2023-0529-SLG

APPLICATION
BY NORTH TEXAS
MUNICIPAL WATER DISTRICT FOR
TCEQ PERMIT NO. WQ0005323000

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BEFORE
THE TEXAS
COMMISSION ON
ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

I. INTRODUCTION

The Executive Director of the Texas Commission on Environmental Quality files this Response to Hearing Requests on the application by North Texas Municipal Water District for new permit No. WQ0005323000, authorizing the the processing, storage, and disposal of Water Treatment Plant Residuals at the Wylie Disposal Monofil. Scott and Jennifer Dafft, Peter Koelsch, Wilson Lee, Michael Lorra, Robert Williams, Russell Coons, Neha King, Dianna Lawrence, Jane Ridgway, Charles Ruple, and Michael Stubbe, filed timely requests for a Contested Case Hearing. Linsey Futrell, Preston Nutt, and Bethanie Wallgren filed timely Requests for Reconsideration.

A. ATTACHMENTS FOR COMMISSION CONSIDERATION

- Attachment A - The ED's Geographic Information System Maps and Appendix

B. TERMS, ACRONYMS, OR ABBREVIATIONS USED IN THIS RESPONSE TO HEARING REQUESTS

- **§:** Section
- **ED:** Executive Director
- **HB:** House Bill
- **SB:** Senate Bill
- **GIS:** Geographic Information Systems
- **OCC:** Office of the Chief Clerk
- **RFR:** Request for Reconsideration:
- **RTC:** Response to Comment
- **WTP:** Water Treatment Plant
- **PFAS:** Per-and Polyfluoroalkyl substances
- **NAPD:** Notice of Application & Preliminary Decision
- **NORI:** Notice of Receipt & Intent to Obtain a Water Quality Permit
- **SOAH:** State Office of Administrative Hearings
- **TCEQ:** Texas Commission on Environmental Quality
- **30 TAC:** Title 30 of the Texas Administrative Code
- **Hearing:** Contested Case Hearing
- **Monofil:** Landfill meant solely for disposal of a single type of waste
- **Requests:** Request for a Contested Case Hearing
- **Applicant:** North Texas Municipal Water District
- **TCEQ Rules:** Title 30 of the Texas Administrative Code
- **Commission:** Texas Commission on Environmental Quality
- **WTP Residuals:** Material generated treating water for drinkable uses
- **Proposed permit:** Draft-TCEQ permit No. WQ0005323000
- **Proposed facility:** The Wylie WTP and Disposal Monofil

II. DESCRIPTION OF THE FACILITY

The proposed facility is a 310-acre monofil authorized for the disposal of only dewatered WTP residuals at a max rate of 100,000 dry tons per year and will be located approximately 0.25 mile north of the intersection of County Road 644 and Farm-to-Market Road 547, in Collin County, Texas 75442. The location of the proposed facility will be within the drainage basin of Lake Tawakoni in Segment No. 0507 of the Sabine River Basin. However, there will not be a discharge from the proposed facility and the proposed permit does not authorize a discharge of pollutants into water in the state.

The proposed permit authorizes the Applicant to process, store, and dispose of WTP residuals in accordance with the limitations, requirements, and other conditions of the proposed permit, which is granted subject to the TCEQ rules and other Orders of the Commission and the laws of Texas. Nothing in the proposed permit exempts the Applicant from compliance with applicable TCEQ rules and regulations. The Applicant must handle and dispose of all WTP residuals in accordance with all applicable state and federal regulations to protect public health and the environment. Additionally, the proposed permit does not authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations.

III. PROCEDURAL HISTORY

The TCEQ received the application on May 19, 2021, and declared it administratively complete on September 15, 2021. The Applicant published the NORI in Collin County, Texas on September 29, 2021, in English in the *Dallas Morning News*, and in Spanish in *Al Dia*. The ED completed the technical review of the application on February 14, 2022, and prepared an initial draft of the proposed permit that if approved, would establish the conditions under which the proposed facility must operate. To correct inaccuracies in the original NORI, the Applicant published a Combined NAPD & NORI in Collin County, Texas on June 15, 2022, in English in the *Dallas Morning News*, and in Spanish in *Al Dia*. The public comment period ended on July 15, 2022, the ED's RTC was filed on February 13, 2022, and the time for filing Requests for a Hearing or an RFR ended on March 17, 2023.

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 HB 801, 76th Legislature, 1999, and the procedural requirements of and rules implementing SB 709, 84th Legislature, 2015, which both are implemented by the TCEQ rules in 30 TAC, Chapters 39, 50, and 55. The Texas Legislature enacted SB 709, effective September 1, 2015, amending the requirements for public comments and contested case hearings.

IV. 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
http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40tab_02.tpl
- Federal environmental laws: <http://www.epa.gov/lawsregs/>

- 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 by sending an email to the following address: complaint@TCEQ.texas.gov

Commission records for the proposed facility are available for viewing and copying at TCEQ’s OCC at the main office in Austin, Texas at 12100 Park 35 Circle, Building F, 1st Floor, for the current application until final action is taken. Some documents located at the OCC 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 Charles J. Rike Memorial Library located at 203 Orange Street, Farmersville, Texas 75442, since publication of the NORI. The final permit application, proposed permit, statement of basis/technical summary, and the ED’s preliminary decision are available for viewing and copying at the same location since publication of the Combined NAPD/NORI. The ED determined that the proposed permit, if issued, meets all statutory and regulatory requirements and is protective of the environment, water quality, animal life, vegetation, and human health.

If you would like to file a complaint about the proposed facility concerning its compliance with TCEQ rules or to address potential permit violations, you may contact the TCEQ Regional Office (Region 4) in Fort Worth, TX at (817) 588-5800 or the statewide toll-free number at 1-888-777-3186. Complaints may also be filed electronically by using the methods described above at the seventh bullet point under, “Access to Rules, Laws, and Records.” If an inspection by the Regional Office finds that the Applicant is not complying with all the requirements of the permit, or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.

V. EVALUATION OF HEARING REQUESTS

HB 801 established statutory procedures for public participation in certain environmental permitting proceedings, specifically regarding public notice and public comment and the Commission’s consideration of Requests. The Commission implemented HB 801 by adopting procedural rules in 30 TAC chapters 39, 50, and 55. SB 709 revised the requirements for submitting public comment and the Commission’s consideration of Requests. This application was declared administratively complete on September 15, 2021; 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 executive director, the public interest counsel, and applicant may submit written responses to [hearing] requests”¹

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,

¹ 30 TAC § 55.209(d).

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.²

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 requester's timely comments, and not based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the ED's Response to Comment.³

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.⁴

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.

² *Id.* at § 55.209(e).

³ 30 TAC § 55.201(c).

⁴ *Id.* at § 55.201(d).

- (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.⁵
- (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.⁶

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 for a hearing.”⁷ “The commission may not refer an issue to State Office of Administrative Hearing 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.”⁸

⁵ 30 TAC § 55.203(a)-(c).

⁶ *Id.* at § 55.203(d).

⁷ 30 TAC § 50.115(b).

⁸ *Id.* at § 55.203(d).

VI. ANALYSIS OF THE HEARING REQUESTS

For this permit application the relevant public comment period ended on July 15, 2022, and the time for filing Requests or RFRs ended on March 17, 2023. The ED's analyses determined whether the Requests followed TCEQ rules, if the requestors qualify as affected persons; what issues may be referred for a hearing, and the length of that hearing.

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

1. **Scott and Jennifer Daffts (the Daffts)** filed timely, written Requests that provided the requisite contact information, raised relevant issues that form the basis of their Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing.

The Daffts' Requests complied with 30 TAC §§ 55.201(c), and (d) because they effectively identified a personal justiciable interest in a written explanation plainly describing why the Daffts believe they will be affected by the application differently than the public. The Daffts' Requests stated they own property in proximity to the proposed facility and raised issues relevant to a decision on the application, such as silt running off the site and on to their property.

The ED recommends finding that the Requests of the Daffts' substantially complied with 30 TAC §§ 55.201(c) and (d).

2. **Peter Koelsch** filed a timely, written Request that provided the requisite contact information, raised relevant issues that form the basis of his Request in timely comments not withdrawn before the RTC was filed, and requested a hearing.

Mr. Koelsch'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 Mr. Koelsch believes he will be affected by the application differently than the public. Mr. Koelsch's Request stated he and his family both operate a small business and live in proximity to the proposed facility and raised issues relevant to a decision on the application, such as adverse impacts on human health and the environment from the proposed facility being so close to his home.

The ED recommends finding that the Request of Peter Koelsch substantially complied with 30 TAC §§ 55.201(c) and (d).

3. **Wilson Lee** filed timely, written Requests that provided the requisite contact information, raised relevant issues that form the basis of the Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing.

Mr. Lee's Requests complied with 30 TAC §§ 55.201(c), and (d) because they effectively identified a personal justiciable interest in a written explanation plainly describing why Mr. Lee believes he will be affected by the application differently than the public. Mr. Lee's Request stated he lives in proximity to the proposed facility and raised issues relevant to a decision on the application, such as silt and debris improperly leaving the site because of wind gusts.

The ED recommends finding that the Requests of Wilson Lee substantially complied with 30 TAC §§ 55.201(c) and (d).

4. **Michael Lorra** filed a timely, written Request that provided the requisite contact information, raised relevant issues that form the basis of the Request in timely comments not withdrawn before the RTC was filed, and requested a hearing.

Mr. Lorra'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 Mr. Lorra believes he will be affected by the application differently than the public. Mr. Lorra's Request stated he lives in proximity to the proposed facility and raised issues relevant to a decision on the application, such as foul odors and adverse impacts on human health and the environment from the proposed facility being so close to his home.

The ED recommends finding that the Request of Michael Lorra substantially complied with 30 TAC §§ 55.201(c) and (d).

5. **Jim Wall** filed timely, written Requests that provided the requisite contact information, raised relevant issues that form the basis of the Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing.

Mr. Wall's Requests complied with 30 TAC §§ 55.201(c), and (d) because they effectively identified a personal justiciable interest in a written explanation plainly describing why Mr. Wall believes he will be affected by the application differently than the public. Mr. Wall's Request stated he lives in proximity to the proposed facility and raised issues relevant to a decision on the application, such as runoff leaving the site and contaminating his stock pond and adverse impacts on his livestock and wildlife health from the proposed facility being so close.

The ED recommends finding that the Request of Jim Wall substantially complied with 30 TAC §§ 55.201(c) and (d).

6. **Robert Williams** filed a timely, written Request that provided the requisite contact information, raised relevant issues that form the basis of the Request in timely comments not withdrawn before the RTC was filed, and requested a hearing.

Mr. Williams' 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 Mr. Williams believes he will be affected by the application differently than the public. Mr. Williams' Request stated he lives in proximity to the proposed facility and raised issues relevant to a decision on the application, such as foul odors and adverse impacts on human health and the environment from the proposed facility being so close to his home.

The ED recommends finding that the Request of Robert Williams substantially complied with 30 TAC §§ 55.201(c) and (d).

7. **Russell Coons** filed a timely, written Request that provided the requisite contact information and raised issues that form the basis of the Request in timely comments not withdrawn before the RTC was filed and requested a hearing.

Mr. Coons' Request complied with the requirements of 30 TAC § 55.201(c) but did not comply with 30 TAC § 55.201(d), as it failed to identify a personal justiciable interest affected by the application, including the necessary, brief but specific statement explaining in plain language why Mr. Coons believes he will be adversely affected by the application in a manner uncommon to the public.

Mr. Coons' Request stated that he lives in proximity to the proposed facility; however, Mr. Coons' Request did not raise any relevant issues nor explain why he believes he will be affected by this application in a manner uncommon to the public. Mr. Coons' Request raised PFAS contamination concerns, but PFAS is not authorized by the proposed permit to be disposed of at the proposed facility. Therefore, Mr. Coons' Request lacked a brief but specific statement describing a relevant basis for how and why Mr. Coons believes he will be adversely affected by the proposed facility in a manner uncommon to the public.

The ED recommends finding that the Request of Russell Coons failed to substantially comply with 30 TAC §§ 55.201(c) and (d).

8. **Neha King** filed a timely, written Request that provided the requisite contact information and raised issues that form the basis of the Request in timely comments not withdrawn before the RTC was filed and requested a hearing.

Ms. King's Request complied with the requirements of 30 TAC § 55.201(c) but did not comply with 30 TAC § 55.201(d), as it failed to identify a personal justiciable interest affected by the application, including the necessary, brief but specific statement explaining in plain language why Ms. King believes she will be adversely affected by this application in a manner uncommon to the public.

Ms. King's Request stated she does not yet live in proximity to the proposed facility, did not raise any relevant issues, nor explain why she believes she will be affected by this application in a manner uncommon to the public. Ms. King's Request raised odor concerns; however, it did not explain how odors from the proposed facility would affect her personally, or uncommon to the public, as she stated that she does not yet live in Josephine, Texas, a nearby city in Collin County, Texas. Therefore, Ms. King's Request lacked a brief, specific, statement describing a relevant basis for how and why Ms. King believes she will be adversely affected by the proposed facility in a manner uncommon to the public.

The ED recommends finding that the Request of Neha King failed to substantially comply with 30 TAC §§ 55.201(c) and (d).

9. **Dianna Lawrence** filed a timely, written Request that provided the requisite contact information, requested a hearing, but was based on irrelevant or vague comments timely made and not withdrawn before the RTC was filed.

Ms. Lawrence's Request failed to comply with the requirements of 30 TAC §§ 55.201(c) and (d), as it failed to identify a personal justiciable interest affected by the application.

Ms. Lawrence's Request did not state she is in anyway within proximity to the proposed facility, did not raise any relevant issues, nor explain why she believes she will be adversely affected by this application in a manner uncommon to the public. Ms. Lawrence's Request mentioned the proposed facility's "lasting effect" on residents in Josephine, Texas, but failed to provide any further specificity.

Ms. Lawrence's Request did not explain how proposed facility would affect her in a manner not common to members of the public. Therefore, Ms. Lawrence's Request lacked a brief but specific statement describing a relevant basis for how and why Ms. Lawrence believes she will be adversely affected by the proposed facility in a manner uncommon to the public.

The ED recommends finding that the Request of Dianna Lawrence failed to substantially comply with 30 TAC §§ 55.201(c) and (d).

- 10. Jane Ridgway** filed a timely, written Request that provided the requisite contact information, requested a hearing, but was based on irrelevant or vague comments timely made and not withdrawn before the RTC was filed.

Ms. Ridgway's Request failed to comply with the requirements of 30 TAC §§ 55.201(c) and (d), as it failed to identify a personal justiciable interest affected by the application.

Ms. Ridgway's Request did not state she is in anyway within proximity to the proposed facility, did not raise any relevant issues, nor explain why she believes she will be adversely affected by this application in a manner not common to members of the public. Ms. Ridgway's Request mentioned runoff from the proposed facility could cause flooding and affect existing homes and present and future development in the City of Josephine but failed to provide any further specificity. Ms. Ridgway's Request did not explain how the proposed facility would affect her. Therefore, Ms. Ridgway's Request did not contain a brief, specific, statement describing a relevant basis for how and why Ms. Ridgway believes she will be adversely affected by the facility in a manner uncommon to the public.

The ED recommends finding that the Request of Jane Ridgway failed to substantially comply with 30 TAC §§ 55.201(c) and (d).

- 11. Charles Ruple** filed a timely, written Request that provided the requisite contact information and raised issues that form the basis of the Request in timely comments not withdrawn before the RTC was filed and requested a hearing.

Mr. Ruple's Request complied with the requirements of 30 TAC § 55.201(c) but did not comply with 30 TAC § 55.201(d), as it failed to identify a personal justiciable interest affected by the application, including the necessary, brief but specific, statement explaining in plain language why Mr. Ruple believes he will be adversely affected by this application in a manner not common to members of the public.

Mr. Ruple's Request stated that he lives in proximity to the proposed facility; however, Mr. Ruple's Request did not raise any relevant issues nor explain why he believes he will be affected by this application in a manner not common to members of the public. Mr. Ruple's Request raised PFAS contamination concerns, but PFAS is not authorized by the proposed permit to be disposed of at the proposed facility. Therefore, Mr. Ruple's Request did not contain a brief, specific, statement describing a relevant basis for how and why Mr. Ruple believes he will be adversely affected by the proposed permit or facility in a manner not common to the public.

The ED recommends finding that the Request of Charles Ruple failed to substantially comply with 30 TAC §§ 55.201(c) and (d).

- 12. Michael Stubbe** filed a timely, written Request that provided the requisite contact information and raised issues that form the basis of the Request in timely comments not withdrawn before the RTC was filed and requested a hearing.

Mr. Stubbe's Request complied with the requirements of 30 TAC § 55.201(c) but did not comply with 30 TAC § 55.201(d), as it failed to identify a personal

justiciable interest affected by the application, including the necessary, brief but specific, statement explaining in plain language why Mr. Stubbe believes he will be adversely affected by this application in a manner not common to members of the public.

Mr. Stubbe's Request stated that he lives in proximity to the proposed facility; however, Mr. Stubbe's Request did not raise any relevant issues nor explain why he believes he will be affected by this application in a manner not common to members of the public. Mr. Stubbe's Request raised operation concerns for the proposed facility and PFAS contamination concerns, but PFAS is not authorized by the proposed permit to be disposed of at the proposed facility. Therefore, Mr. Stubbe's Request did not contain a brief, specific, statement describing a relevant basis for how and why Mr. Stubbe believes he will be adversely affected by the proposed permit or facility in a manner not common to the public.

The ED recommends finding that the Request of Michael Stubbe failed to substantially comply with 30 TAC §§ 55.201(c) and (d).

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

1. **Scott and Jennifer Daffts (the Daffts)** filed Requests that effectively identified a personal, justiciable interest affected by the application.

The Daffts' Requests stated that the proposed facility is in proximity to their home, which according to the GIS map prepared by the ED's staff is only 0.01-0.02 linear miles from the proposed facility. The Daffts also are identified on the Adjacent Landowners' Map List (Property Nos. 25, 27a, 27b, & 28). Both facts increase the likelihood that the Daffts will be affected in a way not common to the public.

The Daffts' proximity, which was explained briefly and specifically, in plain language in their Requests, and the relevant issues to a decision on the application that they raised, whether silt and other debris from the proposed facility will be prevented from running off the site, and on to the Daffts' property, is an issue related to the interests of the requesters, demonstrating a reasonable relationship exists between the interests claimed and the activity regulated, which increases the likelihood the Daffts may be affected in a way not common to the public.

The ED recommends that the Commission find that Scott and Jennifer Dafft are Affected Persons under 30 TAC § 55.203.

2. **Peter Koelsch** filed a Request that effectively identified a personal, justiciable interest affected by the application.

Mr. Koelsch's Request stated he and his family both live and operate a small apiary business that relies on uncontaminated soil for selling his product within proximity to the proposed facility, which according to the GIS map prepared by the ED's staff is 0.00 linear miles from the proposed facility. Mr. Koelsch is also identified on the Adjacent Landowners' Map List (Property No. 58). All these facts increase the likelihood that Mr. Koelsch may be affected differently than the public.

Mr. Koelsch's home's and business' proximity to the proposed facility, which was explained briefly and specifically, in plain language in his Request, and the relevant issues to a decision on the application that he raised, such as the environmental and health impacts of the proposed facility being in proximity, and

specifically that his business relies on uncontaminated soil for selling his product, is an issue related to the interests of the requestor, demonstrating a reasonable relationship exists between the interests claimed and the activity regulated, which increases the likelihood that Mr. Koelsch may be affected in a way not common to the general public.

The ED recommends that the Commission find that Peter Koelsch is an Affected Person under 30 TAC § 55.203.

3. **Wilson Lee** filed a Request that effectively identified a personal, justiciable interest affected by the application.

Mr. Lee's Request stated he lives within proximity to the proposed facility, which according to the GIS map prepared by the ED's staff is 0.39 linear miles from the proposed facility. Mr. Lee is also identified on the Adjacent Landowners' Map List (Property No. 45). These facts increase the likelihood that Mr. Lee may be affected differently than the public.

Mr. Lee's proximity to the proposed facility, which was explained briefly and specifically, in plain language in his Request, and the relevant issues to a decision on the application that he raised, such as silt and debris improperly leaving the site because of wind gusts and ending up on his property, is an issue related to the interests of the requestor, demonstrating a reasonable relationship exists between the interests claimed and the activity regulated, which increases the likelihood that Mr. Lee may be affected in a way not common to the general public.

The ED recommends that the Commission find that Wilson Lee is an Affected Person under 30 TAC § 55.203.

4. **Michael Lorra** filed a Request that effectively identified a personal, justiciable interest affected by the application.

Mr. Lorra's Request stated he lives within proximity to the proposed facility, which according to the GIS map prepared by the ED's staff is 0.19 linear miles from the proposed facility. Mr. Lorra is also identified on the Adjacent Landowners' Map List (Property No. 72). Both facts increase the likelihood that Mr. Lorra may be affected differently than the public.

Mr. Lorra's proximity to the proposed facility, which was explained briefly and specifically, in plain language in his Request, and the relevant issues to a decision on the application that he raised, such as foul odors and negative impacts to the environment and human health from 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 that Mr. Lorra may be affected in a way not common to the general public.

The ED recommends that the Commission find that Michael Lorra is an Affected Person under 30 TAC § 55.203.

5. **Jim Wall** filed a Request that effectively identified a personal, justiciable interest affected by the application.

Mr. Wall's Request stated he lives within proximity to the proposed facility, which according to the GIS map prepared by the ED's staff is 0.02 linear miles from the proposed facility. Mr. Wall is also identified on the Adjacent Landowners' Map

List (Property No. 68). Both facts increase the likelihood that Mr. Wall may be affected differently than the public.

Mr. Wall's proximity to the proposed facility, which was explained briefly and specifically, in plain language in his Request, and the relevant issues to a decision on the application that he raised, such as runoff from the site contaminating his stock pond that is within 75 feet of the proposed facility and the negative impacts to his livestock and other wildlife from 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 that Mr. Wall may be affected in a way not common to the general public.

The ED recommends that the Commission find that Jim Wall is an Affected Person under 30 TAC § 55.203.

6. **Robert Williams** filed a Request that effectively identified a personal, justiciable interest affected by the application.

Mr. Williams' Request stated he lives within proximity to the proposed facility, which according to the GIS map prepared by the ED's staff is 0.09 linear miles from the proposed facility. Mr. Williams is also identified on the Adjacent Landowners' Map List (Property No. 62). Both facts increase the likelihood that Mr. Williams may be affected differently than the public.

Mr. Williams' proximity to the proposed facility, which was explained briefly and specifically, in plain language in his Request, and the relevant issues to a decision on the application that he raised, such as such as foul odors and negative impacts to the environment and human health from 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 that Mr. Williams may be affected in a way not common to the public.

The ED recommends that the Commission find that Robert Williams is an Affected Person under 30 TAC § 55.203).

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

Though the GIS map prepared by the ED's staff locates Mr. Coons' property 0.02 linear miles from the proposed facility, and the Adjacent Landowners' Map List identifies Mr. Coons as Property No. 55, Mr. Coons' Request did not raise any relevant issues, nor explain why he believes he will be adversely affected by this application in a manner not common to members of the public. Lacking that necessary explanation and failing to raise any relevant issues for the Commission to consider, Mr. Coons' Request failed to demonstrate a reasonable relationship between the interests claimed and the activity regulated, which decreases the likelihood that Mr. Coons may be affected in a way not common to the public.

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

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

Ms. King's Request failed to provide an address for the ED to map, did not raise relevant issues, nor explain why she believes she will be adversely affected by this application in a manner not common to members of the public. Lacking that necessary explanation and failing to raise any relevant issues for the Commission to consider, Ms. King's Request failed to demonstrate a reasonable relationship between the interests claimed and the activity regulated, which decreases the likelihood that Ms. King may be affected in a way not common to the public.

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

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

Ms. Lawrence's Request failed to provide an address for the ED to map, did not raise relevant issues, nor explain why she believes she will be adversely affected by this application in a manner not common to members of the public. Lacking that necessary explanation and failing to raise any relevant issues for the Commission to consider, Ms. Lawrence's Request failed to demonstrate a reasonable relationship between the interests claimed and the activity regulated, which decreases the likelihood that Ms. Lawrence may be affected in a way not common to the public.

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

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

Ms. Ridgway's Request failed to provide an address for the ED to map, did not raise relevant issues, nor explain why she believes she will be adversely affected by this application in a manner not common to members of the public. Lacking that necessary explanation and failing to raise any relevant issues for the Commission to consider, Ms. Ridgway's Request failed to demonstrate a reasonable relationship between the interests claimed and the activity regulated, which decreases the likelihood that Ms. Ridgway may be affected in a way not common to the public.

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

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

Though the GIS map prepared by the ED's staff locates Mr. Ruple's property 0.15 linear miles from the proposed facility, and the Adjacent Landowners' Map List

identifies Mr. Ruple as Property No. 64, Mr. Ruple's Request did not raise any relevant issues, nor explain why he believes he will be adversely affected by this application in a manner not common to members of the public. Lacking that necessary explanation and failing to raise any relevant issues for the Commission to consider, Mr. Ruple's Request failed to demonstrate a reasonable relationship between the interests claimed and the activity regulated, which decreases the likelihood that Mr. Ruple may be affected in a way not common to the public.

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

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

Though the GIS map prepared by the ED's staff locates Mr. Stubbe's property 0.01 linear miles from the proposed facility, and the Adjacent Landowners' Map List identifies Mr. Stubbe as Property No. 59, Mr. Stubbe's Request did not raise any relevant issues nor explain why he believes he will be adversely affected by this application in a manner not common to members of the public. Lacking that necessary explanation and failing to raise any relevant issues for the Commission to consider, Mr. Stubbe's Request failed to demonstrate a reasonable relationship between the interests claimed and the activity regulated, which decreases the likelihood that Mr. Stubbe may be affected in a way not common to the public.

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

VII. ISSUES RAISED IN HEARING REQUESTS:

The Requests of Scott and Jennifer Dafft, Peter Koelsch, Wilson Lee, Michael Lorra, Robert Williams, and Jim Wall raised the issues below.

- 1. Whether draft permit adequately protects against runoff of the applied residuals beyond the land application unit or surface disposal site and protects surface water quality in accordance with applicable TCEQ rules.**

(RTC Response No. 2) This is an issue of fact. If it can be shown that the draft permit will not protect against runoff of the applied residuals beyond the land application unit or surface disposal site and surface water quality in according to applicable TCEQ rules, 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.

- 2. Whether the draft permit has adequate provisions preventing a washout of WTP residuals in accordance with applicable TCEQ rules.**

(RTC Response Nos. 8, 13, 14, 15, 17) This is an issue of fact. If it can be shown that the draft permit does not have adequate provisions preventing a washout of WTP residuals according to applicable TCEQ rules, 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 has adequate protections to prevent the contamination of underground drinking water sources in accordance with applicable TCEQ rules.

(RTC Response Nos. 2, 5, 8, 11, 17) This is an issue of fact. If it can be shown that the draft permit does not have adequate protections to prevent the contamination of underground drinking water sources according to applicable TCEQ rules, 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.

4. Whether the draft permit has adequate provisions to control odors from the proposed facility in accordance with applicable TCEQ rules.

(RTC Response No. 4) This is an issue of fact. If it can be shown that the draft permit does not have adequate provisions to control odors, 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.

5. Whether the draft permit requires Best Management Practices (BMPs) for the operation of the proposed application site that are regulated by TCEQ rules.

(RTC Response Nos. 2, 11, 13, 14, 15) This is an issue of fact. If it can be shown that the draft permit does not require BMPs for the operation of the proposed application site that are regulated by TCEQ rules, 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.

VIII. CONTESTED CASE HEARING DURATION

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

IX. REQUESTS FOR RECONSIDERATION

Linsey Futrell, Preston Nutt, and Bethanie Wallgren filed timely RFRs, however, all the RFRs failed to raise any new information for the ED to analyze. Therefore, the ED recommends denying all RFRs.

X. EXECUTIVE DIRECTOR'S RECOMMENDATION

The ED recommends the following actions by the Commission:

1. Find that Scott and Jennifer Dafft, Peter Koelsch, Wilson Lee, Michael Lorra, Robert Williams, and Jim Wall, are affected persons under 30 TAC §§ 55.203.
2. Grant the Requests of Scott and Jennifer Dafft, Peter Koelsch, Wilson Lee, Michael Lorra, Robert Williams, and Jim Wall, and deny all others.
3. Deny the RFRs filed by Linsey Futrell, Preston Nutt, and Bethanie Wallgren.
4. 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 in section VII. 1.- 5. to SOAH for a 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
Facsimile No. 512-239-0626
REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

XI. CERTIFICATE OF SERVICE

I certify that on May 8, 2023, the Executive Director's Response to Hearing Requests for TPDES Permit No. WQ0005323000 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

MAILING LIST

North Texas Municipal Water District
TCEQ Docket No. 2023-0529-SLG; Permit No. WQ0005323000

FOR THE APPLICANT:

Jerry Allen, Environmental Manager
North Texas Municipal Water District
P.O. Box 2408
Wylie, Texas 75098

Travis Markham, Program Manager
North Texas Municipal Water District
P.O. Box 2408
Wylie, Texas 75098

Ryan Pierce, Program Manager
Plummer Associates, Inc.
6300 La Calma Drive, Suite 400
Austin, Texas 78752

FOR THE EXECUTIVE DIRECTOR

via electronic mail:

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

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

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

FOR PUBLIC INTEREST COUNSEL

via electronic mail:

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

FOR ALTERNATIVE DISPUTE RESOLUTION

via electronic mail:

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

FOR THE CHIEF CLERK'S OFFICE

via eFilings:

Docket Clerk
Texas Commission on Environmental
Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711

REQUESTER(S)

Russell Coones
5961 FM 547
Farmersville, TX 75442-6775

Jennifer & Scott Dafft
PO Box 538
Prosper, TX 75078-0538

Neha King
3016 Adrian Creek Dr
Little Elm, TX 75068-2921

Peter Koelsch
5003 County Road 644
Farmersville, TX 75442-6807

Dianna Lawrence
303 Patina St
Josephine, TX 75189-6019

Wilson Lee
PO Box 851284
Richardson, TX 75085-1284

Futrell Linsey
507 Silo Cir
Josephine, TX 75189-5193

Michael Lorra
5706 E Mockingbird Ln Ste 115
Dallas, TX 75206-5460

Preston Nutt
403 Pine Hollow Way
Josephine, TX 75189-5317

Jane Ridgway
PO Box 127
Caddo Mills, TX 75135-0127

Charles L Ruple
5909 Fm 547
Farmersville, TX 75442-6775

Michael Stubbe
5144 County Road 644
Farmersville, TX 75442-6800

Jim F Wall
5757 Fm 547
Farmersville, TX 75442-6921

Bethanie Wallgren
316 Main St
Josephine, TX 75173-1211

Robert Williams
5226 County Road 644
Farmersville, TX 75442-6801

INTERESTED PERSON(S)

Tina Aguilar
903 Saddle Horn Way
Josephine, TX 75189-3949

Diana Aldana
513 Windrow Dr
Josephine, TX 75189-3847

Olivia Beaz
1930 S 3Rd St
Garland, TX 75040-8421

Linda C Dedmon
1503 Harvest Ln
Nevada, TX 75173-7037

Stephen D'Onofrio
22476 County Road 850
Farmersville, TX 75442-6601

Melissa Jo Fain Envision
410 Wrangler Dr
Josephine, TX 75189-5441

Britni Fitzgerald
414 Silo Cir
Josephine, TX 75189-5186

Monica Fornasoro
1316 Cotton Gin Ct
Josephine, TX 75189-3843

Andrea Garcia
1000 Cotton Gin Ct
Josephine, TX 75189-3926

Rebecca Gipson
5200 County Road 644
Farmersville, TX 75442-6801

Kaleb Hamil
1302 Community Way
Josephine, TX 75189-3817

Sheree Henry
PO Box 369
Nevada, TX 75173-0369

Bryana Hernandez
313 Knapsack Ln
Josephine, TX 75189-3834

Joseph Hooks
717 Meadow Creek Ln
Josephine, TX 75189-5279

Dana Huntoon
LJ Homes LLC
5610 Williams St
Nevada, TX 75173-8240

Shawn Hurst
701 Windmill St
Josephine, TX 75189-5294

Sheila Hurst
701 Windmill St
Josephine, TX 75189-5294

Rose M Hutchison
1317 Bushel Dr
Josephine, TX 75189-3825

Cecil King
3016 Adrian Creek Dr
Little Elm, TX 75068-2921

William Magedson
816 Turnbuckle Ct
Josephine, TX 75189-7407

Marcy Maleh
1101 Blessed Ln
Josephine, TX 75189-3954

Veselka Margie
1503 Harvest Ln
Nevada, TX 75173-7037

Austin James Martin
116 Center St
Nevada, TX 75173-7124

Alejandro Medina
301 Saw Mill Rd
Josephine, TX 75189-5188

Larry Parker
412 Shiplap Ln
Josephine, TX 75189-5181

Jason Ramsey
21711 Private Road 5455
Farmersville, TX 75442-8315

Jan Richburg
2051 County Road 645
Farmersville, TX 75442-7360

Sydnor Ron
408 Jasmine Cir
Josephine, TX 75173-8440

Caroline Rose
717 Meadow Creek Ln
Josephine, TX 75189-5279

Larson Samantha
408 Milo Way
Josephine, TX 75189-3753

Beebe Sharon
505 Farmhouse Ln
Josephine, TX 75189-5308

Clarke Trish
1314 Community Way
Josephine, TX 75189-3817

Megan Whitaker
606 Magnolia Ct
Josephine, TX 75173-8442

Ricky Whitaker
606 Magnolia Ct
Josephine, TX 75173-8442

Attachment A

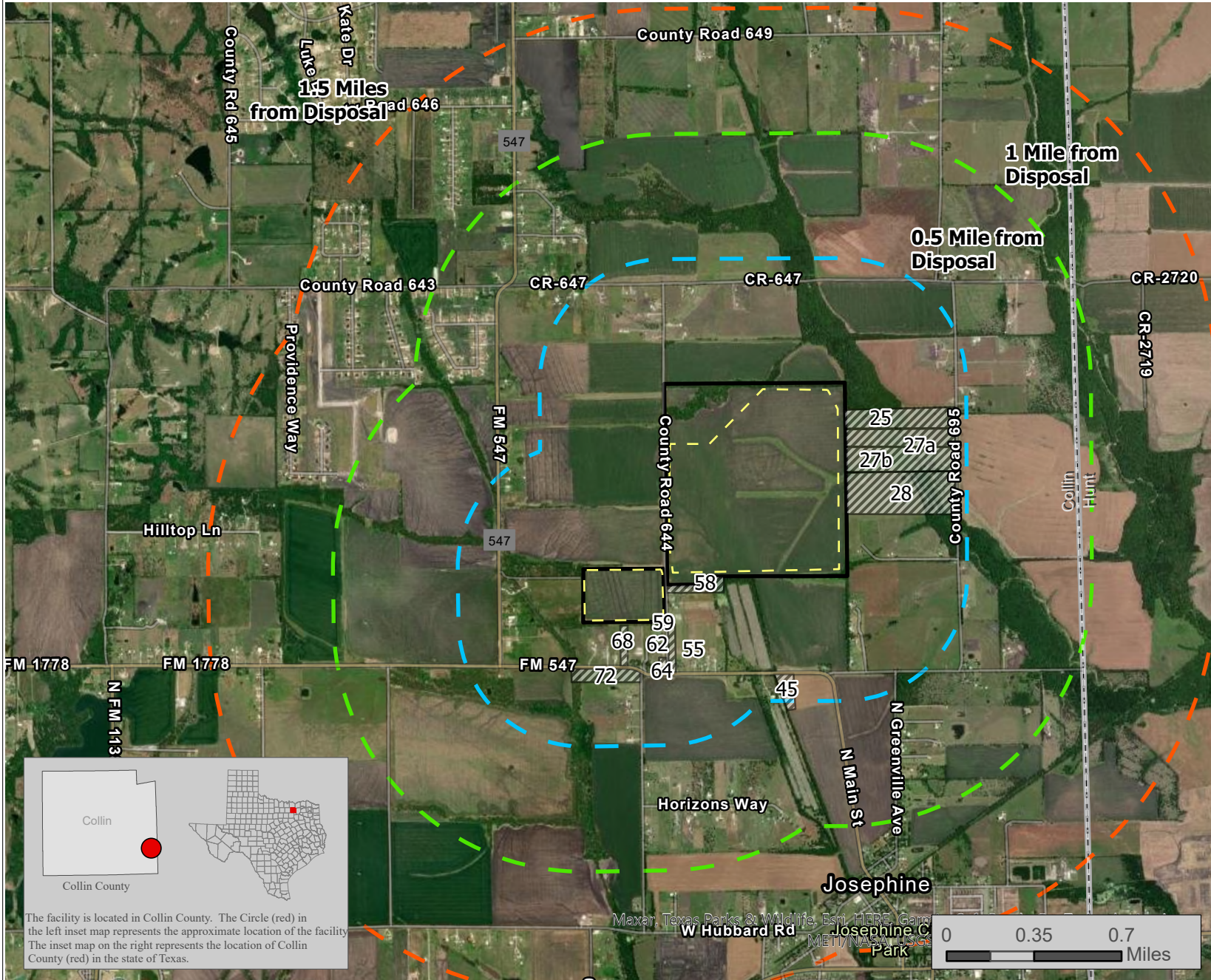
NTMWD Water Treatment Plant Residuals Disposal Monofill GIS Map

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



Protecting Texas by
Reducing and
Preventing Pollution

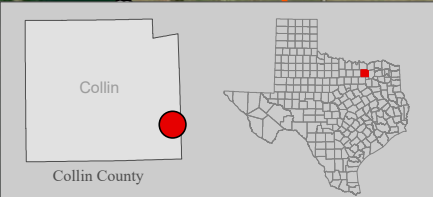
Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
Date: 4/24/2023
CRF 0086504
Cartographer: AlOrtiz



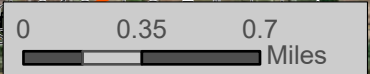
- Disposal Area
- 0.5 Mile from Disposal
- 1 Mile from Disposal
- 1.5 Miles from Disposal
- Property Boundary
- Scott Dafft
 - 25
 - 27a
 - 27b
- Scott & Jennifer Dafft
 - 28
- Wilson Lee
 - 45
- Tammy & Russel Coones
 - 55
- Peter Koelsch & Jenna Doss
 - 58
- Michael & Maryl Stubbe
 - 59
- Robert Williams & Judith Family Trust
 - 62
- Ruple Living Trust
 - 64
- James & Elena Wall
 - 68
- Michael Lorra
 - 72

Distance to disposal site nearest edge calculated in miles in Appendix A
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 Collin County. The Circle (red) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of Collin County (red) in the state of Texas.



0021

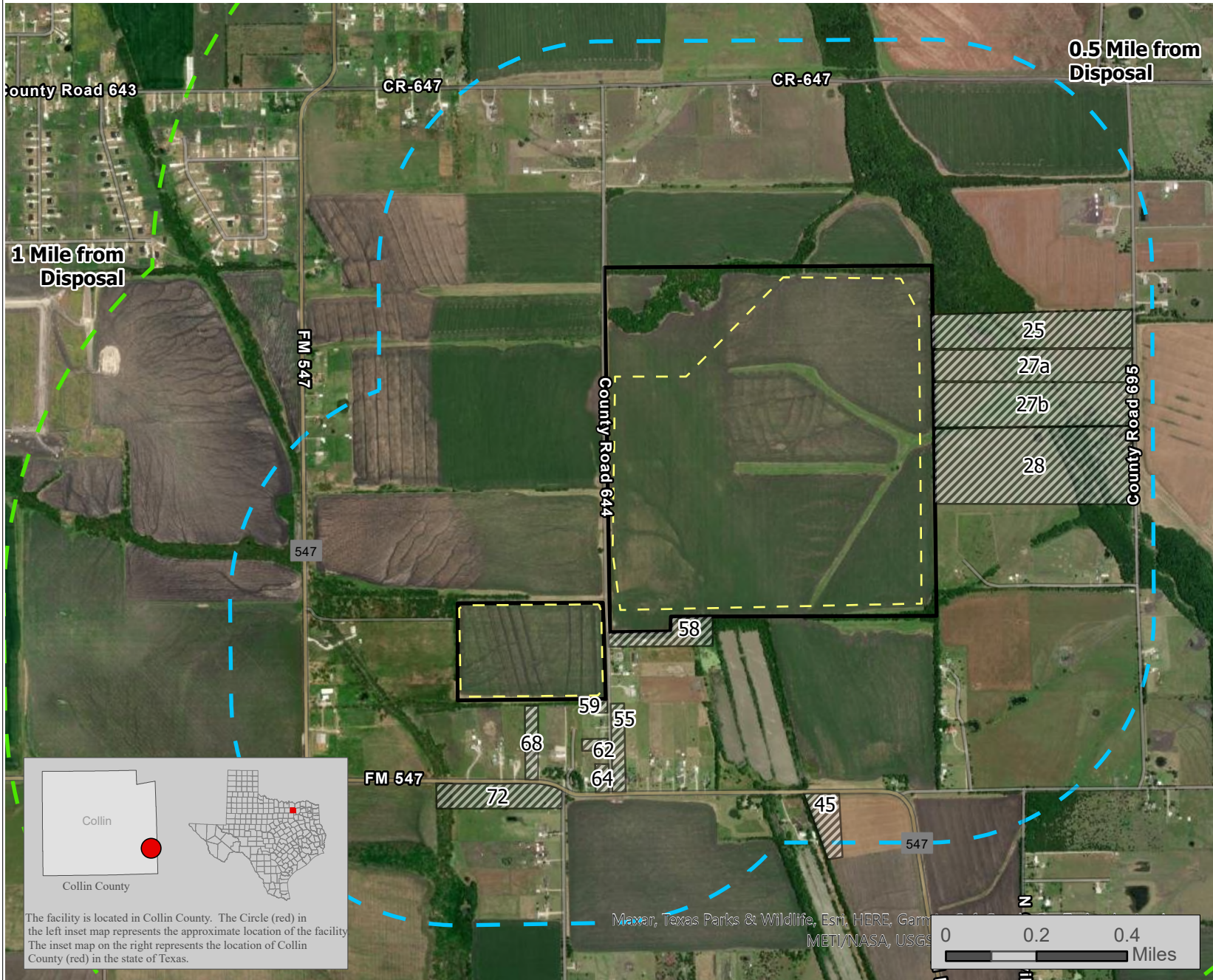
NTMWD Water Treatment Plant Residuals Disposal Monofill GIS Map



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: 4/14/2023
CRF 0086504
Cartographer: AlOrtiz



- Disposal Area
- 0.5 Mile from Disposal
- 1 Mile from Disposal
- Property Boundary

Scott Dafft

- 25
- 27a
- 27b

Scott & Jennifer Dafft

- 28

Wilson Lee

- 45

Tammy & Russel Coones

- 55

Peter Koelsch & Jenna Doss

- 58

Michael & Maryl Stubbe

- 59

Robert Williams & Judith Family Trust

- 62

Ruple Living Trust

- 64

James & Elena Wall

- 68

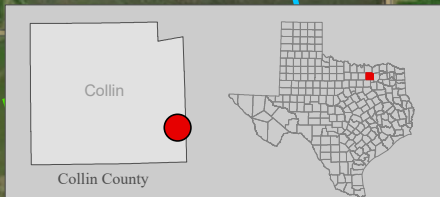
Michael Lorra

- 72

Distance to disposal site nearest edge
calculated in miles in Appendix A

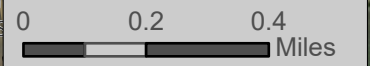
Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor.

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

Maxar, Texas Parks & Wildlife, Esri, HERE, Garmin, METI/NASA, USGS



Appendix A for NTMWD Water Treatment Plant Residuals Disposal Monofill GIS Map

Name	Lot Number	Distance from Lot to Disposal Area in Miles
Scott Dafft	25	0.01
Scott Dafft	27a	0.02
Scott Dafft	27b	0.02
Scott & Jennifer Dafft	28	0.02
Wilson Lee	45	0.39
Tammy & Russell Coones	55	0.02
Peter Koelsch & Jenna Doss	58	0.00
Michael & Maryl Stubbe	59	0.01
Robert Williams & Judith Family Trust	62	0.09
Ruple Living Trust	64	0.15
James & Elena Wall	68	0.02
Michael Lorra	72	0.19

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Final Documents Team Leader
Chief Clerk's Office

DATE: May 12, 2023

From: Michael Parr
Staff Attorney
Environmental Law Division

Subject: Backup Filed for the ED's Response to Hearing Requests

Applicant:	North Texas Municipal Water District
Proposed Permit No.:	WQ0005323000
Program:	Water
Docket No.:	2023-0529-SLG

Enclosed please find a copy of the following documents for inclusion in the background material for this permit application:

- Technical Summary & Proposed Permit
- The Compliance History Report

TECHNICAL SUMMARY AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

DESCRIPTION OF APPLICATION

Applicant: North Texas Municipal Water District

TCEQ Permit No.: WQ0005323000

Regulated Activity: Water Treatment Plant Residuals Disposal via Monofill

Type of Application: Permit

Request: New

Authority: Texas Water Code §26.027; 30 Texas Administrative Code (TAC) Chapters 281, 305, 312, and Texas Health and Safety Code (THSC) §361.121; and Commission policies.

EXECUTIVE DIRECTOR RECOMMENDATION

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The proposed permit will expire five years from the date of issuance in accordance with 30 TAC Chapter 312, and THSC section 361.121.

REASON FOR PROJECT PROPOSED

North Texas Municipal Water District has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit, Permit No. WQ0005323000 to authorize the processing, storage and disposal of water treatment plant residuals on an approximately 310-acre monofill.

PROJECT DESCRIPTION AND LOCATION

The water treatment plant residuals disposal site will be located approximately 0.25 mile north of the intersection of County Road 644 and Farm-to-Market Road 547, in Collin County, Texas 75442. The water treatment plant residuals disposal site will be located in the drainage basin of Lake Tawakoni in Segment No. 0507 of the Sabine River Basin.

PROPOSED PERMIT CONDITIONS

Provisions are included in the draft permit according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal and Transportation. The draft permit will authorize the processing, storage, and disposal of water treatment plant residuals at a maximum rate of 100,000 dry tons per year on 310 acres of land used as a monofill. Processing will involve dewatering of the water treatment plant residuals prior to disposal.

SUMMARY OF CHANGES FROM APPLICATION

By request of the applicant, the maximum disposal rate has been increased from 51,000 tons per year to 100,000 tons per year.

SUMMARY OF CHANGES FROM EXISTING PERMIT

None. This is a new permit.

BASIS FOR PROPOSED DRAFT PERMIT

The following items were considered in developing the proposed permit draft:

Application submitted on May 19, 2021 and additional information submitted on August 12, 2021, February 1, 2022 and April 20, 2022.

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, 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.

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 Brian Sierant at (512) 239-1375.

Brian Sierant

Brian Sierant, Biosolids Work Leader
Land Application Team
Water Quality Assessments Section (MC150)

4/26/2022 (Revised)

Date



PERMIT NO. WQ0005323000

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

PERMIT TO DISPOSE OF WATER TREATMENT PLANT RESIDUALS

under provisions of Chapter 26 of the Texas Water Code and under provision of Texas Health & Safety Code Ann. Chapter 361 (Vernon) and Chapter 312 of the Texas Administrative Code.

I. PERMITTEE

North Texas Municipal Water District
P.O. Box 2408
Wylie, Texas 75098

II. AUTHORIZATION

Disposal via Monofill of Water Treatment Plant Residuals. (SIC Code 4941).

III. GENERAL DESCRIPTION AND LOCATION OF SITE

Description: The North Texas Municipal Water District Water Treatment Plant Residuals Disposal Monofill consists of a 310 acre monofill that is authorized for the disposal of dewatered water treatment plant residuals at a maximum rate of 100,000 dry tons per year.

Location: The water treatment plant residuals disposal site is located approximately 0.25 mile north of the intersection of County Road 644 and Farm-to-Market Road 547, in Collin County, Texas 75442. (See Attachment A).

Drainage Basin: The water treatment plant residuals disposal site is located in the drainage basin of Lake Tawakoni in Segment No. 0507 of the Sabine River Basin.

The permittee is authorized to process, store, and dispose of water treatment plant residuals in accordance with the limitations, requirements, and other conditions set forth herein. This permit is granted subject to the rules of the Commission and other Orders of the Commission and laws of the State of Texas. Nothing in this permit exempts the permittee from compliance with applicable rules and regulations of the TCEQ. The permittee must handle and dispose of the residuals in accordance with all applicable state and federal regulations to protect public health and the environment. This permit does not authorize any invasion of personal rights nor any violation of federal, state or local laws or regulations.

This permit and the authorization contained herein shall expire at midnight five years from the date issued.

ISSUED DATE:

For the Commission

IV. GENERAL PROVISIONS

The permittee is authorized to process, store and dispose of water treatment plant residuals in accordance with 30 Texas Administrative Code (TAC) Chapter 312 and all other applicable state and federal regulations to protect public health and the environment from any reasonable anticipated adverse effects due to any toxic pollutants which may be present.

A. General Requirements

1. No hazardous, toxic, radioactive, regulated asbestos, or any industrial solid waste, will be accepted, stored, processed, or disposed of at this site.
2. The permittee shall give 180 days prior notice to the Executive Director of the TCEQ of any change planned in the water treatment plant residuals disposal practice or prior to start of any construction which would decrease or increase the disposal capacity of the solid waste disposal facility.
3. Water treatment plant residuals placed on an active water treatment plant residuals disposal unit shall not contaminate an aquifer. All necessary steps to protect groundwater from contamination by residuals or liquids associated with the residuals processing and disposal operation shall be taken.
4. Equipment capable of managing storm water runoff on the monofill site following a 25-year, 24-hour rainfall event shall be available for use at the site at all times.
5. Waste control facilities shall be isolated from storm water run-on by berms or diversion terraces. The permittee shall not take any action which will increase the volume of rainfall runoff onto the property of adjacent landowners without the permission of such landowners.
6. All water treatment plant residuals shall be disposed of in a manner such that contamination of surface and ground waters is prevented and such that nuisance conditions (such as insect infestations or objectionable odors) are controlled. Any areas on which water treatment plant residuals are stockpiled shall be isolated by dikes, terraces, and terrain to prevent the discharge of any contaminated runoff into waters in the State of Texas.
7. Off-site discharge of recovered liquids from the disposal area is not authorized by this permit. The facility shall be managed so as to prevent ponding of process generated liquids on the ground, prevent contamination of ground or surface waters and to prevent the occurrence of nuisance conditions.
8. All facilities including ponds, pipes, ditches, and pumps shall be utilized and maintained as necessary in order to prevent any unauthorized discharge to waters in the State.
9. Water retention facilities for storage of runoff that has not come into contact with waste do not require lining to control seepage. Water retention facilities for storage of water that have come into contact with water treatment residuals shall be lined to control seepage in one of the following manners:
 - a. In-situ or placed and compacted clay soils meeting the following requirements:
 - i. more than or equal to 30% passing a No. 200 mesh sieve;

- ii. liquid limit greater than 30%;
 - iii. plasticity index greater than 15;
 - iv. a minimum thickness of 12 inches;
 - v. permeability equal to or less than 1×10^{-7} cm/sec; and
 - vi. soil compaction will be 95% standard proctor at optimum moisture content.
- b. Membrane lining with a minimum thickness of 20 mils, and an underdrain leak detection system.
 - c. An alternate method of pond lining may be utilized with prior approval from the Executive Director.

The permittee shall furnish certification by a Professional Engineer licensed in Texas that any pond lining for ponds constructed after the issuance date of this permit meets the appropriate criteria prior to utilization. The certification shall be sent to the TCEQ Land Application Team (MC 150) and the TCEQ Regional Office (MC Region 4).

B. Management Practices

1. No water treatment plant residuals failing the Toxicity Characteristic Leaching Procedure (TCLP) test shall be transported to this site.
2. All water treatment plant residuals disposal operations shall be operated so as to minimize odor and nuisance conditions and prevent contamination of ground or surface waters.
3. The permittee shall maintain a minimum of a 150-foot buffer zone from all private drinking water wells, and a minimum buffer distance of 500 feet shall be maintained from public water supply wells and the water treatment plant residuals disposal areas.
4. Water treatment plant residuals shall not be placed on an active residuals disposal unit if it is likely to adversely affect a threatened or endangered species of plant, fish or wildlife listed under the Endangered Species Act, §4, or its designated critical habitat.
5. An active water treatment plant residuals disposal unit shall not restrict the flow of the 100-year flood.
6. An active water treatment plant residuals disposal unit shall not be located in an unstable area.
7. An active water treatment plant residuals disposal unit shall not be located in a wetland except as provided in permit issued pursuant to the federal Clean Water Act §402 or §404.
8. Runoff from an active water treatment plant residuals disposal unit shall be collected and disposed in accordance with the applicable requirements. The runoff collection system for an active water treatment plant residuals disposal unit shall have the capacity to handle runoff from a 25-year, 24-hour rainfall event.
9. A food crop, feed crop, or a fiber crop shall not be grown on an active water treatment plant residuals disposal unit.
10. Animals shall not graze on the active water treatment plant residuals disposal unit.

11. Public access to a disposal unit shall be restricted during the period that the disposal site contains an active residuals disposal unit and for a period of three years after the last active water treatment plant residuals disposal unit in the disposal site closes. The facility entrances will be closed and locked outside of normal operating hours. The perimeter fence shall be monitored and repaired as needed to maintain site security. Waste transporters will be restricted to the designated unloading areas only.
12. Water treatment plant residuals placed on an active water treatment plant residuals disposal unit shall not contaminate an aquifer.
13. No water treatment plant residuals with a polychlorinated biphenyl (PCB) concentration of greater than or equal to 50 mg/kg (dry weight basis) shall be transported to this facility.

C. Testing Requirements

TCLP Test - Once during the term of the permit

Water treatment plant residuals shall be tested in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix TCLP or other method that receives the prior approval of the TCEQ for the contaminants listed in 40 CFR Part 261.24, Table 1.

PCBs - Once during the term of the permit

Water treatment plant residuals shall be tested in accordance with the method specified in 40 CFR Part 136, pertaining to PCBs or other method that receives the prior approval of the TCEQ.

D. Record Keeping Requirements

The permittee shall develop and keep records of all water treatment plant residuals disposal activities and shall be made available to TCEQ upon request. Such records will include the following information:

1. the results of TCLP and PCB testing performed in accordance with Provision IV.C;
2. a description of how the management practices listed above in IV.B. are being met;
3. dates of disposal and quantities (in dry tons) of residuals from each source.

The above records shall be maintained on a monthly basis and shall be made available to the TCEQ upon request. These records shall be retained for five years or for the duration of the permit, whichever is longer.

E. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (Region 4) and to the Water Quality Land Application Team (MC 150) of the Water Quality Division, by September 30th (report period September 1st of previous year through August 31st of current year) of each year the "Annual Disposal Summary Report Form" (Attachment C) and the following information:

1. the frequency of monitoring listed in Provision IV.C which applies to the permittee;
2. results of tests performed for TCLP and PCBs in accordance with Provision IV.C;
3. dates of disposal and quantities (dry tons) of water treatment plant residuals from each source;
4. verification statement listed in 30 TAC §312.67(a)(2)(B) shall be attached to the annual reporting form; and
5. continuing evidence of financial responsibility to assure the commission that the responsible owner or operator has sufficient assets to properly operate the site and to provide proper closure and post-closure. This assurance for the proper operation of the site may be in the form of performance bonds, letters of credit from recognized financial institutions, trust funds, or insurance. Unless otherwise notified by the TCEQ of the need for additional documentation, the permittee is not required to provide further evidence of financial responsibility pertaining to this permit.

F. Closure Requirements

The permittee shall submit a written "closure and post closure plan" to the Water Quality Land Application Team (MC 150) of the Water Quality Division, for approval, at least 180 days prior to the anticipated date of the monofill closure. Closure is the act of the permanent removal from service of the monofill regulated by this permit.

V. FACILITY DESIGN, CONSTRUCTION, AND OPERATION

A. General Design and Construction

1. Facility design, construction, and operation must comply with this permit, the TCEQ rules, and be in accordance with the site development plan for the construction and the operation approved herein.
2. The entire waste control facility shall be designed, constructed, operated, and maintained to prevent the release and migration of any waste or contamination, and to prevent inundation of and discharge from the areas surrounding the facility components. Each receiving and disposal area shall be provided with a containment system which will collect spills and incident precipitation in such a manner as to:
 - a. preclude the release of any contaminated runoff, spills, or precipitation;
 - b. prevent washout of any waste by a 100-year storm; and
 - c. prevent run-on into the disposal area.
3. All recovered water shall be managed as specified in General Provision IV.A.4.
4. Final Cover: At a minimum, final cover shall consist of two feet of soil/clay. The coefficient of permeability of the final cover shall not exceed that of the liner.

B. General Operational Requirements

The site and monofill shall be managed and operated in accordance with the most recent and applicable rules adopted by the Commission relating to water treatment plant residuals monofills.

VI. STANDARD PROVISIONS

- A. This permit is granted in accordance with the Texas Water Code and the rules and other Orders of the Commission and the laws of the State of Texas.
- B. Unless specified otherwise, any noncompliance which may endanger human health or safety, or the environment must be reported to the TCEQ. Report of such information must be provided orally or by facsimile transmission (FAX) to the TCEQ Regional Office (MC Region 4) within 24 hours of becoming aware of the noncompliance. A written submission of such information must also be provided to the TCEQ Regional Office (MC Region 4) and to the Enforcement Division (MC 224) 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 anticipated 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.
- C. Acceptance of this permit constitutes an acknowledgment and agreement that the permittee will comply with all the terms, provisions, conditions, limitations and restrictions embodied in this permit and with the rules and other Orders of the Commission and the laws of the State of Texas. Agreement is a condition precedent to the granting of this permit.
- D. Prior to any transfer of this permit, Commission approval must be obtained. The Commission should be notified, in writing, of any change in control or ownership of facilities authorized by this permit. Such notification should be sent to the Water Quality Land Application Team (MC 150).
- E. 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 must control.
- F. The permittee is subject to the provisions of 30 TAC Section 305.125.
- G. Any proposed site changes, addition of land area, or expansion in the capacity which have not been addressed by the terms of this permit must be authorized in accordance with the TCEQ permit amendment or modification rules 30 TAC Chapter 305.
- H. According to 30 TAC §305.125(10) inspection and entry must be allowed as prescribed in the Texas Water Code Chapters 26, 27, and 28 and the Texas Solid Waste Disposal Act.

VII. SPECIAL PROVISIONS

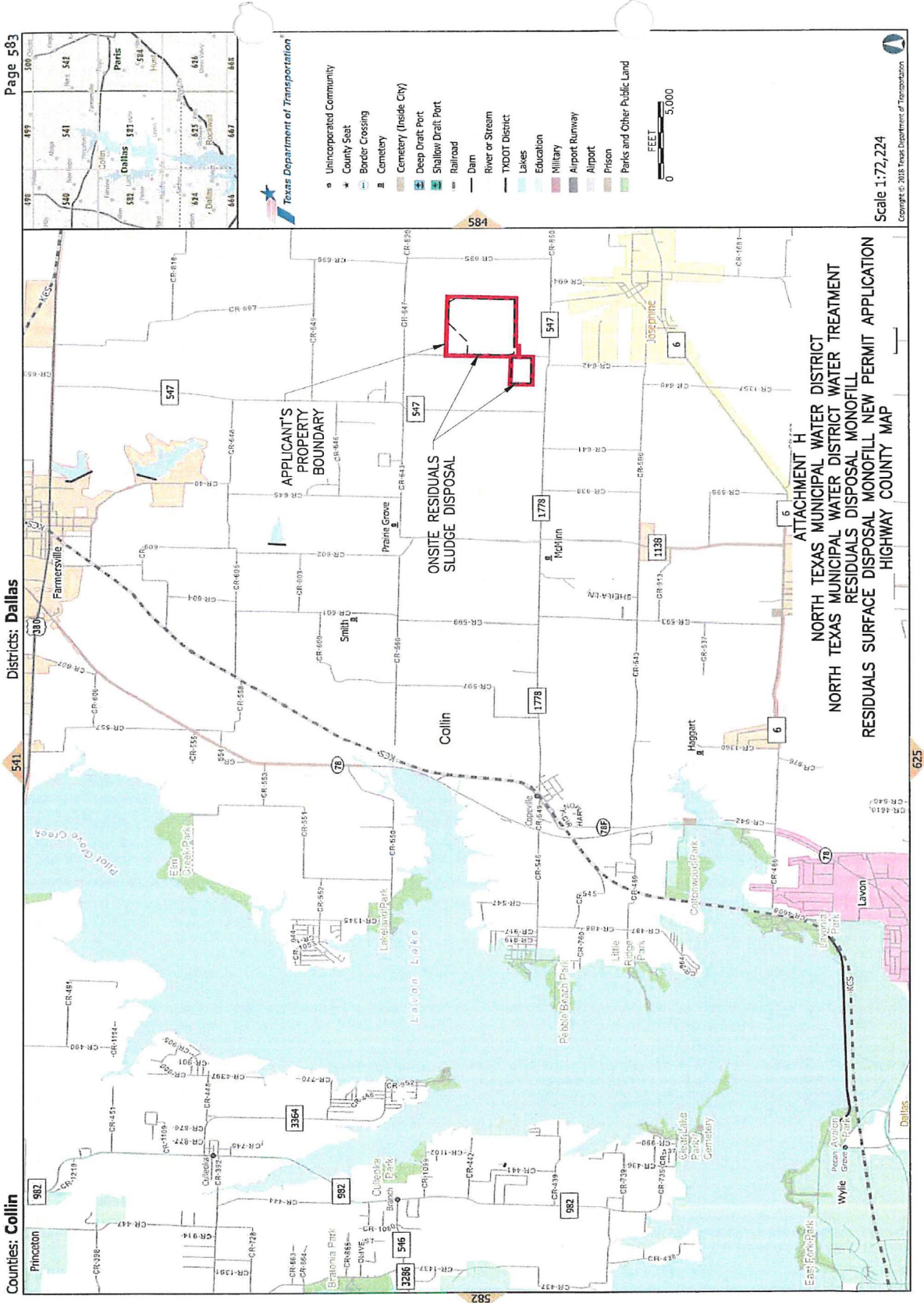
- A. The permittee is authorized to process, store and dispose of water treatment plant residuals at a maximum rate of 100,000 dry tons per year within the 310 acre monofill indicated on Attachment B. No wastewater treatment plant sludge or biosolids, hazardous, toxic, radioactive, regulated asbestos, or any industrial solid waste shall be accepted, stored, processed, or disposed of within the disposal unit.
- B. Prior to the commencement of the disposal of the water treatment plant residuals, the permittee shall complete the installation of the monofill liner which meets the definition and requirements of 30 TAC §312.8(61). The installation process must use industry-standard quality assurance and quality control methods. The soil or synthetic material must have a hydraulic conductivity of 1×10^{-7} centimeters per second (cm/sec) or less. Soil liners must consist of suitable material along the sides and bottom of the disposal areas, with more than 30% passing a number 200 mesh sieve, a liquid limit greater than 30%; a plasticity index greater than 15, compaction greater than 95% Standard Proctor at optimum moisture content, and shall be at least two feet thick placed in six-inch lifts, or provide an equivalent level of groundwater protection.

The permittee shall furnish certification by a Texas Licensed Professional Engineer that the completed lining meets these requirements prior to use of the water treatment plant residuals monofill. The certification shall be submitted to the TCEQ Regional Office (MC Region 4), Water Quality Assessment Team (MC 150) and Plans and Specifications Review Team (MC 148) of the Water Quality Division. A copy of the liner certification shall be available at the monofill site for inspection by authorized representatives of the TCEQ.

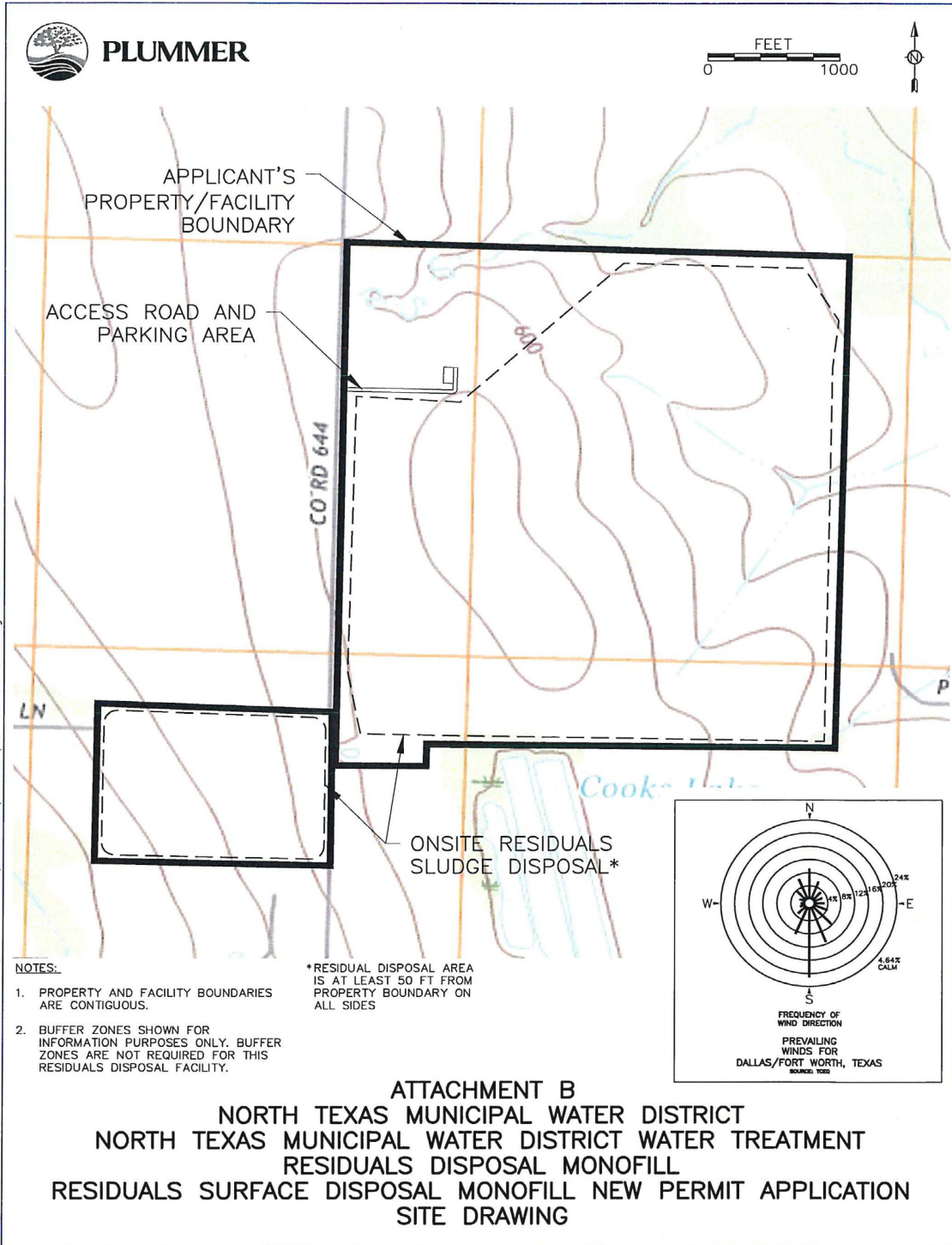
- C. Containment structures shall be isolated from stormwater run-on by berms or diversion terraces. The permittee shall not take any action which will increase the volume of rainfall runoff onto the property of adjacent landowners without the permission of such landowners.
- D. Water treatment plant residuals deposited in the waste control facilities shall be disposed of so that no contamination of surface waters can occur. The water treatment plant residuals shall be disposed of in a manner to prevent nuisance conditions and to prevent the contamination of surface and ground waters. Any areas on which the water treatment plant residuals is stockpiled shall be isolated by dikes, terraces, or terrain to prevent the discharge of any contaminated runoff into waters in the State of Texas.
- E. To prevent erosion conditions from occurring, vegetative cover shall be maintained year-round on all areas within the monofill that have reached the maximum elevation of disposal.
- F. The permittee shall give 180 days prior notice to the Executive Director of any change planned in the disposal practice.
- G. All facilities including ponds, pipes, ditches, pumps, and disposal equipment shall be utilized and maintained as necessary in order to prevent any unauthorized discharge to water in the State.
- H. This permit allows the disposal of water treatment plant residuals from the Wylie Water Treatment Facility operated by North Texas Municipal Water District. However, it does not preclude the disposal of water treatment plant residuals from other water treatment plant facilities operated by North Texas Municipal Water District or any other TCEQ authorized water treatment plant in the future, provided the maximum permitted disposal rate is not exceeded. A request for an additional water treatment plant residuals source shall be submitted to the

Water Quality Division Land Application Team (MC 150) for review and approval prior to disposal.

Attachment A



Attachment B



TEXAS REGISTERED ENGINEERING FIRM F-13
3/12/2021 4:44 PM L:\Projects\0326\114-01\2-0 Wrk Prod\2-1 ACAD\FIGURES\FIG-SITE DRAWING.dwg Brand

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

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Erin E. Chancellor, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 15, 2023

TO: All interested persons.

RE: North Texas Municipal Water District
TCEQ Permit No. WQ0005323000

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 Charles J. Rike Memorial Library, 203 Orange Street, Farmersville, 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
North Texas Municipal Water District
TCEQ Permit No. WQ0005323000

The Executive Director has made the Response to Public Comment (RTC) for the application by North Texas Municipal Water District for TCEQ Permit No. WQ0005323000 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 (WQ0005323000) and click the "Search" button. The search results will display a link to the RTC.

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

Additional Information

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

A complete copy of the RTC (including the mailing list), the complete application, the draft permit, and related documents, including comments, are available for review at the TCEQ Central Office in Austin, Texas. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Charles J. Rike Memorial Library, 203 Orange Street, Farmersville, Texas.

MAILING LIST
for
North Texas Municipal Water District
TCEQ Permit No. WQ0005323000

FOR THE APPLICANT:

Jerry Allen, Environmental Manager
North Texas Municipal Water District
P.O. Box 2408
Wylie, Texas 75098

Travis Markham, Program Manager
North Texas Municipal Water District
P.O. Box 2408
Wylie, Texas 75098

Ryan Pierce, Program Manager
Plummer Associates, Inc.
6300 La Calma Drive, Suite 400
Austin, Texas 78752

INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

Ryan Vise, Deputy Director
Texas Commission on Environmental
Quality
External Relations Division
Public Education Program MC-108
P.O. Box 13087
Austin, Texas 78711-3087

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

Brian Sierant, Technical Staff
Texas Commission on Environmental
Quality
Water Quality Division MC-148
P.O. Box 13087
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL
via electronic mail:

Garrett T. Arthur, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK
via electronic mail:

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

AGUILAR , TINA
903 SADDLE HORN WAY
JOSEPHINE TX 75189-3949

ALDANA , DIANA
513 WINDROW DR
JOSEPHINE TX 75189-3847

BEAZ , MRS OLIVIA
1930 S 3RD ST
GARLAND TX 75040-8421

COONES , RUSSELL
5961 FM 547
FARMERSVILLE TX 75442-6775

D'ONOFRIO , STEPHEN
22476 COUNTY ROAD 850
FARMERSVILLE TX 75442-6601

DEDMON , LINDA C
1503 HARVEST LN
NEVADA TX 75173-7037

DRAFFT , JENNIFER & SCOTT
PO BOX 538
PROSPER TX 75078-0538

FAIN , MELISSA JO
ENVISION
410 WRANGLER DR
JOSEPHINE TX 75189-5441

FITZGERALD , BRITNI
414 SILO CIR
JOSEPHINE TX 75189-5186

FORNASDORO , MONICA
1316 COTTON GIN CT
JOSEPHINE TX 75189-3843

GARCIA , MRS ANDREA
1000 COTTON GIN CT
JOSEPHINE TX 75189-3926

GIPSON , MRS REBECCA
5200 COUNTY ROAD 644
FARMERSVILLE TX 75442-6801

HAMIL , KALEB
1302 COMMUNITY WAY
JOSEPHINE TX 75189-3817

HENRY , SHEREE
PO BOX 369
NEVADA TX 75173-0369

HERNANDEZ , BRYANA
313 KNAPSACK LN
JOSEPHINE TX 75189-3834

HOOKS , JOSEPH
717 MEADOW CREEK LN
JOSEPHINE TX 75189-5279

HUNTOON , DANA
LJ HOMES LLC
5610 WILLIAMS ST
NEVADA TX 75173-8240

HURST , SHAWN
701 WINDMILL ST
JOSEPHINE TX 75189-5294

HURST , MRS SHEILA
701 WINDMILL ST
JOSEPHINE TX 75189-5294

HUTCHISON , MRS ROSE M
1317 BUSHEL DR
JOSEPHINE TX 75189-3825

KING , MR CECIL
3016 ADRIAN CREEK DR
LITTLE ELM TX 75068-2921

KING , MRS NEHA
3016 ADRIAN CREEK DR
LITTLE ELM TX 75068-2921

KOELSCH , PETER
5003 COUNTY ROAD 644
FARMERSVILLE TX 75442-6807

LAWRENCE , DIANNA
303 PATINA ST
JOSEPHINE TX 75189-6019

LEE , WILSON
PO BOX 851284
RICHARDSON TX 75085-1284

LINSEY , FUTRELL
507 SILO CIR
JOSEPHINE TX 75189-5193

LORRA , MICHAEL
STE 115
5706 E MOCKINGBIRD LN
DALLAS TX 75206-5460

MAGEDSON , WILLIAM
816 TURNBUCKLE CT
JOSEPHINE TX 75189-7407

MALEH , MARCY
1101 BLESSED LN
JOSEPHINE TX 75189-3954

MARGIE , VESELKA
1503 HARVEST LN
NEVADA TX 75173-7037

MARTIN , AUSTIN JAMES
116 CENTER ST
NEVADA TX 75173-7124

MEDINA , ALEJANDRO
301 SAW MILL RD
JOSEPHINE TX 75189-5188

NUTT , PRESTON
403 PINE HOLLOW WAY
JOSEPHINE TX 75189-5317

PARKER , LARRY
412 SHIPLAP LN
JOSEPHINE TX 75189-5181

RAMSEY , JASON
21711 PRIVATE ROAD 5455
FARMERSVILLE TX 75442-8315

RICHBURG , JAN
2051 COUNTY ROAD 645
FARMERSVILLE TX 75442-7360

RIDGWAY , JANE
PO BOX 127
CADDO MILLS TX 75135-0127

RON , SYDNOR
408 JASMINE CIR
JOSEPHINE TX 75173-8440

ROSE , CAROLINE
717 MEADOW CREEK LN
JOSEPHINE TX 75189-5279

RUPLE , MR CHARLES L
5909 FM 547
FARMERSVILLE TX 75442-6775

SAMANTHA , LARSON
408 MILO WAY
JOSEPHINE TX 75189-3753

SHARON , BEEBE
505 FARMHOUSE LN
JOSEPHINE TX 75189-5308

STUBBE , MICHAEL
5144 COUNTY ROAD 644
FARMERSVILLE TX 75442-6800

TRISH , CLARKE
1314 COMMUNITY WAY
JOSEPHINE TX 75189-3817

WALL , JIM F
5757 FM 547
FARMERSVILLE TX 75442-6921

WALLGREN , BETHANIE
316 MAIN ST
JOSEPHINE TX 75173-1211

WHITAKER , MEGAN
606 MAGNOLIA CT
JOSEPHINE TX 75173-8442

WHITAKER , RICKY
606 MAGNOLIA CT
JOSEPHINE TX 75173-8442

WILLIAMS , ROBERT
5226 COUNTY ROAD 644
FARMERSVILLE TX 75442-6801

TCEQ PERMIT NO. WQ0005323000

APPLICATION	§	BEFORE
BY NORTH TEXAS	§	THE TEXAS
MUNICIPAL WATER DISTRICT FOR	§	COMMISSION ON
TCEQ PERMIT NO. WQ0005323000	§	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 on the application by North Texas Municipal Water District (**Applicant**) for a new TCEQ permit, proposed TCEQ permit No. WQ0005323000 (**proposed permit**), 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 (**OCC**) received timely comments from Tina Aguilar, Diana Aldana, Olivia Beaz, Sharon Beebe, Trish Clarke, Russell Coones, Linda Dedmon, Stephen D'Onofrio, Scott and Jennifer Drafft, Melissa Fain, Britni Fitzgerald, Monica Fornasoro, Linsey Futrell, Rebecca Gipson, Kaleb Hamil, Sheree Henry, Bryana Hernandez, Joseph Hooks, Dana Huntoon, Shawn Hurst, Sheila Hurst, Rose Hutchison, Cecil King, Neha King, Peter Koelsch, Samantha Larson, Dianna Lawrence, Wilson Lee, Michael Lorra, William Magedson, Marcy Maleh, Austin Martin, Alejandro Medina, Preston Nutt, Larry Parker, Jason Ramsey, Jan Richburg, Jane Ridgway, Caroline Rose, Charles Ruple, Michael Stubbe, Ron Sydnor, Margie Veselka, Jim Wall, Bethanie Wallgren, Megan Whitaker, Ricky Whitaker and Robert Williams. This response addresses all timely public comments received, whether withdrawn or not. For 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 the proposed permit, which authorizes the processing, storage, and disposal at a monofill of Water Treatment Plant Residuals (**WTP residuals**), which is material generated during the treatment of water for potable use, and not sewage sludge, biosolids, or an industrial solid waste. Monofills are a landfill that is intended to be used for a single type of waste. This means that the monofill must be dedicated to disposal of waste that is comprised of that specific single waste material.

Description of Proposed Facility and Permit

The Applicant's Wylie Water Treatment Plant and the WTP residuals disposal monofill (**proposed facility**) is a 310-acre monofill authorized for the disposal of only dewatered WTP residuals at a max rate of 100,000 dry tons per year and will be located approximately 0.25 mile north of the intersection of County Road 644 and Farm-to-Market Road 547, in Collin County, Texas 75442. The proposed facility will be located in the drainage basin of Lake Tawakoni in Segment No. 0507 of the Sabine River Basin; however, there will not be a discharge from the proposed facility, and the proposed permit does not authorize a discharge of pollutants into water in the state. The proposed permit authorizes the Applicant to process, store, and dispose of WTP residuals in accordance with the limitations, requirements, and other conditions of the proposed permit, which if

granted, is subject to the rules of the Commission and other Orders of the Commission and laws of the State of Texas. Nothing in the proposed permit exempts the Applicant from compliance with applicable rules and regulations of the TCEQ. The Applicant must handle and dispose of all WTP residuals in accordance with all applicable state and federal regulations to protect public health and the environment. Additionally, the proposed permit does not authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations.

Procedural Background

The TCEQ received the application on May 19, 2021, and declared it administratively complete on September 15, 2021. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in Collin County, Texas on September 29, 2021, in English in *The Dallas Morning News* and in Spanish in *Al Dia*. The ED completed the technical review of the application on February 14, 2022, and prepared an initial draft permit, the proposed permit that if approved, would establish the conditions under which the proposed facility must operate. The Applicant published a Combined Notice of Application and Preliminary Decision (NAPD) and NORI in Collin County, Texas on June 15, 2022, in English in *The Dallas Morning News* and in Spanish in *Al Dia* to correct inaccuracies in the original NORI. The public comment period ended on July 15, 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.

The ED has determined that the proposed permit, if issued, meets all statutory and regulatory requirements and is protective of the environment, water quality, animal life, vegetation and human health. However, if you would like to file a complaint about the proposed facility concerning its compliance with the provisions of its permit or with TCEQ rules, you may contact the TCEQ Regional Office (Region 4) in Fort Worth, TX at (817) 588-5800 or the statewide toll-free number at 1-888-777-3186 to address potential permit violations. In addition, complaints may be filed electronically by using the methods described below at the seventh bullet point under “Access to Rules, Laws, and Records.” If an inspection by the Regional Office finds that the Applicant is not complying with all the requirements of the permit, or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.

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/>
- **Environmental or citizen complaints may be filed electronically at:** <https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/compla>

[ints.html](#) (select “use our online form”) or by sending an email to the following address: complaint@TCEQ.texas.gov

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 (OCC), for the current application until final action is taken). Some documents located at the OCC 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 Charles J. Rike Memorial Library located at 203 Orange Street, Farmersville, Texas 75442, since publication of the NORI. The final permit application, proposed permit, statement of basis/technical summary, and the ED’s preliminary decision are available for viewing and copying at the same location since publication of the Combined NAPD/NORI.

COMMENTS AND RESPONSES

COMMENT 1:

Nearly all the comments received by the OCC on this application contained concerns about the nature or type of waste that the proposed permit would authorize for disposal at the Applicant’s monofill. Nearly all the comments included concerns about wastewater treatment plant sludge (biosolids) or industrial sludge. Similarly, concerns were raised that all surface disposal of material involved in treating water involves the same type of waste and practices. Diana Aldana expressed concern that this will be a trash disposal site. Joseph Hooks and Wilson Lee expressed concern that this will be a sludge treatment facility or processing plant. Stephen D’Onofrio has concerns about the health effects and medical issues with biosolids. Michael Stubbe has expressed concern that waste is heavy with chemicals and solids that will be dumped and absorbed in the soil that feeds local ponds and creeks that flow through properties. Olivia Beaz commented referencing a cancer report related to sewage sludge.

RESPONSE 1:

The ED understands these concerns, acknowledges the comments, and apologizes that there was confusion with this application.

The first notice for this application, the NORI, that was mailed to adjacent landowners and published by the Applicant on September 29, 2021, in English in *The Dallas Morning News* and in Spanish NORI in *Al Dia*, contained misleading information because the NORI stated that the Applicant had applied for a Sewage Sludge or Biosolids Surface Disposal Permit.

That statement was incorrect, as the Applicant did not apply for that type of permit. The type of permit the Applicant applied for was correctly stated in second public notice of the application, a combined NORI/NAPD, which was published in the same newspapers to correct the previous inaccurate statement.

The ED would like to make clear that the Applicant did not apply for a Sewage Sludge or Biosolids Surface Disposal Permit, and the only material authorized for disposal at the Applicant’s monofill is WTP residuals.

Instead, the Applicant applied for a permit to dispose of WTP residuals, which are not sewage sludge or industrial solid waste. The TCEQ rules at 30 TAC § 312.8(105), define WTP residuals as material generated during the treatment of either surface water or

groundwater for potable use. Likewise, the TCEQ rules at 30 TAC § 290.38(71), define a water treatment plant or public water system as a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses for water distributed by any agency or individual, public or private, for the purpose of human consumption or which may be used in the preparation of foods or beverages or for the cleaning of any utensil or article used in the course of preparation or consumption of food or beverages for human beings. The term drinking water must also include all water supplied for human consumption or used by any institution catering to the public.

WTP residuals contain pollutants from the source water (concentrated when removed from drinking water) and from treatment chemicals (including impurities and disinfection by-products). Source water pollutants removed from potable drinking water include solids, metals, and microorganisms. Pollutants from treatment chemical formulations include active treatment chemical ingredients such as aluminum, calcium, and ammonia compounds, and formulation impurities. Water treatment chemical impurities can concentrate into detectable levels in residuals and recycle streams over time (*Cornwell, 2002*). Disinfection by-products include bromate, chlorite, haloacetic acids, and trihalomethanes.

However, 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 or the Applicant create any nuisance conditions, the TCEQ may be contacted by the methods described above, in the section entitled "Access to Rules, Laws, and Records" on pages 2 and 3.

COMMENT 2:

Kaleb Hamil, Sheree Henry, Margie Veselka, Trish Clarke, Russell Coones, Linda Dedmon, Rebecca Gipson, Joseph Hooks, Dana Huntoon, Sheila Hurst, Cecil King, Neha King, Peter Koelsch, Samantha Larson, Wilson Lee, Michael Lorra, Marcy Maleh, Austin Martin, Preston Nutt, Charles Ruple, Jim Wall, Megan Whitaker, Ricky Whitaker all commented expressing opposition to the proposed permit and expressed concerns about quality of life and the potential negative impacts on the environment, and on the health, safety, welfare of the surrounding public, including the wildlife and farm production of the proposed disposal site and that the site will make living in the area undesirable. Tina Aguilar, Diana Aldana, Sharon Beebe, Trish Clarke, Russell Coones, Stephen D'Onofrio, Britni Fitzgerald, Rebecca Gipson, Bryana Hernandez, Shawn Hurst, Rose Hutchison, Neha King, Peter Koelsch, Samantha Larson, Wilson Lee, Austin Martin, Alejandro Medina,

Preston Nutt, Larry Parker, Jan Richburg, Jane Ridgway, Charles Ruple, Ron Sydnor, Margie Veselka, Jim Wall, and Bethanie Wallgren expressed concerns over the proximity of the proposed facility to families, churches, schools and number of agricultural operations and wildlife ranch. Olivia Beaz commented, expressing concerns that inadequately dispersed air pollution and land pollution from the proposed facility can trigger numerous different health mortalities, such as cancer and even reproductive health issues.

RESPONSE 2:

The health concerns of area residents, as well as those of the public, are considered in reviewing applications for permits that authorize the processing, storage and disposal of water treatment plant residuals. 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 such a permit.

Chapter 26 of the Texas Water Code and TCEQ's water quality rules 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 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."

Additionally, the WTP residuals to be disposed of at the proposed facility must meet all applicable requirements under 30 TAC Chapter 312, Chapter 312 does not establish requirements for the proximity of the disposal site, or buffer zones, from agricultural operations or wildlife ranches. WTP residuals are material generated during the treatment of either surface water or groundwater for potable use and should not pose any threats to the health, safety, or quality of life in the surrounding area.

COMMENT 3:

Trish Clarke, Russell Coones, Linda Dedmon, Rebecca Gipson, Joseph Hooks, Dana Huntoon, Shawn Hurst, Sheila Hurst, Cecil King, Neha King, Peter Koelsch, Samantha Larson, Wilson Lee, Michael Lorra, Marcy Maleh, Austin Martin, Preston Nutt, Charles Ruple, Jim Wall, Megan Whitaker, Ricky Whitaker, Sharon Beebe, Melissa Fain, Monica Fornasoro, Linsey Futrell, Sheree Henry, Dana Huntoon, Dianna Lawrence, Wilson Lee, Larry Parker, Jan Richburg, Jane Ridgway, Caroline Rose, Michael Stubbe, Bethanie Wallgren, and Robert Williams commented, expressing concerns about the proposed facility's negative impacts to their quality of life, impacts from higher traffic volumes, damage to roads as a result of the truck hauling WTP residuals, the value of their properties, which might cause severe economic impact and will affect the growth of the community. Linda Dedmon and Austin Martin expressed concerns that the proposed facility will contribute to an unsightly area or an eyesore and make the area undesirable to

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

live in. Jason Ramsey commented expressing concerns over noise pollution from the proposed facility.

RESPONSE 3:

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 WTP residuals disposal permit, as the scope of the ED's jurisdiction in an application is limited to the issues set out by statute.

The TCEQ does not have the statutory authority to address the issues raised by the commenters as part of the wastewater permitting process. While the Texas Legislature has given the TCEQ the responsibility to protect water quality, the water quality permitting process is limited to controlling the discharge of pollutants into or adjacent to water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. Section 26.027 of the Texas Water Code authorizes the TCEQ to issue permits to control the discharge of wastes or pollutants into state waters and to protect the water quality of the state's rivers, lakes, and coastal waters. The ED, through the Water Quality Division, has no jurisdiction to address property values, higher traffic volumes, road maintenance, quality of life concerns, noise pollution, or aesthetics of a facility.

However, the issuance of a permit by the TCEQ does not authorize any injury to persons or property or an invasion of others property rights. 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 4) in Ft. Worth, TX at (817) 588-5800 or the statewide toll-free number at 1-888-777-3186 to address potential permit violations. In addition, complaints may be filed electronically by using the methods described above in the third subsection of Background Information page 2 (Access to Rules, Laws, and Records).

COMMENT 4:

Sharon Beebe, Melissa Fain, Monica Fornasodoro, Bryana Hernandez, Joseph Hooks, Dana Huntoon, Rose Hutchison, Cecil King, Neha King, Samantha Larson, Wilson Lee, Michael Lorra, Marcy Maleh, Austin Martin, Alejandro Medina, Larry Parker, Ron Sydnor and Robert Williams all commented, expressing concerns that the proposed facility will have odors. In addition, Marcy Maleh expressed concerns that the proposed facility will cause an increase in flying bugs, mosquitoes, flies, and more.

RESPONSE 4:

The proposed permit only authorizes the disposal of WTP residuals, which are residues or silt material removed from water during the treatment process for public drinking water. Accordingly, there should not be any odors or conditions that take place that would attract vectors such as flying bugs, mosquitoes, and flies, which may be

present with the beneficial land application of sewage sludge or biosolids. Both state (TCEQ) and federal (United States Environmental Protection Agency (USEPA)) rules do not require vector attraction reduction methods for the land use or disposal of WTP residuals.

COMMENT 5:

Linda Dedmon, Wilson Lee, and Jim Wall commented, expressing concerns that chemicals used for treatment and the coagulants found in WTP residuals treatment residuals are hazardous and dangerous. Dana Huntoon, Wilson Lee, and Robert Williams expressed concerns about the use of chemical ferric sulfate that may be hazardous if used in large amounts and will adversely affect the neighborhood and the surface water and groundwater.

RESPONSE 5:

The Applicant has stated that the first step at the proposed facility's process to produce drinking water is the removal of particles such as silt and clay from the source water using an iron coagulant (ferric sulfate). The iron coagulant (ferric sulfate) is a chemical certified for use in drinking water treatment by American National Standards Institute, National Science Foundation, and meets American Water Works Association standards for use in the drinking water treatment."

COMMENT 6:

Russell Coones, Rebecca Gipson, and Charles Ruple commented, expressing concerns about the per-and polyfluoroalkyl substances (PFAS) contamination and the dangers to humans and livestock.

RESPONSE 6:

The ED acknowledges the significance of these concerns; however, the USEPA has not promulgated any rules related to PFAS; and although the USEPA is currently studying the occurrence of PFAS in biosolids, the study does not include WTP residuals, as currently there are no documented instances of PFAS contamination in WTP residuals.

COMMENT 7:

Sheree Henry, Wilson Lee, Jane Ridgway, and Ron Sydnor commented expressing concern about possible contaminants running off or breaching from the proposed facility and the potential for flooding into public areas. Michael Lorra commented expressing concerns about the impact of that amount of water will have on properties downstream of existing waterways and floodplains.

RESPONSE 7:

The proposed permit does not authorize any discharge, nor the discharge of process water from the dewatering process or a discharge of the WTP residuals outside of the bermed, monofill containment area. If such a discharge were to happen it would be a violation of the proposed permit and subject the Applicant to enforcement actions.

COMMENT 8:

Wilson Lee, Jim Wall, Michael Lorra, Austin Martin, and Jason Ramsey all commented, expressing concerns about the impacts the proposed facility will have on the groundwater of the surrounding area and the possible contamination to groundwater.

Bethanie Wallgren commented, questioning how it can be absolutely ensured that a water source 80 feet downstream won't be contaminated. Jim Wall commented, expressing concerns about the barrier utilized to prevent seepage because the application states it will be compacted clay.

RESPONSE 8:

Although not required for the disposal of water treatment residuals, the liner of compacted clay is sufficient to prevent seepage into groundwater that is 80 feet below. In addition, the material proposed for disposal is generated during the treatment of either surface water or groundwater for potable use and is not expected to contaminate groundwater.

COMMENT 9:

Scott and Jennifer Dafft commented, questioning if any TCEQ personnel has physically visited the site of the proposed facility.

RESPONSE 9:

To date, no TCEQ personnel has visited the site.

COMMENT 10:

Bethanie Wallgren commented, questioning whether there are other examples of monofill like the one proposed by the Applicant. Scott and Jennifer Dafft commented, questioning whether the TCEQ has ever received an application for disposal of WTP residuals on a site the size of the proposed facility and what the largest site, prior to the proposed facility, is for an application for disposal of WTP residuals.

RESPONSE 10:

To date, there are six WTP residuals monofills and one combination of a wastewater treatment plant sludge and WTP residuals monofill. These monofills vary from 19 acres to 220 acres. The largest WTP residuals-only disposal site is a 20-acre monofill located in Nueces County and it has a maximum disposal rate of 51,000 dry tons per year. The largest disposal site that includes WTP residuals with a combination of wastewater treatment plant sludge is a 220-acre monofill located in Hudspeth County and it has a maximum disposal rate of 450,702 dry tons per year.

COMMENT 11:

Scott and Jennifer Dafft commented, questioning how the contaminated water from the processing of WTP residuals will be dealt with.

RESPONSE 11:

The water treatment process associated with the monofill would not produce any contaminated water, but instead results in recovered raw water from Lavon Lake. The drinking water treatment process uses iron coagulant that is added to lake water to remove particles, such as clay and silt, to clarify the lake water. These particles, or the WTP residuals, are removed from the lake water and settle to the bottom of a treatment tank. The Applicant stated in the application that the clarified lake water remains at the top of the treatment tank and is captured to be disinfected with ozone & chlorine to become drinking water, and the leftover water in the bottom of the treatment tank

containing the WTP residuals is planned to be pumped to the monofill. The WTP residuals will then be removed from the recovered lake water, and the lake water will be used for irrigation. The Applicant stated in the application that the amount of lake water removed from the WTP residuals will vary as it is dependent on production of drinking water at the Wylie Water Treatment Plant, and the production of drinking water is expected to be higher during periods of dry weather and lower during periods of wet weather.

COMMENT 12:

Scott and Jennifer Dafft commented, questioning whether the TCEQ expects the Applicant to apply for a wastewater discharge permit allowing the discharge of contaminated water into the flood plain.

RESPONSE 12:

The only plans of the Applicant that TCEQ is aware of is the Applicant's plans to construct stormwater detention ponds that will be used at the monofill. Additionally, over the life of the monofill, the location and size of the stormwater detention ponds will vary because of changes to the site layout of the active monofill area. The Ponds will be located to capture rainfall falling on the active site of the monofill and must be sized for a 25-year, 24-hour storm.

COMMENT 13:

Scott and Jennifer Dafft commented, questioning whether the Soil Conservation Service will be involved in the planning of the proposed facility to ensure all silt will be contained on site. The Daffts also questioned how the silt will be eliminated from runoff that runs onto neighboring properties and into creeks, rivers, and reservoirs.

RESPONSE 13:

The Soil Conservation Service is not involved in planning to ensure all silt is contained on site. The Applicant must manage the proposed facility according to the provisions of the proposed permit, which addresses stormwater management and erosion control.

COMMENT 14:

Scott and Jennifer Dafft commented, questioning what the plan is to convert the inactive portion from cultivated ground into a permanent grass, whether an independent certified agronomist will be involved in this transformation into grass, and whether standard practices to establish a healthy stand will be used, which includes annual fertilization, regular herbicide application and frequent mowing.

RESPONSE 14:

The proposed permit requires that vegetative cover must be maintained year-round on all areas within the monofill that have reached the maximum elevation of disposal to prevent erosion conditions from occurring. When a disposal area has reached the maximum elevation of disposal, the soil is expected to have sufficient moisture and nutrients to grow a natural permanent grass cover. The proposed permit does not require that an independent certified agronomist be involved in the transformation into a grass cover.

COMMENT 15:

Scott and Jennifer Dafft commented, questioning if berms and a fence will be built around the proposed facility before disposal activities commence.

RESPONSE 15:

The proposed permit requires that waste control facilities must be isolated from storm water run-on by berms or diversion terraces. The Applicant stated in the application that a berm will be constructed around the perimeter of the active site of the monofill prior to the disposal of WTP residuals. The active site of the monofill will be surrounded by a perimeter berm, and the active site will vary in location and size over the life of the monofill. Some berms will be constructed around the perimeter of the property.

Additionally, the Applicant must restrict public access to the site by having a fence and locked gate, as well as sign postings prior to the disposal of WTP residuals.

COMMENT 16:

Scott and Jennifer Dafft commented, questioning under the East Parcel, if the “small creek at the eastern edge of the parcel” can be identified. The Daffts are unaware of any small creek on the western edge of their property.

RESPONSE 16:

Attachments 1 and 2, which are maps provided by the Applicant and enclosed at the end of this document, show a water course that is an unnamed tributary of Cowskin Creek (See Attachments 1 and 2 below).

COMMENT 17:

Scott and Jennifer Dafft commented, questioning if there will be a series of retention/settling ponds to slow the velocity of runoff water as it exits onto neighboring properties and eliminate washouts and silt entering creeks, rivers, and reservoirs.

RESPONSE 17:

Stormwater detention ponds will be used and because the active site layout of the proposed facility will change over time, the location and size of the stormwater detention ponds will vary over the life of the monofil. The stormwater detention ponds will be located so that they capture rainfall on the active site of the monofill and will be sized for a 25-year, 24-hour storm.

COMMENT 18:

Scott and Jennifer Dafft commented, questioning that because the application requested an increase to 100,000 tons deposited annually (roughly 2,000 tons per week), where the loads originate from and how many loads per day are expected.

RESPONSE 18:

The Applicant stated that the current plan is to send WTP residuals to the monofill through a pipeline, which will result in minimal additional traffic on nearby roads. However, if a pipeline is not constructed, the Applicant would use trucks originating from the Wylie Water Treatment Plant located in Wylie, Texas, to transport water treatment plant residuals to the monofill. The Applicant has stated that based on current volumes, it

estimates there could be up to 50 trucks per day on average if the pipeline is not constructed. However, the TCEQ does not have jurisdiction over traffic or road maintenance on public roads. If the public becomes aware of damage to county roads, the Collin County is responsible for acting. If the damage were to occur on site at the proposed facility, the Applicant must act.

COMMENT 19:

Scott and Jennifer Dafft commented, questioning what the proposed route is for the pipeline from Wylie to the proposed facility and what the size of the pipe will be and if Eminent Domain will be used to acquire any part of the pipeline right-of-way.

RESPONSE 19:

Because the proposed permit is for the disposal of WTP residuals, the proposed route and size of the pipeline from Wylie to the proposed facility is not a part of this application or proposed permit.

COMMENT 20:

Scott and Jennifer Dafft commented, questioning if the proposed facility will operate 24 hours a day or will have limited hours of operation.

RESPONSE 20:

Hours of operation are not part of the application and the TCEQ does not have jurisdiction over the operating hours of the proposed facility.

COMMENT 21:

Scott and Jennifer Dafft commented, questioning what the estimated cost of this project will be when completed.

RESPONSE 21:

The estimated cost of the proposed disposal site when completed, is not under the jurisdiction of the TCEQ's review of the proposed permit.

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

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
Facsimile No. 512-239-0626
REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

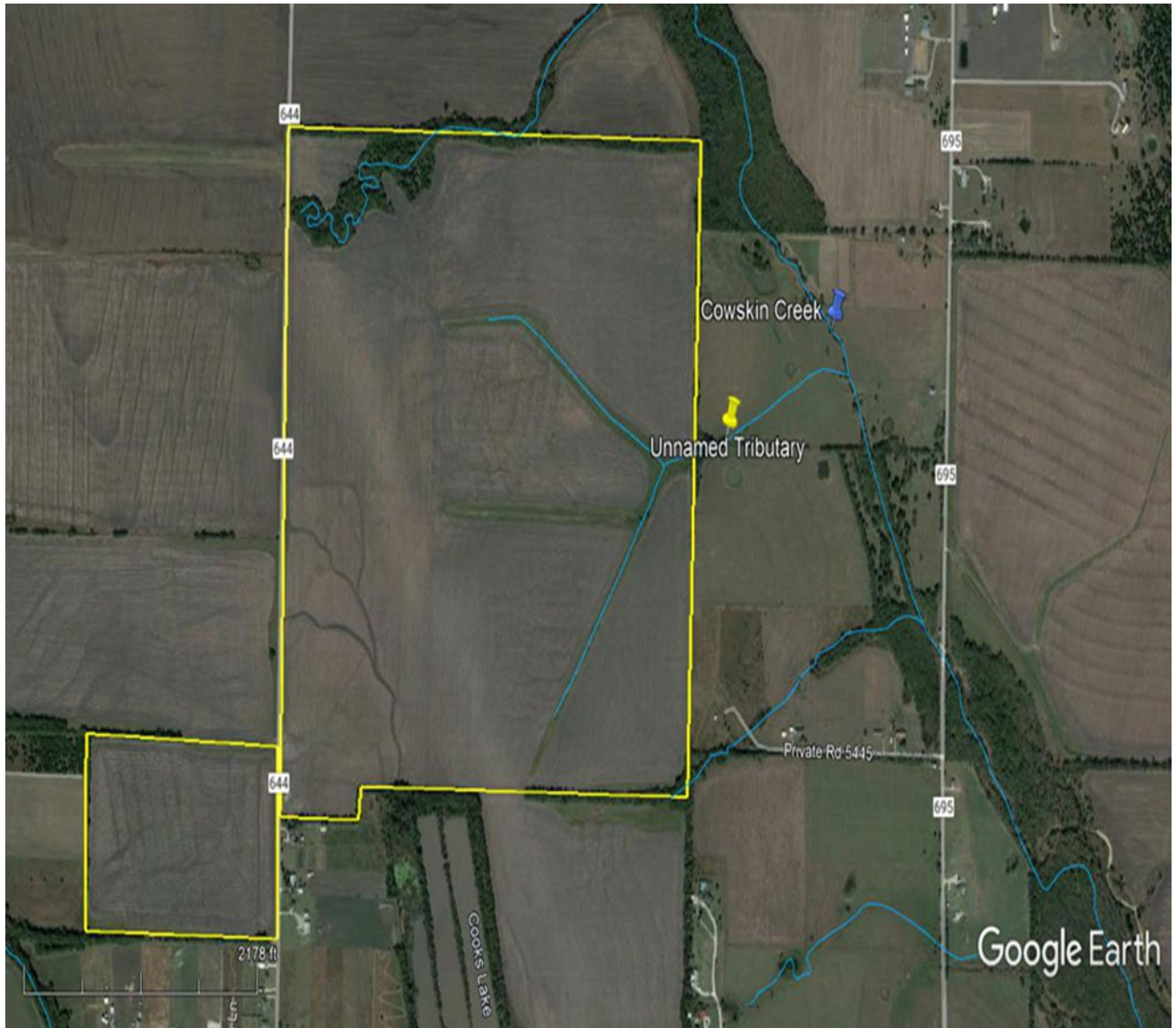
CERTIFICATE OF SERVICE

I certify that on February 13, 2023, the Executive Director's Response to Public Comment for Permit No. WQ0005323000 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

Attachment 1



Attachment 2

