Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Office of Chief Clerk Date: May 2, 2025

From: Michael Parr/Caleb Shook, Staff Attorneys, Environmental Law Division

Subject: Transmittal of Documents for Administrative Record

Applicant:	Jireten, LLC
Proposed Permit No.:	WQ0016336001
Program:	Water Quality Division
TCEQ Docket No.:	2024-1696-MWD

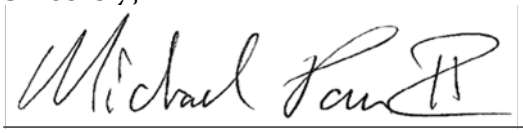
In a contested case hearing, the administrative record includes copies of the public notices relating to the permit application, as well as affidavits of public notices filed by the applicant directly with the Office of the Chief Clerk (OCC). In addition, the record includes the following documents provided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

This transmittal serves to also request that the OCC transmit the attached items, together with the public notice documents, including the notice of hearing, to the StateOffice of Administrative Hearings.

Indicated below are the documents included with this transmittal:

1. The Fact Sheet and Draft Permit
2. The applicable Compliance History
3. The Executive Director's Preliminary Decision
4. The Executive Director's Response to Comments and Final Decision Letter.

Sincerely,



Michael Parr II
Staff Attorney
Environmental Law Division

ATTACHMENTS 1-4

TPDES PERMIT NO. WQ0016336001
[For TCEQ office use only - EPA I.D. No. TX0144452]

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

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

Jireten, LLC

whose mailing address is

P.O. Box 140991
Irving, Texas 75014

is authorized to treat and discharge wastes from the Jireten 3 Wastewater Treatment Facility, SIC Code 4952

located approximately 590 feet south of the intersection of Butcher Road and South Ring Road, in Ellis County, Texas 75165

to an unnamed tributary, thence to an unnamed impoundment, thence to an unnamed tributary, thence to Lake Clopton, thence to an unnamed impoundment, thence to a series of ponds, thence to an unnamed tributary, thence to Red Oak Creek, thence to Upper Trinity River in Segment No. 0805 of the Trinity River Basin

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

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

ISSUED DATE:

For the Commission

INTERIM I EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS Outfall Number 001

1. During the period beginning upon the date of issuance and lasting through the completion of expansion to the 0.108 million gallons per day (MGD) facility, the permittee is authorized to discharge treated domestic wastewater subject to the following effluent limitations:

   The daily average flow of effluent shall not exceed 0.054 million gallons per day (MGD), nor shall the average discharge during any two-hour period (2-hour peak) exceed 150 gallons per minute (gpm).

Effluent Characteristic	Discharge Limitations				Min. Self-Monitoring Requirements	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Single Grab Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (4.5)	15	25	35	One/week	Grab
Total Suspended Solids	15 (6.8)	25	40	60	One/week	Grab
Ammonia Nitrogen	3 (1.4)	6	10	15	One/week	Grab
E. coli, colony-forming units or most probable number per 100 ml	126	N/A	N/A	399	One/quarter	Grab

2. The effluent shall contain a total chlorine residual of at least 1.0 mg/l and shall not exceed a total chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow), and shall be monitored five times per week by grab sample at each chlorine contact chamber. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

3. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per month by grab sample.

4. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

5. Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.

6. The effluent shall contain a minimum dissolved oxygen of 4.0 mg/l and shall be monitored once per week by grab sample.

INTERIM II EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS Outfall Number 001

1. During the period beginning upon the completion of expansion to the 0.108 million gallons per day (MGD) facility and lasting through the completion of expansion to the 0.162 MGD facility, the permittee is authorized to discharge treated domestic wastewater subject to the following effluent limitations:

   The daily average flow of effluent shall not exceed 0.108 MGD nor shall the average discharge during any two-hour period (2-hour peak) exceed 300 gallons per minute (gpm).

Effluent Characteristic	Discharge Limitations				Min. Self-Monitoring Requirements	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Single Grab Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	7 (9.5)	10	20	30	One/week	Grab
Total Suspended Solids	15 (14)	25	40	60	One/week	Grab
Ammonia Nitrogen	2 (2.7)	5	10	15	One/week	Grab
E. coli, colony-forming units or most probable number per 100 ml	126	N/A	N/A	399	One/month	Grab

2. The effluent shall contain a total chlorine residual of at least 1.0 mg/l and shall not exceed a total chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow), and shall be monitored five times per week by grab sample at each chlorine contact chamber. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

3. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per month by grab sample.

4. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

5. Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.

6. The effluent shall contain a minimum dissolved oxygen of 4.0 mg/l and shall be monitored once per week by grab sample.

FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS Outfall Number 001

1. During the period beginning upon the completion of expansion to the 0.162 million gallons per day (MGD) facility and lasting through the date of expiration, the permittee is authorized to discharge treated domestic wastewater subject to the following effluent limitations:

   The daily average flow of effluent shall not exceed 0.162 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 450 gallons per minute (gpm).

Effluent Characteristic	Discharge Limitations				Min. Self-Monitoring Requirements	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Single Grab Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	5 (6.8)	10	20	30	One/week	Grab
Total Suspended Solids	5 (6.8)	10	20	30	One/week	Grab
Ammonia Nitrogen	1.6 (2.2)	5	10	15	One/week	Grab
E. coli, colony-forming units or most probable number per 100 ml	126	N/A	N/A	399	One/month	Grab

2. The effluent shall contain a total chlorine residual of at least 1.0 mg/l and shall not exceed a total chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow), and shall be monitored five times per week by grab sample at each chlorine contact chamber. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

3. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per month by grab sample.

4. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

5. Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.

6. The effluent shall contain a minimum dissolved oxygen of 6.0 mg/l and shall be monitored once per week by grab sample.

DEFINITIONS AND STANDARD PERMIT CONDITIONS

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

1. Flow Measurements

    a. Annual average flow - the arithmetic average of all daily flow determinations taken within the preceding 12 consecutive calendar months. The annual average flow determination shall consist of daily flow volume determinations made by a totalizing meter, charted on a chart recorder and limited to major domestic wastewater discharge facilities with one million gallons per day or greater permitted flow.

    b. Daily average flow - the arithmetic average of all determinations of the daily flow within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily flow, the determination shall be the arithmetic average of all instantaneous measurements taken during that month. Daily average flow determination for intermittent discharges shall consist of a minimum of three flow determinations on days of discharge.

    c. Daily maximum flow - the highest total flow for any 24-hour period in a calendar month.

    d. Instantaneous flow - the measured flow during the minimum time required to interpret the flow measuring device.

    e. 2-hour peak flow (domestic wastewater treatment plants) - the maximum flow sustained for a two-hour period during the period of daily discharge. The average of multiple measurements of instantaneous maximum flow within a two-hour period may be used to calculate the 2-hour peak flow.

    f. Maximum 2-hour peak flow (domestic wastewater treatment plants) - the highest 2-hour peak flow for any 24-hour period in a calendar month.

2. Concentration Measurements

    a. Daily average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar month, consisting of at least four separate representative measurements.

        i. For domestic wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values in the previous four consecutive month period consisting of at least four measurements shall be utilized as the daily average concentration.

ii. For all other wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values taken during the month shall be utilized as the daily average concentration.

b. 7-day average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar week, Sunday through Saturday.

c. Daily maximum concentration - the maximum concentration measured on a single day, by the sample type specified in the permit, within a period of one calendar month.

d. Daily discharge - the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the sampling day.

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

e. Bacteria concentration (*E. coli* or Enterococci) - Colony Forming Units (CFU) or Most Probable Number (MPN) of bacteria per 100 milliliters effluent. The daily average bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month. The geometric mean shall be determined by calculating the nth root of the product of all measurements made in a calendar month, where n equals the number of measurements made; or, computed as the antilogarithm of the arithmetic mean of the logarithms of all measurements made in a calendar month. For any measurement of bacteria equaling zero, a substituted value of one shall be made for input into either computation method. If specified, the 7-day average for bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.

f. Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as (Flow, MGD x Concentration, mg/l x 8.34).

g. Daily maximum loading (lbs/day) - the highest daily discharge, in terms of mass (lbs/day), within a period of one calendar month.

3. Sample Type

a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (b).

b. Grab sample - an individual sample collected in less than 15 minutes.

4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.

5. The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids that have not been classified as hazardous waste separated from wastewater by unit processes.

6. The term "biosolids" is defined as sewage sludge that has been tested or processed to meet Class A, Class AB, or Class B pathogen standards in 30 TAC Chapter 312 for beneficial use.

7. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

MONITORING AND REPORTING REQUIREMENTS

1. Self-Reporting

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

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

2. Test Procedures

a. Unless otherwise specified in this permit, test procedures for the analysis of pollutants shall comply with procedures specified in 30 TAC §§ 319.11 - 319.12. Measurements, tests, and calculations shall be accurately accomplished in a representative manner.

b. All laboratory tests submitted to demonstrate compliance with this permit must meet the requirements of 30 TAC § 25, Environmental Testing Laboratory Accreditation and Certification.

3. Records of Results

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

be representative of the monitored activity.

b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use or biosolids and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, records of all data used to complete the application for this permit, and the certification required by 40 CFR § 264.73(b)(9) shall be retained at the facility site, or shall be readily available for review by a TCEQ representative for a period of three years from the date of the record or sample, measurement, report, application or certification. This period shall be extended at the request of the Executive Director.

c. Records of monitoring activities shall include the following:

i. date, time and place of sample or measurement;

ii. identity of individual who collected the sample or made the measurement.

iii. date and time of analysis;

iv. identity of the individual and laboratory who performed the analysis;

v. the technique or method of analysis; and

vi. the results of the analysis or measurement and quality assurance/quality control records.

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

4. Additional Monitoring by Permittee

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

5. Calibration of Instruments

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

6. Compliance Schedule Reports

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

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

7. Noncompliance Notification

   a. In accordance with 30 TAC § 305.125(9) any noncompliance which may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ. Except as allowed by 30 TAC § 305.132, report of such information shall be provided orally or by facsimile transmission (FAX) to the Regional Office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the Regional Office and the Compliance Monitoring Team of the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. For Publicly Owned Treatment Works (POTWs), effective December 21, 2025, the permittee must submit the written report for unauthorized discharges and unanticipated bypasses that exceed any effluent limit in the permit using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.

   b. The following violations shall be reported under Monitoring and Reporting Requirement 7.a.:

      i. Unauthorized discharges as defined in Permit Condition 2(g).

      ii. Any unanticipated bypass that exceeds any effluent limitation in the permit.

      iii. Violation of a permitted maximum daily discharge limitation for pollutants listed specifically in the Other Requirements section of an Industrial TPDES permit.

   c. In addition to the above, any effluent violation which deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the Regional Office and the Compliance Monitoring Team of the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.

   d. Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Compliance Monitoring Team of the Enforcement Division (MC 224) as promptly as possible. For effluent limitation violations, noncompliances shall be reported on the approved self-report form.

8. In accordance with the procedures described in 30 TAC §§ 35.301 - 35.303 (relating to Water Quality Emergency and Temporary Orders) if the permittee knows in advance of the need for a bypass, it shall submit prior notice by applying for such authorization.

9. Changes in Discharges of Toxic Substances

   All existing manufacturing, commercial, mining, and silvicultural permittees shall notify the Regional Office, orally or by facsimile transmission within 24 hours, and both the Regional Office and the Compliance Monitoring Team of the Enforcement Division (MC 224) in

writing within five (5) working days, after becoming aware of or having reason to believe:

a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant listed at 40 CFR Part 122, Appendix D, Tables II and III (excluding Total Phenols) which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

   i. One hundred micrograms per liter (100 μg/L);

   ii. Two hundred micrograms per liter (200 μg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 μg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;

   iii. Five (5) times the maximum concentration value reported for that pollutant in the permit application; or

   iv. The level established by the TCEQ.

b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

   i. Five hundred micrograms per liter (500 μg/L);

   ii. One milligram per liter (1 mg/L) for antimony;

   iii. Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or

   iv. The level established by the TCEQ.

10. Signatories to Reports

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

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

    a. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to CWA § 301 or § 306 if it were directly discharging those pollutants;

    b. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit; and

    c. For the purpose of this paragraph, adequate notice shall include information on:

       i. The quality and quantity of effluent introduced into the POTW; and

       ii. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

PERMIT CONDITIONS

1. General

   a. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in an application or in any report to the Executive Director, it shall promptly submit such facts or information.

   b. This permit is granted on the basis of the information supplied and representations made by the permittee during action on an application, and relying upon the accuracy and completeness of that information and those representations. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked, in whole or in part, in accordance with 30 TAC Chapter 305, Subchapter D, during its term for good cause including, but not limited to, the following:

      i. Violation of any terms or conditions of this permit;

      ii. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or

      iii. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

   c. The permittee shall furnish to the Executive Director, upon request and within a reasonable time, any information to determine whether cause exists for amending, revoking, suspending or terminating the permit. The permittee shall also furnish to the Executive Director, upon request, copies of records required to be kept by the permit.

2. Compliance

   a. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment and agreement that such person will comply with all the terms and conditions embodied in the permit, and the rules and other orders of the Commission.

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

   c. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

   d. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment.

   e. Authorization from the Commission is required before beginning any change in the permitted facility or activity that may result in noncompliance with any permit requirements.

   f. A permit may be amended, suspended and reissued, or revoked for cause in accordance

with 30 TAC §§ 305.62 and 305.66 and TWC§ 7.302. The filing of a request by the permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

g. There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Other Requirements section of this permit.

h. In accordance with 30 TAC § 305.535(a), the permittee may allow any bypass to occur from a TPDES permitted facility which does not cause permitted effluent limitations to be exceeded or an unauthorized discharge to occur, but only if the bypass is also for essential maintenance to assure efficient operation.

i. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under TWC §§ 7.051 - 7.075 (relating to Administrative Penalties), 7.101 - 7.111 (relating to Civil Penalties), and 7.141 - 7.202 (relating to Criminal Offenses and Penalties) for violations including, but not limited to, negligently or knowingly violating the federal CWA §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under the CWA § 402, or any requirement imposed in a pretreatment program approved under the CWA §§ 402 (a)(3) or 402 (b)(8).

3. Inspections and Entry

a. Inspection and entry shall be allowed as prescribed in the TWC Chapters 26, 27, and 28, and THSC § 361.

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

4. Permit Amendment and/or Renewal

a. The permittee shall give notice to the Executive Director as soon as possible of any planned physical alterations or additions to the permitted facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements. Notice shall also be required under this paragraph when:

   i. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in accordance with 30 TAC § 305.534 (relating to New Sources and New Dischargers); or

   ii. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations in the permit, nor to notification requirements in Monitoring and Reporting Requirements No. 9; or

   iii. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

b. Prior to any facility modifications, additions, or expansions that will increase the plant capacity beyond the permitted flow, the permittee must apply for and obtain proper authorization from the Commission before commencing construction.

c. The permittee must apply for an amendment or renewal at least 180 days prior to expiration of the existing permit in order to continue a permitted activity after the expiration date of the permit. If an application is submitted prior to the expiration date of the permit, the existing permit shall remain in effect until the application is approved, denied, or returned. If the application is returned or denied, authorization to continue such activity shall terminate upon the effective date of the action. If an application is not submitted prior to the expiration date of the permit, the permit shall expire and authorization to continue such activity shall terminate.

d. Prior to accepting or generating wastes which are not described in the permit application or which would result in a significant change in the quantity or quality of the existing discharge, the permittee must report the proposed changes to the Commission. The permittee must apply for a permit amendment reflecting any necessary changes in permit conditions, including effluent limitations for pollutants not identified and limited by this permit.

e. In accordance with the TWC § 26.029(b), after a public hearing, notice of which shall be given to the permittee, the Commission may require the permittee, from time to time, for good cause, in accordance with applicable laws, to conform to new or additional conditions.

f. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under CWA § 307(a) for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition. The permittee shall comply with effluent standards or prohibitions established under CWA § 307(a) for toxic pollutants within the time provided in the

regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

5. Permit Transfer

   a. Prior to any transfer of this permit, Commission approval must be obtained. The Commission shall be notified in writing of any change in control or ownership of facilities authorized by this permit. Such notification should be sent to the Applications Review and Processing Team (MC 148) of the Water Quality Division.

   b. A permit may be transferred only according to the provisions of 30 TAC § 305.64 (relating to Transfer of Permits) and 30 TAC § 50.133 (relating to Executive Director Action on Application or WQMP update).

6. Relationship to Hazardous Waste Activities

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

7. Relationship to Water Rights

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

8. Property Rights

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

9. Permit Enforceability

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

10. Relationship to Permit Application

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

11. Notice of Bankruptcy

    a. Each permittee shall notify the Executive Director, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code (11 USC) by or against:

       i. the permittee;

       ii. an entity (as that term is defined in 11 USC, § 101(14)) controlling the permittee or listing the permit or permittee as property of the estate; or

       iii. an affiliate (as that term is defined in 11 USC, § 101(2)) of the permittee.

b. This notification must indicate:

i. the name of the permittee;

ii. the permit number(s);

iii. the bankruptcy court in which the petition for bankruptcy was filed; and

iv. the date of filing of the petition.

OPERATIONAL REQUIREMENTS

1. The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control. Process control, maintenance, and operations records shall be retained at the facility site, or shall be readily available for review by a TCEQ representative, for a period of three years.

2. Upon request by the Executive Director, the permittee shall take appropriate samples and provide proper analysis in order to demonstrate compliance with Commission rules. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall comply with all applicable provisions of 30 TAC Chapter 312 concerning sewage sludge or biosolids use and disposal and 30 TAC §§ 319.21 - 319.29 concerning the discharge of certain hazardous metals.

3. Domestic wastewater treatment facilities shall comply with the following provisions:

   a. The permittee shall notify the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, in writing, of any facility expansion at least 90 days prior to conducting such activity.

   b. The permittee shall submit a closure plan for review and approval to the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, for any closure activity at least 90 days prior to conducting such activity. Closure is the act of permanently taking a waste management unit or treatment facility out of service and includes the permanent removal from service of any pit, tank, pond, lagoon, surface impoundment and/or other treatment unit regulated by this permit.

4. The permittee is responsible for installing prior to plant start-up, and subsequently maintaining, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

5. Unless otherwise specified, the permittee shall provide a readily accessible sampling point and, where applicable, an effluent flow measuring device or other acceptable means by which effluent flow may be determined.

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

7.302(b)(6).

7. Documentation

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

8. Facilities that generate domestic wastewater shall comply with the following provisions; domestic wastewater treatment facilities at permitted industrial sites are excluded.

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

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

   b. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the Commission and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and each day is an additional violation until approval has been secured.

   c. Permits for domestic wastewater treatment plants are granted subject to the policy of the

Commission to encourage the development of area-wide waste collection, treatment, and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.

9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.

10. For Publicly Owned Treatment Works (POTWs), the 30-day average (or monthly average) percent removal for BOD and TSS shall not be less than 85%, unless otherwise authorized by this permit.

11. Facilities that generate industrial solid waste as defined in 30 TAC § 335.1 shall comply with these provisions:

    a. Any solid waste, as defined in 30 TAC § 335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.

    b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.

    c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC § 335.8(b)(1), to the Corrective Action Section (MC 127) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.

    d. Construction of any industrial solid waste management unit requires the prior written notification of the proposed activity to the Registration and Reporting Section (MC 129) of the Permitting and Registration Support Division. No person shall dispose of industrial solid waste, including sludge or other solids from wastewater treatment processes, prior to fulfilling the deed recordation requirements of 30 TAC § 335.5.

    e. The term "industrial solid waste management unit" means a landfill, surface impoundment, waste-pile, industrial furnace, incinerator, cement kiln, injection well, container, drum, salt dome waste containment cavern, or any other structure vessel,

appurtenance, or other improvement on land used to manage industrial solid waste.

f. The permittee shall keep management records for all sludge (or other waste) removed from any wastewater treatment process. These records shall fulfill all applicable requirements of 30 TAC § 335 and must include the following, as it pertains to wastewater treatment and discharge:

i. Volume of waste and date(s) generated from treatment process;
ii. Volume of waste disposed of on-site or shipped off-site;
iii. Date(s) of disposal;
iv. Identity of hauler or transporter;
v. Location of disposal site; and
vi. Method of final disposal.

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

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

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SLUDGE PROVISIONS

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

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

A. General Requirements

1. The permittee shall handle and dispose of sewage sludge or biosolids in accordance with 30 TAC § 312 and all other applicable state and federal regulations in a manner that protects public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that may be present in the sludge or biosolids.

2. In all cases, if the person (permit holder) who prepares the sewage sludge supplies the sewage sludge to another person for land application use or to the owner or lease holder of the land, the permit holder shall provide necessary information to the parties who receive the sludge to assure compliance with these regulations.

3. The land application of processed or unprocessed chemical toilet waste, grease trap waste, grit trap waste, milk solids, or similar non-hazardous municipal or industrial solid wastes, or any of the wastes listed in this provision combined with biosolids, WTP residuals or domestic septage is prohibited unless the grease trap waste is added at a fats, oil and grease (FOG) receiving facility as part of an anaerobic digestion process.

B. Testing Requirements

1. Sewage sludge or biosolids shall be tested once during the term of this permit in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I [Toxicity Characteristic Leaching Procedure (TCLP)] or other method that receives the prior approval of the TCEQ for the contaminants listed in 40 CFR Part 261.24, Table 1. Sewage sludge or biosolids failing this test shall be managed according to RCRA standards for generators of hazardous waste, and the waste's disposition must be in accordance with all applicable requirements for hazardous waste processing, storage, or disposal. Following failure of any TCLP test, the management or disposal of sewage sludge or biosolids at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge or biosolids no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Permitting and Registration Support Division and the Regional Director (MC Region 4) within seven (7) days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped, and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Permitting and Registration Support Division (MC 129), Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 4) and the Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30th of each year. The permittee must submit this annual report using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver.

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

TABLE 1

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

* Dry weight basis

3. Pathogen Control

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

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

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

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

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

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

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

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

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

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

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

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

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

Alternative 1

i. A minimum of seven random samples of the sewage sludge shall be collected within 48 hours of the time the sewage sludge is used or disposed of during each monitoring episode for the sewage sludge.

ii. The geometric mean of the density of fecal coliform in the samples collected shall be less than either 2,000,000 MPN per gram of total solids (dry weight basis) or 2,000,000 Colony Forming Units per gram of total solids (dry weight basis).

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

i. Prior to use or disposal, all the sewage sludge must have been generated from a single location, except as provided in paragraph v. below;

ii. An independent Texas Licensed Professional Engineer must make a certification to the generator of a sewage sludge that the wastewater treatment facility generating the sewage sludge is designed to achieve one of the PSRP at the permitted design loading of the facility. The certification need only be repeated if the design loading of the facility is increased. The certification shall include a statement indicating the design meets all the applicable standards specified in Appendix B of 40 CFR Part 503;

iii. Prior to any off-site transportation or on-site use or disposal of any sewage sludge generated at a wastewater treatment facility, the chief certified operator of the wastewater treatment facility or other responsible official who manages the processes to significantly reduce pathogens at the wastewater treatment facility for the permittee, shall certify that the sewage sludge underwent at least the minimum operational requirements necessary in order to meet one of the PSRP. The acceptable processes and the minimum operational and record keeping requirements shall be in accordance with established U.S. Environmental Protection Agency final guidance;

iv. All certification records and operational records describing how the requirements of this paragraph were met shall be kept by the generator for a minimum of three years and be available for inspection by commission staff for review; and

v. If the sewage sludge is generated from a mixture of sources, resulting from a person who prepares sewage sludge from more than one wastewater treatment facility, the resulting derived product shall meet one of the PSRP, and shall meet the certification, operation, and record keeping requirements of this paragraph.

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

i. Prior to use or disposal, all the sewage sludge must have been generated from a single location, except as provided in paragraph v. below;

ii. Prior to any off-site transportation or on-site use or disposal of any sewage sludge generated at a wastewater treatment facility, the chief certified operator of the wastewater treatment facility or other responsible official who manages the processes to significantly reduce pathogens at the wastewater treatment facility for the permittee, shall certify that the sewage sludge underwent at least the minimum operational requirements necessary in order to meet one of the PSRP. The acceptable processes and the minimum operational and record keeping requirements shall be in accordance with established U.S. Environmental Protection Agency final guidance;

iii. All certification records and operational records describing how the requirements of this paragraph were met shall be kept by the generator for a minimum of three years and be available for inspection by commission staff for review;

iv. The Executive Director will accept from the U.S. Environmental Protection Agency a finding of equivalency to the defined PSRP; and

v. If the sewage sludge is generated from a mixture of sources resulting from a person who prepares sewage sludge from more than one wastewater treatment facility, the resulting derived product shall meet one of the Processes to Significantly Reduce Pathogens, and shall meet the certification, operation, and record keeping requirements of this paragraph.

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

i. Food crops with harvested parts that touch the biosolids /soil mixture and are totally above the land surface shall not be harvested for 14 months after application of biosolids.

ii. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of biosolids when the biosolids remain on the land surface for 4 months or longer prior to incorporation into the soil.

iii. Food crops with harvested parts below the surface of the land shall not be harvested for 38 months after application of biosolids when the biosolids remain on the land surface for less than 4 months prior to incorporation into the soil.

iv. Food crops, feed crops, and fiber crops shall not be harvested for 30 days after application of biosolids.

v. Domestic livestock shall not be allowed to graze on the land for 30 days after application of biosolids.

vi. Turf grown on land where biosolids are applied shall not be harvested for 1 year after application of the biosolids when the harvested turf is placed on either land with a high potential for public exposure or a lawn.

vii. Public access to land with a high potential for public exposure shall be restricted for 1 year after application of biosolids.

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

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

4. Vector Attraction Reduction Requirements

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

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

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

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

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

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

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

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

Alternative 8 - The percent solids of sewage sludge that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90% based on the moisture content and total solids

prior to mixing with other materials at the time the sludge is used. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.

Alternative 9 - i. Biosolids shall be injected below the surface of the land.

ii. No significant amount of the biosolids shall be present on the land surface within one hour after the biosolids are injected.

iii. When sewage sludge that is injected below the surface of the land is Class A or Class AB with respect to pathogens, the biosolids shall be injected below the land surface within eight hours after being discharged from the pathogen treatment process.

Alternative 10- i. Biosolids applied to the land surface or placed on a surface disposal site shall be incorporated into the soil within six hours after application to or placement on the land.

ii. When biosolids that is incorporated into the soil is Class A or Class AB with respect to pathogens, the biosolids shall be applied to or placed on the land within eight hours after being discharged from the pathogen treatment process.

C. Monitoring Requirements

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

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

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

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

Representative samples of sewage sludge shall be collected and analyzed in accordance with the methods referenced in 30 TAC § 312.7
Identify each of the analytic methods used by the facility to analyze enteric viruses, fecal coliforms, helminth ova, *Salmonella* sp., and other regulated parameters.

Identify in the following categories (as applicable) the sewage sludge or biosolids treatment

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

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

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

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

A. Pollutant Limits

Table 2

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

Table 3

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

*Dry weight basis

B. Pathogen Control

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

C. Management Practices

1. Bulk biosolids shall not be applied to agricultural land, forest, a public contact site, or a reclamation site that is flooded, frozen, or snow-covered so that the bulk biosolids enters a wetland or other waters in the State.

2. Bulk biosolids not meeting Class A biosolids requirements shall be land applied in a manner which complies with Applicability in accordance with 30 TAC §312.41 and the Management Requirements in accordance with 30 TAC § 312.44.

3. Bulk biosolids shall be applied at or below the agronomic rate of the cover crop.

4. An information sheet shall be provided to the person who receives bulk Class A or AB biosolids sold or given away. The information sheet shall contain the following information:

   a. The name and address of the person who prepared the Class A or AB biosolids that are sold or given away in a bag or other container for application to the land.

   b. A statement that application of the biosolids to the land is prohibited except in accordance with the instruction on the label or information sheet.

   c. The annual whole sludge application rate for the biosolids application rate for the biosolids that does not cause any of the cumulative pollutant loading rates in Table 2 above to be exceeded, unless the pollutant concentrations in Table 3 found in Section II above are met.

D. Notification Requirements

1. If bulk biosolids are applied to land in a State other than Texas, written notice shall be provided prior to the initial land application to the permitting authority for the State in which the bulk biosolids are proposed to be applied. The notice shall include:

   a. The location, by street address, and specific latitude and longitude, of each land application site.

   b. The approximate time period bulk biosolids will be applied to the site.

   c. The name, address, telephone number, and National Pollutant Discharge Elimination System permit number (if appropriate) for the person who will apply the bulk biosolids.

2. The permittee shall give 180 days prior notice to the Executive Director in care of the Wastewater Permitting Section (MC 148) of the Water Quality Division of any change planned in the biosolids disposal practice.

E. Record Keeping Requirements

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

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

1. The concentration (mg/kg) in the sludge of each pollutant listed in Table 3 above and the applicable pollutant concentration criteria (mg/kg), or the applicable cumulative pollutant loading rate and the applicable cumulative pollutant loading rate limit (lbs/ac) listed in Table 2 above.

2. A description of how the pathogen reduction requirements are met (including site restrictions for Class AB and Class B biosolids, if applicable).

3. A description of how the vector attraction reduction requirements are met.

4. A description of how the management practices listed above in Section II.C are being met.

5. The following certification statement:

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

6. The recommended agronomic loading rate from the references listed in Section II.C.3. above, as well as the actual agronomic loading rate shall be retained. The person who applies bulk biosolids shall develop the following information and shall retain the information at the facility site and/or shall be readily available for review by a TCEQ representative indefinitely. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for record keeping found in 30 TAC § 312.47 for persons who land apply:

   a. A certification statement that all applicable requirements (specifically listed) have been met, and that the permittee understands that there are significant penalties for false certification including fine and imprisonment. See 30 TAC § 312.47(a)(4)(A)(ii) or 30 TAC § 312.47(a)(5)(A)(ii), as applicable, and to the permittee's specific sludge treatment activities.

   b. The location, by street address, and specific latitude and longitude, of each site on which biosolids is applied.

   c. The number of acres in each site on which bulk biosolids are applied.

   d. The date and time biosolids are applied to each site.

   e. The cumulative amount of each pollutant in pounds/acre listed in Table 2 applied to each site.

   f. The total amount of biosolids applied to each site in dry tons.

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

F. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 4) and Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30th of each year the following information. The permittee must submit this annual report using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver.

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

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

3. Results of tests performed for pollutants found in either Table 2 or 3 as appropriate for the permittee's land application practices.

4. The frequency of monitoring listed in Section I.C. that applies to the permittee.

5. Toxicity Characteristic Leaching Procedure (TCLP) results.

6. PCB concentration in sludge or biosolids in mg/kg.

7. Identity of hauler(s) and TCEQ transporter number.

8. Date(s) of transport.

9. Texas Commission on Environmental Quality registration number, if applicable.

10. Amount of sludge or biosolids disposal dry weight (lbs/acre) at each disposal site.

11. The concentration (mg/kg) in the sludge of each pollutant listed in Table 1 (defined as a monthly average) as well as the applicable pollutant concentration criteria (mg/kg) listed in Table 3 above, or the applicable pollutant loading rate limit (lbs/acre) listed in Table 2 above if it exceeds 90% of the limit.

12. Level of pathogen reduction achieved (Class A, Class AB or Class B).

13. Alternative used as listed in Section I.B.3.(a. or b.). Alternatives describe how the pathogen reduction requirements are met. If Class B biosolids, include information on how site restrictions were met.

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

15. Vector attraction reduction alternative used as listed in Section I.B.4.

16. Amount of sludge or biosolids transported in dry tons/year.

17. The certification statement listed in either 30 TAC § 312.47(a)(4)(A)(ii) or 30 TAC § 312.47(a)(5)(A)(ii) as applicable to the permittee's sludge or biosolids treatment activities, shall be attached to the annual reporting form.

18. When the amount of any pollutant applied to the land exceeds 90% of the cumulative pollutant loading rate for that pollutant, as described in Table 2, the permittee shall report the following information as an attachment to the annual reporting form.

    a. The location, by street address, and specific latitude and longitude.

    b. The number of acres in each site on which bulk biosolids are applied.

    c. The date and time bulk biosolids are applied to each site.

    d. The cumulative amount of each pollutant (i.e., pounds/acre) listed in Table 2 in the bulk biosolids applied to each site.

    e. The amount of biosolids (i.e., dry tons) applied to each site.

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

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

A. The permittee shall handle and dispose of sewage sludge or biosolids in accordance with 30 TAC § 330 and all other applicable state and federal regulations to protect public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that may be present. The permittee shall ensure that the sewage sludge or biosolids meets the requirements in 30 TAC § 330 concerning the quality of the sludge disposed in a municipal solid waste landfill.

B. If the permittee generates sewage sludge or biosolids and supplies that sewage sludge or biosolids to the owner or operator of a municipal solid waste landfill (MSWLF) for disposal, the permittee shall provide to the owner or operator of the MSWLF appropriate information needed to be in compliance with the provisions of this permit.

C. The permittee shall give 180 days prior notice to the Executive Director in care of the Wastewater Permitting Section (MC 148) of the Water Quality Division of any change planned in the sewage sludge or biosolids disposal practice.

D. Sewage sludge or biosolids shall be tested once during the term of this permit in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I (Toxicity Characteristic Leaching Procedure) or other method, which receives the prior approval of the TCEQ for contaminants listed in Table 1 of 40 CFR § 261.24. Sewage sludge or biosolids failing this test shall be managed according to RCRA standards for generators of hazardous waste, and the waste's disposition must be in accordance with all applicable requirements for hazardous waste processing, storage, or disposal.

   Following failure of any TCLP test, the management or disposal of sewage sludge or biosolids at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge or biosolids no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Permitting and Registration Support Division and the Regional Director (MC Region 4) of the appropriate TCEQ field office within 7 days after failing the TCLP Test.

   The report shall contain test results, certification that unauthorized waste management has stopped, and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Permitting and Registration Support Division (MC 129), Texas Commission on Environmental Quality, P. O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 4) and the Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year.

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

F. Record Keeping Requirements

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

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

2. The description (including procedures followed and results) of all TCLP tests performed.

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

G. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 4) and Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30th of each year the following information. The permittee must submit this annual report using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver.

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

2. Toxicity Characteristic Leaching Procedure (TCLP) results.

3. Annual sludge or biosolids production in dry tons/year.

4. Amount of sludge or biosolids disposed in a municipal solid waste landfill in dry tons/year.

5. Amount of sludge or biosolids transported interstate in dry tons/year.

6. A certification that the sewage sludge or biosolids meets the requirements of 30 TAC § 330 concerning the quality of the sludge disposed in a municipal solid waste landfill.

7. Identity of hauler(s) and transporter registration number.

8. Owner of disposal site(s).

9. Location of disposal site(s).

10. Date(s) of disposal.

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

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

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

A. General Requirements

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

2. Sludge or biosolids may only be transported using a registered transporter or using an approved pipeline.

B. Record Keeping Requirements

1. For sludge or biosolids transported by an approved pipeline, the permittee must maintain records of the following:

   a. the amount of sludge or biosolids transported;

   b. the date of transport;

   c. the name and TCEQ permit number of the receiving facility or facilities;

   d. the location of the receiving facility or facilities;

   e. the name and TCEQ permit number of the facility that generated the waste; and

   f. copy of the written agreement between the permittee and the receiving facility to accept sludge or biosolids.

2. For sludge transported by a registered transporter, the permittee must maintain records of the completed trip tickets in accordance with 30 TAC § 312.145(a)(1)-(7) and amount of sludge or biosolids transported.

3. The above records shall be maintained on-site on a monthly basis and shall be made available to the TCEQ upon request. These records shall be retained for at least five years.

C. Reporting Requirements

The permittee shall report the following information annually to the TCEQ Regional Office (MC Region 4) and Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30th of each year. The permittee must submit this annual report using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver.

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

2. the annual sludge or biosolids production;

3. the amount of sludge or biosolids transported;

4. the owner of each receiving facility;

5. the location of each receiving facility; and

6. the date(s) of disposal at each receiving facility.

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OTHER REQUIREMENTS

1. The permittee shall employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration according to the requirements of 30 TAC Chapter 30, Occupational Licenses and Registrations, and in particular 30 TAC Chapter 30, Subchapter J, Wastewater Operators and Operations Companies.

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

2. The facility is not located in the Coastal Management Program boundary.

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

4. The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.

5. In accordance with 30 TAC § 319.9, a permittee that has at least twelve months of uninterrupted compliance with its bacteria limit may notify the commission in writing of its compliance and request a less frequent measurement schedule. To request a less frequent schedule, the permittee shall submit a written request to the TCEQ Wastewater Permitting Section (MC 148) for each phase that includes a different monitoring frequency. The request must contain all of the reported bacteria values (Daily Avg. and Daily Max/Single Grab) for the twelve consecutive months immediately prior to the request. If the Executive Director finds that a less frequent measurement schedule is protective of human health and the environment, the permittee may be given a less frequent measurement schedule. For this permit, 1/quarter may be reduced to 1/6 months in the Interim I phase and 1/month may be reduced to 1/quarter in the Interim II and Final phases. **A violation of any bacteria limit by a facility that has been granted a less frequent measurement schedule will require the permittee to return to the standard frequency schedule and submit written notice to the TCEQ Wastewater Permitting Section (MC 148).** The permittee may not apply for another reduction in measurement frequency for at least 24 months from the date of the last violation. The Executive Director may establish a more frequent measurement schedule if necessary to protect human health or the environment.

6. Prior to construction of the treatment facility, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) a summary transmittal letter in accordance with the requirements in 30 TAC § 217.6(d). If requested by the Wastewater Permitting Section, the permittee shall submit plans and specifications and a final engineering design report which comply with 30 TAC Chapter 217, Design Criteria for Domestic Wastewater Systems. The permittee shall clearly show how the treatment system will meet the permitted effluent limitations required on Page 2, 2a, and 2b of this permit. A copy of the summary transmittal

letter shall be available at the plant site for inspection by authorized representatives of the TCEQ.

7. Reporting requirements according to 30 TAC §§ 319.1-319.11 and any additional effluent reporting requirements contained in this permit are suspended from the effective date of the permit until plant startup or discharge from the facility described by this permit, whichever occurs first. The permittee shall provide written notice to the TCEQ Regional Office (MC Region 4) and the Applications Review and Processing Team (MC 148) of the Water Quality Division at least forty-five days prior to plant startup or anticipated discharge, whichever occurs first, and prior to completion of each additional phase, on Notification of Completion Form 20007.

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To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.

Compliance History Report

Compliance History Report for CN606136620, RN111732053, Rating Year 2024 which includes Compliance History (CH) components from September 1, 2019, through August 31, 2024.

Customer, Respondent, or Owner/Operator: CN606136620, JIRETEN, LLC **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN111732053, JIRETEN 3 WWTP **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 4 NO

CH Group: 08 - Sewage Treatment Facilities

Location: LOCATED APPROXIMATELY 590 FT S OF THE INTERSECTION OF BUTCHER RD AND S RING RD ELLIS, TX, ELLIS COUNTY

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

WASTEWATER PERMIT WQ0016336001 **WASTEWATER** EPA ID TX0144452

Compliance History Period: September 01, 2019 to August 31, 2024 **Rating Year:** 2024 **Rating Date:** 09/01/2024

Date Compliance History Report Prepared: May 02, 2025

Agency Decision Requiring Compliance History: Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.

Component Period Selected: September 01, 2019 to August 31, 2024

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: TCEQ Staff Member **Phone:** (512) 239-1000

Site and Owner/Operator History:

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

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

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

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

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

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

N/A

F. Environmental audits:
N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:
N/A

I. Participation in a voluntary pollution reduction program:
N/A

J. Early compliance:
N/A

Sites Outside of Texas:
N/A

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

DESCRIPTION OF APPLICATION

Applicant:	Jireten, LLC; Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016336001, EPA I.D. No. TX0144452
Regulated Activity:	Domestic Wastewater Permit
Type of Application:	New Permit
Request:	New Permit
Authority:	Federal Clean Water Act (CWA) § 402; Texas Water Code § 26.027; 30 Texas Administrative Code (TAC) Chapters 30, 305, 307, 309, 312, and 319; Commission policies; and United States Environmental Protection Agency (EPA) guidelines.

EXECUTIVE DIRECTOR RECOMMENDATION

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

REASON FOR PROJECT PROPOSED

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.054 million gallons per day (MGD) in the Interim I, 0.108 MGD in the Interim II, and 0.162 MGD in the Final phases. The proposed wastewater treatment facility will serve the Jireten 3 Subdivision.

PROJECT DESCRIPTION AND LOCATION

The Jireten 3 Wastewater Treatment Facility will be an activated sludge process plant operated in the extended aeration mode. Treatment units in the Interim I phase will include a bar screen, an aeration basins, a final clarifier, an aerobic sludge digester, and a chlorine contact chamber. Treatment units in the Interim II and Final phase will include an additonal treatment train of the Interim I phase in each phase. The facility has not been constructed.

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

The plant site will be located approximately 590 feet south of the intersection of Butcher Road and South Ring Road in Waxahachie, in Ellis County, Texas 75165.

Outfall Location:

Outfall Number	Latitude	Longitude
001	32.456618 N	-96.804609 W

The treated effluent will be discharged to an unnamed tributary, thence to an unnamed impoundment, thence to an unnamed tributary, thence to Lake Clopton, thence to an unnamed impoundment, thence to a series of ponds, thence to an unnamed tributary, thence to Red Oak Creek, thence to Upper Trinity

River in Segment No. 0805 of the Trinity River Basin. The unclassified receiving water uses are limited aquatic life use for the unnamed tributary and high aquatic life use for Lake Clopton and the unnamed impoundments. The designated uses for Segment No. 0805 are primary contact recreation and high aquatic life use. The effluent limitations in the draft permit will maintain and protect the existing instream uses. In accordance with 30 Texas Administrative Code Section 307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Lake Clopton and the unnamed impoundments, which has been identified as having high aquatic life uses. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

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

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

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

The discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic-dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS's) biological opinion on the State of Texas authorization of the TPDES (September 14, 1998; October 21, 1998, update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic-dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species.

Segment No. 0805 is currently listed on the state's inventory of impaired and threatened waters (the 2022 CWA § 303(d) list). The listings are specifically for dioxin in edible tissue and PCBs in edible tissue. Both impairments apply from the confluence of the Cedar Creek Reservoir discharge canal upstream to the confluence with Elm Fork Trinity River (AUs 0805_1, 0805_02, 0805_03, 0805_04, and 0805_06). This is a domestic wastewater treatment facility. The facility does not receive industrial wastewater contributions, therefore the effluent from this facility should not contribute to the dioxin and PCBs in edible tissue impairment of this segment.

The Total Maximum Daily Load (TMDL) project No. 5, *Nine Total Maximum Daily Loads for Legacy Pollutants in Streams and a Reservoir in Dallas and Tarrant Counties,* was adopted by the TCEQ on December 20, 2000 and approved by the EPA on June 27, 2001. The approved TMDL does not include an allocation for point sources since chlordane, DDE, PCBs, DDT, DDD, dieldrin and heptachlor epoxide are legacy pollutants. Legacy pollutant is a collective term used to describe substances whose use has been banned or severely restricted by the U.S. Environmental Protection Agency (EPA). Because of their slow rate of decomposition, these substances frequently remain at elevated levels in the environment for many years after their widespread use has ended. No additional loading of legacy pollutants is allowed or expected due to the EPA restrictions. Gradual declines in environmental legacy pollutant concentrations occur as a result of natural attenuation processes. No authorized point source discharges of these pollutants are allowed by law. Therefore, no load reductions for these pollutants are required for this permit at this time.

In May 2011, the TCEQ adopted the TMDL project No. 66, *Two Total Maximum Daily Loads for Indicator Bacteria in the Upper Trinity River, Segment 0805.* The EPA approved the TMDL on August 3, 2011. This document describes TMDLs for two assessment units within Segment 0805 (0805_03, 0805_04) in Dallas County where concentrations of bacteria exceed the criteria used to evaluate the attainment of the designated contact recreation use. The loads allocated in the TMDL are only applicable to those sources located in the target assessment units. This facility is not located in the area covered by the WLA requirements of the TMDL. The draft permit is not subject to the requirements of the TMDL; however, effluent limits and monitoring requirements for bacteria may be included based on other requirements.

SUMMARY OF EFFLUENT DATA

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

DRAFT PERMIT CONDITIONS

The draft permit authorizes a discharge of treated domestic wastewater at an Interim I volume not to exceed a daily average flow of 0.054 MGD, Interim II daily average flow of 0.108 MGD, and a Final daily average flow of 0.162 MGD.

The effluent limitations in the Interim I phase of the draft permit, based on a 30-day average, are 10 mg/l five-day carbonaceous biochemical oxygen demand ($CBOD_5$), 15 mg/l total suspended solids (TSS), 3 mg/l ammonia-nitrogen (NH_3-N), 126 colony forming units (CFU) or most probable number (MPN) of *E. coli* per 100 ml, and 4.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a total chlorine residual of at least 1.0 mg/l and shall not exceed a total chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The effluent limitations in the Interim II phase of the draft permit, based on a 30-day average, are 7 mg/l $CBOD_5$, 15 mg/l TSS, 2 mg/l NH_3-N, 126 CFU or MPN of *E. coli* per 100 ml, and 4 mg/l minimum DO. The effluent shall contain a total chlorine residual of at least 1.0 mg/l and shall not exceed a total chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The effluent limitations in the Final phase of the draft permit, based on a 30-day average, are 5 mg/l $CBOD_5$, 5 mg/l TSS, 1.6 mg/l NH_3-N, 126 CFU or MPN of *E. coli* per 100 ml and 6.0 mg/l minimum DO. The effluent shall contain a total chlorine residual of at least 1.0 mg/l and shall not exceed a total chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

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

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

SUMMARY OF CHANGES FROM APPLICATION

The applicant requested effluent limitations, based on a 30-day average, of 20 mg/l BOD_5, 20 mg/l TSS, and 4.0 mg/l minimum DO in all proposed phases. However, effluent limitations in the Interim I phase of the draft permit, based on a 30-day average, are 10 mg/l $CBOD_5$, 15 mg/l TSS, 3 mg/l NH_3-N, 126 CFU or MPN of *E. coli* per 100 ml and 4.0 mg/l minimum DO. The effluent limitations in the Interim II phase of the draft permit, based on a 30-day average, are 7 mg/l $CBOD_5$, 15 mg/l TSS, 2 mg/l NH_3-N, 126 CFU or MPN of *E. coli* per 100 ml and 4.0 mg/l minimum DO. The effluent limitations in the Final phase of the draft permit, based on a 30-day average, are 5 mg/l $CBOD_5$, 5 mg/l TSS, 1.6 mg/l NH_3-N, 126 CFU or MPN of *E. coli* per 100 ml and 6.0 mg/l minimum DO.

BASIS FOR DRAFT PERMIT

The following items were considered in developing the draft permit:

1. Application received on April 28, 2023, and additional information received on May 9, 2023 and August 24, 2023.

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

4. The effluent limitations in the draft permit meet the requirements for secondary treatment and the requirements for disinfection according to 30 TAC Chapter 309, Subchapter A: Effluent Limitations.

6. Consistency with the Coastal Management Plan: The facility is not located in the Coastal Management Program boundary.

7. *Procedures to Implement the Texas Surface Water Quality Standards* (IP), Texas Commission on Environmental Quality, June 2010, as approved by EPA, and the IP, January 2003, for portions of the 2010 IP not approved by EPA.

8. Texas 2022 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, June 1, 2022; approved by the U.S. Environmental Protection Agency on July 7, 2022.

9. Texas Natural Resource Conservation Commission, Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits, Document No. 98-001.000-OWR-WQ, May 1998.

10. *Nine Total Maximum Daily Loads for Legacy Pollutants in Streams and a Reservoir in Dallas and Tarrant Counties For Segments 0805, 0841, and 0841A* (Project No. 5) and *Two Total Maximum Daily Loads for Indicator Bacteria in the Upper Trinity River, Segment 0805*.

11. TMDL project No. 66, *Two Total Maximum Daily Loads for Indicator Bacteria in the Upper Trinity River, Segment 0805*.

PROCEDURES FOR FINAL DECISION

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

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

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

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

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 Ruiqiang Zong, Ph.D., P.E. at 512-239-4589.

Ruiqiang Zong

August 10, 2023

Ruiqiang Zong, Ph.D., P.E.
Municipal Permits Team
Wastewater Permitting Section (MC 148)

Date

Texas Commission on Environmental Quality

NOTICE OF APPLICATION AND PRELIMINARY DECISION FOR TPDES PERMIT FOR MUNICIPAL WASTEWATER

NEW

PERMIT NO. WQ0016336001

APPLICATION AND PRELIMINARY DECISION. Jireten, LLC, P.O. Box 140991, Irving, Texas 75014, has applied to the Texas Commission on Environmental Quality (TCEQ) for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016336001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 162,000 gallons per day. TCEQ received this application on April 28, 2023.

The facility will be located approximately 590 feet south of the intersection of Butcher Road and South Ring Road, in Ellis County, Texas 75165. The treated effluent will be discharged to an unnamed tributary, thence to an unnamed impoundment, thence to an unnamed tributary, thence to Lake Clopton, thence to an unnamed impoundment, thence to a series of ponds, thence to an unnamed tributary, thence to Red Oak Creek, thence to Upper Trinity River in Segment No. 0805 of the Trinity River Basin. The unclassified receiving water uses are limited aquatic life use for the unnamed tributary and high aquatic life use for Lake Clopton and the unnamed impoundments. The designated uses for Segment No. 0805 are primary contact recreation and high aquatic life use. In accordance with 30 Texas Administrative Code Section 307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Lake Clopton and the unnamed impoundments, which has been identified as having high aquatic life uses. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. This link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application.
https://gisweb.tceq.texas.gov/LocationMapper/?marker=-96.806388,32.456666&level=18

The TCEQ Executive Director has completed the technical review of the application and

prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at Nicholas P. Sims Library, 515 West Main Street, Waxahachie, Texas.

ALTERNATIVE LANGUAGE NOTICE. Alternative language notice in Spanish is available at https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices. El aviso de idioma alternativo en español está disponible en https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notices.

PUBLIC COMMENT / PUBLIC MEETING. You may submit public comments or request a public meeting about this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ holds a public meeting if the Executive Director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing.

OPPORTUNITY FOR A CONTESTED CASE HEARING. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material or significant public comments. **Unless the application is directly referred for a contested case hearing, the response to comments will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting a contested case hearing or reconsideration of the Executive Director's decision.** A contested case hearing is a legal proceeding similar to a civil trial in a state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone number; applicant's name and proposed permit number; the location and distance of your property/activities relative to the proposed facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period; and the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the proposed facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn. **If a hearing is**

granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law relating to relevant and material water quality concerns submitted during the comment period.

EXECUTIVE DIRECTOR ACTION. The Executive Director may issue final approval of the application unless a timely contested case hearing request or request for reconsideration is filed. If a timely hearing request or request for reconsideration is filed, the Executive Director will not issue final approval of the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

MAILING LIST. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

All written public comments and public meeting requests must be submitted to the Office of the Chief Clerk, MC 105, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, TX 78711-3087 or electronically at www.tceq.texas.gov/goto/comment **within 30 days from the date of newspaper publication of this notice.**

INFORMATION AVAILABLE ONLINE. For details about the status of the application, visit the Commissioners' Integrated Database at www.tceq.texas.gov/goto/cid. Search the database using the permit number for this application, which is provided at the top of this notice.

AGENCY CONTACTS AND INFORMATION. Public comments and requests must be submitted either electronically at www.tceq.texas.gov/goto/comment, or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC 105, P.O. Box 13087, Austin, Texas 78711-3087. Any personal information you submit to the TCEQ will become part of the agency's record; this includes email addresses. For more information about this permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at 1-800-687-4040 or visit their website at www.tceq.texas.gov/goto/pep. Si desea información en Español, puede llamar al 1-800-687-4040.

Further information may also be obtained from Jireten, LLC at the address stated above or by calling Mr. Keith Davis, President, at 469-616-9322.

Issuance Date: _____

NEW TPDES PERMIT NO. WQ0016273001

APPLICATION BY	**§**	**BEFORE THE**
CLEAR UTILITIES, LLC FOR	**§**	**TEXAS COMMISSION ON**
NEW TPDES PERMIT NO.	**§**	**ENVIRONMENTAL**
WQ0016273001	**§**	**QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

I. INTRODUCTION

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ) files this Response to Public Comment on the application by Clear Utilities, LLC (Applicant) for new Texas Pollutant Discharge Elimination System Permit (TPDES) number (No.) WQ0016273001 and on the ED's preliminary decision on the application. Before a permit is issued, the ED is required by Title 30 of the Texas Administrative Code (30 TAC), section (§) 55.156 to prepare a response to all timely, relevant, and material, or significant comments. The TCEQ's Office of the Chief Clerk (OCC) received timely comments from Catreena Connell, Joshua Hester, Von & Linda Hulgan, Ernest Martinek, Joe Benavidez, Glenda Williams, Wes Calhoun, Mark Curry, Guadalupe Sanchez, Joun and Brenda Griffin, Todd Little, Dave Foster, Kathleen Brown, Kameron Zabojnik, Randy Stinson, Nick Hamm, Paul Burns, Darren Wynn, David Risinger, Darren Wynn, Kathleen Mavridis, Matthew Craig, Steve & Nancy Solomon, Darren Wynn, Rhonda Hamm, Richard & Kelly Kern, Aaron Risley, Marc Conway, Kimberly Curry, Kathy Dewolfe, George Martinez, John Marshall, Marie & Nick Hamm, Theresa Liska, Amy Haufler, Gregory Crow, Carolyn Taylor, Cathy York, Charles Giles, Kenneth Burns, Bettye Burns, Joseph King, Ryan King, Jerry Burch, Jack Risinger, Carla Crow, Thomas Pearl, Nancy Salmon, Geneva Risinger, Michael Jones, Krista Martin, Dennis Forester, Randy Stinson, John Williams, Jonathan Perrymore, Nicholas Jones, George Ham, Roy Edgar, David Miller, Glenda Williams, Lori Young, Carla Crow, Mercedes Garcia, and Stephanie Shuster. This response addresses all comments received by the OCC in writing during the public comment period, whether withdrawn or not, and any public meetings that were held by the TCEQ. If more information is needed about this permit application or the TPDES permitting process, please call TCEQ's Public Education Program at 1-800-687-4040. General information about the TCEQ can be found on TCEQ's website at **http://www.tceq.texas.gov.**

II. BACKGROUND

A. Application Request

The Applicant applied for new TPDES Permit No. WQ0016273001 to authorize effluent, otherwise known as treated wastewater (WW), discharges in the Interim I, II (IP1-2), and Final phases of the permit, at daily average flow limits of 0.125, 0.1875, and 0.25 Million Gallons per Day (MGD), *respectively* (the proposed discharge).

B. Description of Facility and Discharge Route

If this permit is ultimately issued, the proposed facility, a Wastewater Treatment Facility (WWTF), will serve the Risinger Ridge development and will be located approximately 0.95 miles southwest of the intersection of Risinger Road and Interstate Highway 45, in Ellis County, Texas 75125. The proposed facility will be constructed

across the three phases of the proposed permit, and when constructed will be an activated sludge process plant, operated in the complete mix mode with single staged nitrification. Treatment units across all three phases consist of a bar screen, a chlorine contact chamber, and two final clarifiers. The remaining treatment units include aeration basins and aerobic sludge digesters, with the number of each treatment unit corresponding to the number of the phase (IP1-2). In the Final Phase, the remaining treament units consist of four aeration basins and aerobic sludge digesters. Sludge generated at the proposed facility is hauled by a registered transporter to City of Fort Worth Village Creek-WWTF (WQ0010494013), to be digested, dewatered, and then disposed of with the bulk of the sludge from the plant accepting the sludge. Sludge is also authorized to be disposed of at a TCEQ-authorized land application site, co-disposal landfill, WWTF, or a facility that further processes sludge.

The proposed discharge route is first to a pond, then an unnamed tributary (UT1), then to a second-order unnamed tributary (UT2), which is essentially a tributary formed from first order tributaries and is used here only to distinguish between the two unnamed tributaries. The proposed discharge then continues to Brushy and Red Oak Creeks, and then to the Upper Trinity River in Segment No. 0805 of the Trinity River Basin.

C. Other Terms, Acronyms, or Abbreviations Used in this Response to Comments

Because the wastewater (WW) permitting process contains technical and complex terms, the list below aims to provide readers with greater clarity and readability.

- **CI**: Chlorine (disinfection for discharge)
- **UV**: Ultra-Violet light (disinfection for discharge)
- **DO**: Dissolved Oxygen
- **IP1**: Interim Phase I of the proposed permit
- **IP2**: Interim Phase II of the proposed permit
- **WQ**: Water Quality
- **WW**: Wastewater
- **TSS**: Total Suspended Solids (WW limit)
- **EPA**: United States Environmental Protection Agency
- **UT1**: The first unnamed tributary of the discharge route
- **UT2**: The second-order unnamed tributary in the discharge route
- **CFU**: Colony Forming Units
- **OCE**: Office of Compliance and Enforcement of the TCEQ
- **ALU**: Aquatic Life Use, a type of WQ Use in Texas waterbodies
- **TWC**: Texas Water Code
- **CWA**: Clean Water Act
- **MGD**: Million Gallons per Day
- **WLA**: Waste Load Allocation (pollutant loading in a WITS)
- **WQD**: Water Quality Division of the TCEQ
- **WQC**: Control of WQ from *Ch.26*, TCEQ's Water Quality Control
- **WITS**: Water(s) in the State
- **USGS**: United States' Geological Survey (federal agency)
- **NORI**: Notice of Receipt & Intent to Obtain a Water Quality Permit
- **NAPD**: Notice of Application & Preliminary Decision
- ***E. coli***: Escherichia coli-bacteria (WW limit)
- **NH_3-N**: Ammonia Nitrogen (WW limit)
- **TMDL**: Total Maximum Daily Load

- **NOPM**: Notice of Public Meeting
- **$CBOD_5$**: 5-day Carbonaceous Biochemical Oxygen Demand (WW limit)
- **Limits**: WW Discharge Limits/ Effluent limits
- ***Ch.26***: Chapter 26 of the TWC (Water Quality Control)
- **WWTF**: Wastewater Treatment Facility
- **WQMP**: Water Quality Management Plan of the State of Texas
- **TPDES**: Texas Pollutant Discharge Elimination System
- **NPDES**: National Pollutant Discharge Elimination System
- **USFWS**: United States' Fish and Wildlife Service (federal agency)

- **TSWQS**: Texas Surface Water Quality Standards (30 TAC Chapter 307)
- **30 TAC**: Title 30, Texas Administrative Code (Environmental Quality)
- **Effluent**: Treated domestic WW after discharge
- **DO limit**: The DO concentration required in a TPDES discharge
- **DO level**: The amount of DO in a particular WITS
- **Region 4**: TCEQ's Regional OCE for Dallas/Fort Worth, Texas
- **WQ Uses**: Designated WQ uses from the Appendices of the TSWQS
- **WQ Goals**: WQ uses, levels, standards, conditions and requirements
- **217 Rules**: Design Criteria for Domestic WWTFs (30 TAC Chapter 217)
- **Discharge**: A flow of WW emanating from a WWTF
- **WQD staff**: Staff from the Water Quality Division of the TCEQ
- **DO Criteria**: The Minimum DO Criterion assigned by the TSWQS for WITS
- **Application**: The TPDES application submitted by Clear Utilities, LLC
- **TCEQ Rules**: Title 30, Texas Administrative Code (Environmental Quality)
- **Appendix A**: Appendix A of the TSWQS-30 TAC § 307.10
- **Commission**: The Texas Commission on Environmental Quality
- **DO Modeling**: Analyses using mathematical models of DO impacts to WITS
- **Tech Review**: The Technical Review of a TPDES application by the WQD
- **Tier I Review**: The TSWQS Tier I Antidegradation Review
- **Tier II Review**: The TSWQS Tier II Antidegradation Review
- **Modeling Team**: Water Quality Assessment Team
- **Standards Team**: Water Quality Standards Implementation Team
- **Proposed permit**: Draft-TPDES permit No. WQ0016273001
- **Proposed facility**: Risinger Ridge WWTF
- **TCEQ IPs**: RG-194 - TCEQ's *Implementation Procedures for the Texas Surface Water Quality Standards*-June 2010

III. THE EXECUTIVE DIRECTOR'S TECHNICAL REVIEW

The basis for the ED's technical review of TPDES applications is the TCEQ's WQC established by the Texas Legislature's passage of Chapter 26 of the Texas Water Code ((*Ch.26*) and (TWC)) that gives the TCEQ primary authority over WQ, or control of WQ in Texas (WQC). The TCEQ's WQC combines the WQ authority from *Ch.26* with federally delegated CWA WQ authority for the TPDES program, which controls discharges of pollutants into Texas' waterbodies, defined by the TWC as "WITS."

To implement the WQC of the TCEQ, the CWA and *Ch.26* grant the TCEQ the authority to issue permits for discharges of waste or pollutants into, or adjacent to WITS if, after the ED's Tech Review, a proposed TPDES permit complies with the WQ goals of the CWA, *Ch.26*, the TSWQS, and the TCEQ IPs. In the same way, the ED recommends issuance or denial of an application based on whether the information contained in the application complies with the WQ goals of the CWA, *Ch.26*, the

TSWQS, and the TCEQ IPs. Through the ED's Tech review, the WQD evaluates a TPDES application as an authorization to discharge to WITS and must determine the limits and conditions established in a TPDES permit comply with the WQ goals of the CWA, *Ch.26*, the TSWQS, and the TCEQ IPs.

Not only is a TPDES-permitted discharge required to achieve a certain level of WQ and meet other WQ goals, a TPDES-permitted WWTF's method of achieving that quality must also meet certain standards to achieve WQ goals. Just as the TSWQS and the TCEQ IPs provide a roadmap for a TPDES permit's limits and conditions, the TCEQ's 217 rules (Design Criteria for WWTFs) provide a guide for identifying the types of treatment technology that can achieve the treatment levels required by WQ goals. Similarly, the proposed permit requires the Applicant to submit a summary transmittal letter of the proposed facility's plans and specifications according to 30 TAC § 217.6(d). If requested by WQD staff, the permittee must submit final plans and specifications (specs), *and* a final engineering design report which comply with the TCEQ's 217 rules. The Applicant must clearly show how the treatment system will meet the permitted limits required on Pages 2, 2a, and 2b of the proposed permit.[6] WQD staff must ensure that the WWTF design can adequately treat the effluent according to the limits in the proposed permit during the review of the plans and specs for the proposed facility.

The TSWQS, specifically the word "standards," is defined in TCEQ rule as desirable uses such as existing, attainable, designated, or presumed uses, otherwise known as WQ uses, and the necessary, narrative, and numerical WQ conditions to support and protect those WQ uses in WITS. Conversely, the TCEQ may refuse to issue a permit when the ED's Tech Review finds that issuing the permit would violate the provisions of any state or federal law or rules or regulations derived from those laws, or when it finds that issuing the permit would interfere with TCEQ's WQC.

To maintain a level of WQ sufficient to protect the existing WQ uses of WITS in a route for a proposed discharge requires WQD staff on the Standards and Modeling Teams to review the data from the application and employ it, according to the TSWQS and the TCEQ IPs, when performing multiple WQ-specific analyses. This ensures compliance with the TSWQS because WQD staff follow the prescribed methodology in the TCEQ IPs when drafting limits and conditions for TPDES permits. The TCEQ IPs is a regulatory guidance document written specifically for permits to comply with the TSWQS. Correspondingly, within the regulatory framework of the TSWQS, a subset of WQ uses known as ALUs, govern the DO criteria, which refers to the 24-hour minimum DO level required to support ALUs in WITS. DO criteria are critical for the overall health of WITS, and in conjunction with ALUs, are necessary to protect the aquatic life in WITS. So, to ensure protective limits in TPDES permits, DO modeling analyses are performed by the Modeling Team to evaluate the potential impacts from a proposed discharge on instream DO levels of WITS in the route of a proposed discharge. DO levels are affected by various factors, including potential direct DO impacts by oxygen-demanding constituents in a proposed discharge, such as $CBOD_5$, NH_3-N, and DO, which are the specific limits established by the Modeling Team's DO modeling analyses for TPDES applications.

Thus, the WQD staff and the ED's Tech Review are responsible for evaluating impacts of a proposed discharge on the designated WQ uses of WITS in the route of a proposed discharge starting at the outfall, and then establishing appropriate limits to protect those WQ uses as the TSWQS require. Considering the TCEQ's data centric

WQC, all determinations, reviews, or analyses of the ED's Tech Review can be subsequently reexamined and modified upon receipt of contradictory data.

A. Texas Surface Water Quality Standards Review

An Antidegradation Review of the proposed discharge is the first WQ-analysis conducted on the application by the Standards Team after it reviews and verifies the classifications, designations, and descriptions of the WITS in the route of the proposed discharge (pond, UT1, UT2, Brushy and Red Oak Creeks, and the Upper Trinity River in Segment No. 0805 (Segment No. 0805)). More specifically, the TSWQS and the TCEQ IPs require the Standards Team, for all new-proposed discharges, to perform a Tier I review to assess the effects on WITS in the area of impact from the proposed discharge for a certain distance from the outfall based on the volume of the discharge, otherwise known as the "impact zone."

For this application, the impact zone was 2.0 miles based on a proposed discharge of up to 0.90 MGD. However, the standard practice of the Standards Team is to assess the first 3.0 miles of WITS to ensure a discharge is thoroughly vetted. In this case, 3.0 miles included the pond, UT1, UT2, Brushy and Red Oak Creeks.

The Standards Team assigned ALUs according to the TSWQS and additional information received during the permitting process, thus, the flow characterization of the pond and initial portion of UT1 (0.14 miles downstream of pond) is intermittent with perennial pools. UT1 then becomes UT2, which is characterized as intermittent greater than 0.14 miles downstream of the pond and returns to intermittent with perennial pools at Brushy Creek. Red Oak Creek's flow characterization is perennial.

The Standards Team then reviewed the information from the application consistent with the provisions of the TSWQS (30 TAC §§ 307.4 (h) & (l)) that specifically address ALUs, DO, and the assessment of unclassified waters for ALUs, as the proposed discharge is first to the pond and UT1, unclassified waterbodies. Additional data received during the permitting process enabled the Standards Team to determine the ALU designations and assign the corresponding DO criteria specified by the TCEQ's IPs and the TSWQS for pond, UT1, UT2, Brushy and Red Oak Creeks, and (Segment No. 0805)).

The Aquatic Life Uses (ALU) uses for Segment No. 0805, as designated in Appendix A of the TSWQS are primary contact recreation and a "high" ALU, with a corresponding DO criteria of 5.0 mg/L, which is also true for Red Oak Creek. The TSWQS (§ 307.4 (h)) assign the pond and UT1 a 3.0 mg/L DO criteria with a corresponding "limited" ALU designation, as they characterized as intermittent with perennial pools. UT2, characterized as an intermittent stream, is assigned a DO criteria of 2.0 mg/L by the TSWQS (§ 307.4(l)) and has a "minimal" ALU designation. Brushy Creek also has a "limited" ALU designation and is assigned criteria of 3.0 mg/L DO.

The results of the Tier I Review of the proposed discharge and its impact zone indicated that there is no expectation of impairment of existing WQ uses because the proposed discharge has limits designed to maintain numerical and narrative criteria to protect the existing WQ uses of the WITS receiving the proposed discharge.

B. Dissolved Oxygen Modeling

The second analysis of the ED's Tech Review involved the Modeling Team performing DO modeling (analyses) using a mathematical model, an "uncalibrated QUAL-TX model." Conventional limits such as those for DO, $CBOD_5$, and NH_3-N are based on stream standards and WLAs for WQ-limited streams established in the TSWQS and the WQMP. However, coefficients and kinetics used in the modeling come from a combination of site specific, standardized default, and estimated values.

By adhering to the provisions of the TSWQS, the TCEQ IPs, and the WQMP the Modeling Team developed protective limits, predicted to be necessary to maintain DO levels above the DO criteria indicated by the Standards Team for the pond and UT2 (3.0 mg/L 2.0 mg/L, *respectively*), of 10.0 mg/L $CBOD_5$, 3.0 mg/L NH_3-N, with a concentration of 5.0 mg/L DO in IP1. Limits in IP2 include 10.0 mg/L $CBOD_5$, 2.0 mg/L NH_3-N, with a concentration of 4.0 mg/L DO. In the Final phase, the limits are 10.0 mg/L $CBOD_5$, 2.0 mg/L NH_3-N, with a concentration of 5.0 mg/L DO.

C. Disinfection and Other limits

With prior ED approval, an equivalent method of disinfection may be substituted for the methods described below. During all phases of the proposed permit, the effluent must be monitored five times per week by grab sample, be disinfected using CI, contain a CI residual based on peak flow, of at least 1.0 mg/l, and must not exceed a total CI residual of 4.0 mg/after a detention time of at least 20 minutes.

In a case such as this, end-of-pipe compliance with pH limits of 6.0-9.0 standard units reasonably assures instream compliance with pH criteria in the TSWQS when the discharge authorized is from a minor facility and the unclassified waterbodies have "minimal" or "limited" ALUs. This conservative, technology-based approach reasonably assures instream compliance with TSWQS due to relatively smaller discharge volumes authorized by these permits. This conservative approach is informed by TCEQ sampling conducted throughout Texas that indicate instream buffering quickly restores pH levels to ambient conditions.

Segment No. 0805 is currently listed on the State's inventory of impaired and threatened waters, the 2022 CWA § 303(d) list. The listings are for Dioxin and PCBs in edible tissue from confluence of the Cedar Creek Reservoir discharge canal upstream to confluence of Elm Fork Trinity River [Assessment Units (AUs) 0805_01 thru

0805_04] and from confluence of Tenmile Creek upstream to confluence of Fivemile Creek (AU 0805_06). This is a public domestic wastewater treatment facility. The facility does not receive industrial wastewater contributions; therefore the effluent from this facility should not contribute to the dioxin or PCBs in edible tissue impairment of this segment.

The TMDL Project No. 5: *Nine Total Maximum Daily Loads for Legacy Pollutants in Streams and a Reservoir in Dallas and Tarrant Counties, For Segments 0805, 0841, and 0841A* has been approved for Segment No. 0805. The report *Nine TMDLs for Legacy Pollutants in Streams and a Reservoir in Dallas and Tarrant Counties* was adopted by the TCEQ on December 20, 2000 and approved by the EPA on June 27, 2001. The approved TMDL does not include an allocation for point sources for certain legacy pollutants. Legacy pollutant is a collective term used to describe substances whose use has been banned or severely restricted by the EPA. Because of their slow rate of decomposition, these substances frequently remain at elevated levels in the environment for many years after their widespread use has ended. No additional loading of legacy pollutants is allowed or expected due to the EPA restrictions. Gradual declines in environmental legacy pollutant concentrations occur as a result of natural attenuation processes. No authorized point source discharges of these pollutants are allowed by law. Therefore, no load reductions for these legacy pollutants are required in the proposed permit at this time.

The TMDL Project No. 66: *Two Total Maximum Daily Loads for Indicator Bacteria in the Upper Trinity River, Dallas, Texas* have been approved for this segment. In May 2011, the TCEQ adopted *Two Total Maximum Daily Loads for Indicator Bacteria in the Upper Trinity River, Segment 0805*. The EPA approved the TMDL on August 3, 2011. This document describes TMDLs for two assessment units within Segment 0805 (0805_03, 0805_04) in Dallas County where concentrations of bacteria exceed the criteria used to evaluate the attainment of the designated contact recreation use. The loads allocated in the TMDL are only applicable to those sources located in the target assessment units. This facility is not located in the area covered by the Waste Load Allocation requirements of the TMDL. The proposed permit is not subject to the requirements of the TMDL; however, effluent limits and monitoring requirements for bacteria are included based on other requirements.

The proposed discharge is also not expected to impact any federal endangered or threatened aquatic or aquatic dependent species or proposed species or their critical habitat. This determination is based on the USFWS' biological opinion on the State of Texas authorization of the TPDES program (September 14, 1998; October 21, 1998, update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. With respect to the presence of endangered or threatened species, the proposed permit does not require EPA's review.

Through the ED's Tech Review, WQD Staff provide appropriate limits to maintain and protect the existing instream WQ uses. For that reason, and provided the Applicant operates and maintains the proposed facility according to the TCEQ rules and the requirements in the proposed permit, the ED has determined that the proposed permit, if issued, meets all statutory and regulatory requirements and is protective of human health, the environment, and WQ.

IV. PROCEDURAL BACKGROUND

The TCEQ received the application on December 12, 2022, and declared it administratively complete on February 23, 2023. The Applicant published the applicable public notices of for this application in English in *The Ellis County Press* and in Spanish in the *ALDIA.* The Applicant published the NORI in English on March 9, 2023, and in Spanish on March 22, 2023. On June 7, 2023, the ED completed the Tech Review of the application and prepared the proposed permit, which if approved, establishes the conditions under which the proposed facility must operate. The Applicant next published the NAPD in English on July 27, 2023, and in Spanish on July 19, 2023. The Applicant published the NOPM on January 11, 2024. The public comment period ended on February 15, 2024, at the close of the public meeting held by the TCEQ. Because the application was received after September 1, 2015, and declared administratively complete after September 1, 1999, it is subject to both the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999, and the procedural requirements and rules implementing Senate Bill 709, 84th Legislature, 2015, which are implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55.

V. ACCESS TO RULES, LAWS, AND RECORDS

- Texas' administrative rules: Secretary of State Website: www.sos.state.tx.us
- Texas statutes: www.statutes.capitol.texas.gov
- TCEQ's rules on the Secretary of State Website: www.sos.texas.gov/tac/index.shtml (select "TAC Viewer" (right side) → "Title 30 Environmental Quality")
- TCEQ's website: www.tceq.texas.gov. TCEQ's rules downloadable in Adobe PDF format on the TCEQ website: navigate to "Rules, Data, Forms, Publications" (lower right side) → "Rules and Rulemaking" → "Current TCEQ Rules" → "Download TCEQ Rules"
- Federal: Title 40 of the Code of Federal Regulations: www.eCFR.gov/current/title-40
- Federal environmental laws: https://www.epa.gov/laws-regulations
- **Environmental or citizen complaints may be filed online at: https://www.tceq.texas.gov/compliance/complaints/index.html** (select "use our online form") or by sending an email to: **complaint@TCEQ.Texas.gov**

Since publication of the NORI, the application has been available for viewing and copying at the Ferris Public Library, located at 301 East 10th Street, Ferris, Texas 75125. The final permit application, proposed permit, statement of basis/technical summary, and the ED's preliminary decision were available for viewing and copying at the same location since publication of the NAPD.

Commission records for the proposed facility are available for viewing and copying at TCEQ's main office in Austin, Texas at 12100 Park 35 Circle, Building F, 1st Floor in the OCC (for the current application until final action is taken). Some documents located at the OCC may also be found in the TCEQ Commissioners' Integrated Database at www.tceq.texas.gov/goto/cid.

If individuals wish to file a complaint about the proposed facility concerning its compliance with the provisions of its permit or with TCEQ rules, the TCEQ's regional OCE should be contacted. Specifically, Region 4 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 at the eighth bullet under "Access to Rules, Laws, and Records," above. If an inspection by the TCEQ

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

VI. COMMENTS AND RESPONSES

COMMENT 1:

Lori Young, Vincent Fasulo, Gudalupe Sanchez, Kathleen Bowen, and Todd Little all commented in opposition of the proposed facility, its location, and its discharge.

RESPONSE 1:

The ED acknowledges the comments in opposition to the proposed permit, the proposed facility, the proposed facility's location, and the concerns expressed by all commenters.

However, the TCEQ is statutorily mandated by TWC § 26.028 (Action on Application) to begin processing applications for TPDES permits, when it receives the application, and to issue notices to the public of the TCEQ's processing of the application. Likewise, TWC § 26.027 makes clear that the TCEQ may issue permits for discharges into Water in the State through the ED's evaluation of TPDES permit applications using the information provided in the application and recommending permit issuance or denial, based on the application's compliance with the TWC, TCEQ rules, and the TSWQS (30 TAC Chapter 307).

Applicants are the entity that proposes the location of the WWTF, the discharge point, and the route for the proposed discharge, rather than the ED. Instead, the ED may only evaluate a location for a WWTF according to what is proposed in the application, the Location Standards of the TCEQ rules, and the impact of the discharge on the WQ uses of the receiving streams starting at the outfall. Likewise, the TCEQ's WQC does not include the ability to mandate a different location for a WWTF, if the location in the application complies with 30 TAC Chapter 309, Subchapter B (Location Standards), specifically 30 TAC § 309.13 pertaining to "Unsuitable Site Characteristics" for a discharge facility.

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

Kathleen Bowen commented expressing concerns about water quality and the proposed discharge negatively affecting downstream water supplies to the detriment to those who recreate in the Upper Trinity River. Nancy Salmon commented that she is concerned about the effect on human health from the proposed discharge, as she is a cancer survivor. Kathy Dewolfe commented expressing concern about exposure to harmful chemicals from the proposed discharge.

Kameron Zabojnik commented expressing concerns about prescriptions and heavy metals in the proposed discharge.

RESPONSE 2:

The ED acknowledges these comments and the significance of protecting human health, and the WQ and WQ uses of WITS, and gives that significance due consideration in deciding whether to issue a TPDES permit. Similarly, the ED considers the health of area residents, as well as those of the public when reviewing applications for wastewater discharge permits. As discussed above and below, the ED's technical review of TPDES applications also considers human health.

As mentioned previously, the CWA, *Ch.26*, the TSWQS, and the TCEQ IPs contain WQ goals that TPDES permits, and their methods of achieving that quality, must meet. Equally important, WQD staff evaluated the application as an authorization to discharge to WITS, which requires adherence to those same WQ goals. In the same way, the TSWQS, *Ch.26*, and the TCEQ IPs were established for the protection of human health, existing surface and groundwater quality, the environment, the health of aquatic and animal life, and specifically, existing, designated WQ uses of WITS, all of which are the same WQ goals. In the same way, the policy of the TSWQS and *Ch.26* is:

[1]

The TSWQS is a primary mechanism for the TCEQ to implement its WQC to achieve WQ goals, such as protection of human health, existing surface and groundwater quality, the environment, the health of aquatic and animal life, and specifically, existing, designated WQ uses of WITS, which involves meeting and maintaining numerical and narrative WQ conditions. The TSWQS require discharges not cause WITS to be toxic to any form of life, not degrade WITS, and not result in impairments of existing, attainable, or designated WQ uses. Similarly, TCEQ's WQC mandates discharges adhere to the TSWQS by use of the TCEQ IPs for drafting TPDES permits.

The focus of the TCEQ's IPs is for WQD staff to draft permits with provisions to meet the requirements of the TSWQS, namely specific numeric and narrative WQ criteria applicable to WITS receiving a discharge that protect WQ goals like existing WQ uses of WITS, human health, the environment, and the health of aquatic and animal life. With that focus, WQD staff designed the proposed permit to be protective of the uses of all WITS that could be potentially affected by the proposed discharge. In other words, to achieve the goal of supporting a level of WQ sufficient to protect existing WQ uses of WITS, the proposed permit was drafted to preclude degradation of WQ in the Upper Trinity River (Segment No. 0805) with effluent limits, monitoring requirements, and conditions designed to ensure protection of WITS according to the TSWQS and the TCEQ's IPs.

Protecting WQ in WITS receiving the proposed discharge are the assigned ALUs themselves, which govern what WQ uses and criteria will apply to protect Segment No. 0805 and the creeks upstream of Segment No. 0805, their ALUs, and the aquatic life that dwell in them, as well as consumption by terrestrial wildlife. The proposed facility is a minor municipal facility that will discharge first to a pond, which is unclassified

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

and has a "limited" ALU, as is the same for UT1. WITS, such as the pond and UT1 that support only "limited" ALUs still have criteria protecting both the aquatic life that live in the waterbodies and terrestrial wildlife that use the waterbodies as a source of water or food. To ensure that DO will be maintained above the limit established by the Standards Team for UT2 and UT2 (2.0 and 3.0 mg/L DO, *respectively*), the proposed permit requires a DO limit or concentration of 5.0 mg/L to meet a DO criteria that supports an aquatic community with a "minimal" or "limited" ALU but will not negatively affect WITS that support a "high" ALU, such as the Upper Trinity River.

According to the TCEQ's IPs, "Limited" ALUs fall under a Tier I Antidegradation Review, which evaluates all pollution that could cause an impairment of existing WQ uses and ensures that those WQ uses are not impaired by increases in pollution loading. The numerical and narrative criteria necessary to protect existing WQ uses will be maintained because the primary focus of WQD Staff performing the ED's Tech Review, the TSWQS, and the TCEQ's IPs, is DO, which is critical for the overall health and WQ of WITS.

The proposed permit also contains several water quality-specific parameters or requirements that limit the potential impact on WITS receiving the proposed discharge. This is because the proposed permit's effluent limits and conditions were derived from a rigorous, data-centric technical review to ensure compliance with the TSWQS. As stated above, the proposed permit's limits for some of the major constituents were evaluated with a mathematical model of the receiving waters, and results indicated that limits of 10 mg/L $CBOD_5$, 2.0 mg/L NH_3-N, and a 5.0 mg/L DO concentration are required for the proposed facility to discharge up to 0.25 MGD to the WITS receiving the proposed discharge. These effluent limits are consistent with the WQMP, and while they are not contained in the approved WQMP, the limits will be included in the next WQMP update.

WQD staff, when drafting the proposed permit, also incorporated pertinent site-specific factors to reduce uncertainty and bolster confidence in the results of the ED's Tech Review. For example, the Applicant is required to build a collection system and WWTF according to the plans and specifications approved by the ED and must ensure the proposed facility's plans and specifications meet all design requirements in the proposed permit and the 30 TAC Chapter 217 rules. 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 reasonably likely to adversely affect human health." WQD Staff determined that the proposed permit complies with the TSWQS, ensuring that the proposed discharge is protective of human health. This is because the ED followed the methodologies outlined in the TCEQ's IPs for drafting the proposed permit, which specify that TPDES permits must maintain WITS to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three. The methodologies were specifically designed to ensure no source will be allowed to discharge WW that: 1) results in instream aquatic toxicity; 2) causes a violation of an applicable narrative or numerical standard in the TSWQS; 3) results in the endangerment of a drinking water supply; or 4) results in aquatic bioaccumulation that threatens human health. Accordingly, human health impacts from the proposed discharge are unlikely to occur, as the Applicant is only authorized to discharge according to the limitations, monitoring requirements, and other conditions of the proposed permit.

Human health is protected by the TCEQ rules in 30 TAC § 309.3(g)(1) (Disinfection), which requires disinfection of WW or effluent prior to discharges to WITS in a manner conducive to the protection of public health. The TCEQ's Disinfection rules, implemented though provisions in a TPDES permit protect human health with bacteria limits to ensure that the proposed discharge meets the stream bacterial standard of the TSWQS. The proposed permit not only includes bacteria limits, but also monitoring requirements to verify proper disinfection, which is another example of protection of human health from the TSWQS.

TCEQ's Disinfection rules do not mandate a specific method of disinfection, as an applicant may disinfect domestic WW through use of 1) chlorination, 2) UV, or 3) an equivalent method of disinfection with prior approval from the ED. Whichever form is used, the design criteria for the disinfection system, including safety requirements, must follow the requirements of the 217 rules, specifically Subchapters K or L (Chemical or UV disinfection, *respectively*).

Subchapter K specifies the disinfection requirements for CI systems such as sizing, configuration, dosage, system details, controls, cleaning, safety, and minimum replacement parts for the CI disinfection units. Whereas Subchapter L of the 217 rules specifies the requirements for UV systems, including effluent limits, redundancy, dosage, system sizing, reactor design, Bioassay test procedures, monitoring/alarms, cleaning, safety, and maintenance, of UV systems. Most importantly for protection of human health, the 217 rules require all disinfection systems to have a backup power system capable of providing sufficient power to operate continuously during all power outages.

In this case, the Applicant chose chemical disinfection using CI in all phases of the proposed permit. Chlorination may be via gaseous, liquid, or tablet forms. CI is one of the most practical and effective means of disinfection because it can kill disease-causing bacteria and nuisance organisms and can eliminate certain noxious odors during disinfection.[2] Thus, the proposed discharge, when disinfected with CI, must contain a CI residual of at least 1.0 mg/L. The permit limit for maximum total CI residual is 4.0 mg/L after a detention time of at least 20 minutes (based on peak flow), which must be monitored five times per week by grab sample.[3]

Related to heavy metals, contaminates, or other chemicals in the proposed discharge, the only chemical addition to the treatment process is CI for disinfection purposes. Other than the permit limitation for maximum total CI, no other chemical treatment was indicated in the application. Moreover, conventional domestic WW does not typically contain toxic contaminates in measurable quantities that might result in toxic effects in the receiving waters unless there are significant industrial users contributing to the waste stream. The proposed facility will receive WW from residential users and will not be accepting industrial WW.

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

[2] U.S. EPA *Wastewater Technology Fact Sheet- Chlorine Disinfection* (EPA 832-F-99-062).
[3] Aqua Texas Inc., Draft Permit, Effluent Limitations and Monitoring Requirements, p.2; *see also* 30 TEX. ADMIN. CODE § 309.3(g)(2).

that might result in toxic effects in the receiving waterbodies, unless there are significant industrial users contributing wastewater. Therefore, human health and water quality will be protected as long as the Applicant operates the proposed facility in compliance with TCEQ's rules and the terms and conditions of the proposed permit.

COMMENT 3:

John Williams, Dennis Forester, and Heather French all commented expressing concerns about the harmful effects of the proposed discharge on the ecosystem, cattle, deer, wild hogs, bobcats, armadillos, raccoons, rabbits, and other wildlife.

David Miller commented that there are numerous species of amphibians that require the intermittent water to survive, and some of these species may be threatened as their habitat is changed. Constant flow will adversely affect their habitat and these species will die off.

RESPONSE 3:

The proposed permit was developed to protect all animal life, vegetation, and aquatic and terrestrial life according to the TSWQS, provided the Applicant operates and maintains the proposed facility according to TCEQ rules and the requirements in the proposed permit. The TSWQS require that TPDES-permitted discharges not cause surface waters to be toxic to aquatic life, terrestrial wildlife, livestock, or other animal life, not degrade receiving waters, and not result in situations that impair existing, attainable, or designated WQ uses. Likewise, the proposed permit's effluent limits will protect the WQ uses and the WQ of the WITS receiving the proposed discharge for the benefit of the aquatic and terrestrial wildlife that depend on it. This is because WQD Staff, during the ED's technical review must verify that the proposed permit's limits, conditions, and provisions will ensure that the TSWQS will be maintained by the proposed discharge, which provides protection for aquatic, terrestrial, and wildlife.

WQD Staff determined that the proposed discharge will be consistent with the TSWQS, which validates that it is protective of animal, aquatic, terrestrial, and wildlife. WQD Staff's determination is possible because WQD Staff drafted the proposed permit with provisions that safeguard compliance with the TSWQS. For example, the proposed permit contains additional protection for animal, aquatic, terrestrial, and wildlife through the conditions related to the rule in 30 TAC § 309.3(g)(1) (Disinfection), which requires the effluent to be disinfected prior to discharge in a manner conducive to protect, aquatic, terrestrial, and wildlife.

For any wildlife concerns, please visit the Texas Parks and Wildlife Department's (TPWD) website at https://tpwd.texas.gov or by phone at
state agency that oversees and protects wildlife and their habitat. The TPWD was also sent notice of the application and did not express any opposition to the proposed permit.

COMMENT 4:

John Williams, Gregory Crow, Roy Edgar, Ernest Martinek, Nick Hamm, and Geneva Risinger commented expressing concern about nuisance odors.

RESPONSE 4:

Instances of foul odors from a discharge of effluent can exist when there are insufficient levels of DO concentrations in the effluent. To prevent odors from occurring the number of oxygen-demanding constituents must be controlled, as

maintaining an adequate DO concentration in the early stages of WW treatment helps to minimize sulfide generation, which is the most common cause of odor. The proposed effluent limits, specifically the minimum DO limit, restrict the amount of oxygen-demanding constituents and are set at levels to significantly reduce the odors in the effluent being discharged and prevent degradation of the receiving waters. However, all WWTFs have the potential to generate odors. The treatment process proposed by the Applicant supplies oxygen in the air, "aeration," into the effluent for biodegradation of organic contaminants in the effluent, and oxygen converts the sulfide compounds into odorless sulfates.

To control and abate odors, the TCEQ rules require domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor according to 30 TAC § 309.13(e), which provides options for applicants to satisfy the nuisance odor abatement and control requirements. Additionally, nuisance-odor controls have been incorporated into the proposed permit according to 30 TAC § 309.13(e) of the TCEQ's rules, which require domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor by complying with one of three options: 1) ownership of the buffer zone area; 2) restrictive easements from the adjacent property owners for any part of the buffer zone not owned by the applicant; or 3) providing nuisance odor control.

For the proposed facility, the Applicant has chosen chlorine disinfection. Chlorination may be via gaseous, liquid, or tablet forms. Chlorine is one of the most practical and effective means of disinfection because it can kill disease-causing bacteria and nuisance organisms and can eliminate certain noxious odors during disinfection.[4] The effluent from the proposed facility, disinfected with chlorine, must contain a chlorine residual of at least 1.0 mg/L. The permit limit for maximum total chlorine residual is 4.0 mg/L after a detention time of at least 20 minutes (based on peak flow), which must be monitored five times per week by grab sample.[5]

However, the TCEQ's issuance of a permit does not authorize injuries to other persons, their property, or an invasion of their property rights. Similarly, the proposed permit's provisions do not, nor does the scope of TCEQ's regulatory jurisdiction, limit nearby landowners' ability to use a court of law's remedies if anyone experiences nuisance odor conditions or any other suspected incidents of noncompliance with the permit or TCEQ rules. The proposed permit does not limit affected individual's ability to seek legal remedies against the Applicant for any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that interfere with the normal use and enjoyment of property.

Likewise, the Applicant has a duty to comply with all conditions of the proposed permit. Failure to comply with any permit condition is grounds for enforcement actions, permit amendments, revocations, suspensions, denial of permit renewal applications, or even an application for a permit for another facility. This is because permit violations constitute violations of not only the TWC, but also the Texas Health and Safety Code.

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

COMMENT 5:

Lori Young commented expressing concern that there will be no oversight to keep the proposed facility in compliance with the TCEQ rules.

Darren Wynn commented expressing concerns about severe weather causing freezing temperatures to freeze pipes or do other damage to the proposed facility.

RESPONSE 5:

The proposed permit was developed according to the TSWQS and the TCEQ IPs to be protective of WQ goals referenced above, provided the proposed facility is operated and maintained according to TCEQ rules and the proposed permit's requirements, which describe enforceable conditions for operating and maintaining a WWTF that act as safeguards intended to minimize the occurrence of operational mishaps.

For example, Compliance Condition 2(a) of the proposed permit requires the Applicant to tacitly acknowledge that acceptance of an issued permit is an agreement to comply with all the terms and conditions embodied in the permit and the rules and other orders of the Commission. Moreover, Compliance Condition 2(b) requires the Applicant to comply with all conditions of the proposed permit, and failure to do so constitutes a violation of the permit and the TWC or the Texas Health and Safety Code. Compliance Condition 2(d) requires the Applicant to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment.

Operational Requirement No. 9 of the proposed permit requires the proposed facility, a domestic WWTF, to be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined by the TCEQ rules, found at 30 TAC Chapter 30. According to 30 TAC § 30.350, the proposed permit requires the proposed facility to be operated by a chief operator or an operator holding a Category C license or higher (Figure: 30 TAC § 30.350(e)). The ED determines the level of operator required based on the treatment technology and the maximum permitted flow. A Class C operator must have a high school diploma (or equivalent), two years of work experience and 60 hours of training.

Related to severe weather, Operational Requirement No. 4 makes the Applicant responsible for installing, prior to plant start-up, and subsequently maintaining adequate safety measures to prevent the discharge of untreated or inadequately

treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated WW.

For ensuring the proposed facility is compliant with applicable TCEQ rules, the TCEQ's 30 TAC Chapter 217 rules identify types of treatment technology that can achieve the treatment levels required in the proposed permit. Similarly, Other Requirement No. 6 of the proposed permit requires the Applicant to submit a summary transmittal letter of the proposed facility's plans and specifications according to 30 TAC § 217.6(d). If requested by WQD staff, the permittee must submit final plans and specifications *and* a final engineering design report which comply with the TCEQ's 30 TAC Chapter 217 rules. The Applicant must clearly show how the treatment system will meet the permitted limits required on Pages 2, 2a, and 2b of the proposed permit.[6] The ED's staff will ensure that the plant design can adequately treat the domestic WW in accordance with the effluent limits in the proposed permit during the review of the plans and specifications for the proposed facility.

Operational Requirement No. 2 requires the Applicant, upon request by from the ED, to take appropriate samples and provide proper analysis to demonstrate compliance with Commission rules. Sampling, analysis, and reporting for compliance with provisions of the proposed permit must be performed by the Applicant according to the proposed permit's provisions on Monitoring and Reporting Requirements and the proposed permit's Definitions and Standard Permit Conditions, which are based on the TCEQ's rules found at 30 TAC §§ 319.4 - 319.12. Data from Discharge Monitoring Reports (DMRs) must be submitted each month to the TCEQ's Compliance Monitoring Team within the OCE and must be available for inspections by compliance investigators from OCE's Region 4.

Compliance Condition 2(g) prohibits unauthorized discharges of WW or any other waste, and Compliance Condition 2(i) ties all these proposed permit conditions together and allows them to function as intended because it subjects the Applicant to administrative, civil, and criminal penalties from Chapter 7 of the TWC (Enforcement), for violations of the proposed permit and TCEQ rules, including, but not limited to, negligently or knowingly violating the federal CWA §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in the proposed permit issued under the CWA § 402, or any requirement imposed in proposed permit's pretreatment requirements approved under the CWA §§ 402(a)(3) or 402(b)(8).

These and other requirements in the proposed permit have historically been effective at keeping applicants informed as to conditions at the facility related to meeting the effluent limits, avoiding treatment system problems, and preventing unauthorized discharges of raw sewage. That being so, spills are not expected to occur at the proposed facility if it is maintained and operated in accordance with TCEQ rules and the provisions in the proposed permit.

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

Additionally, according to the TCEQ rules any noncompliance which may endanger human health or safety or the environment must be reported to the TCEQ by the Applicant, and the report of noncompliance must be provided orally or by facsimile transmission to OCE's Region 4 within 24 hours of becoming aware of the

noncompliance.[6] A written submission of the report of noncompliance information must also be provided by the Applicant to OCE's Region 4 *and* the Compliance Monitoring Team within five working days of becoming aware of the noncompliance. This includes any unanticipated bypass that exceeds any effluent limitation in the proposed permit, and any effluent violation which deviates from the permitted effluent limitation by more than 40% must be reported in writing to the OCE's Region 11, and the Compliance Monitoring Team within five working days of becoming aware of the noncompliance by more than 40%. The written submission must describe the noncompliance; its cause; the potential danger to human health or safety or the environment; the period of noncompliance, including exact dates and times; the time the noncompliance is expected to continue if has not been corrected; and the steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.

The TCEQ's OCE plays an important role in protecting human health because it ensures that the Applicant, its operator, and the proposed facility follow applicable state and federal regulations. OCE's Region 4 is required to conduct a mandatory Comprehensive Compliance Investigation at minor facilities (facilities with permitted flow less than 1 MGD) once every five fiscal years. Additional mandatory investigations can be required if the proposed facility is classified as Significantly Non-Complaint (SNC). SNC is determined by the Compliance Monitoring Section of the TCEQ's OCE and is based on self-reported effluent violations.

As provided by Chapter 7 of the TWC (Enforcement), the Applicant is subject to applicable administrative (TWC §§ 7.051 - 7.075), civil (TWC §§ 7.101 - 7.111), and criminal penalties (TWC §§ 7.141 - 7.202) for violations including, but not limited to, negligently or knowingly violating the federal CWA §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under CWA § 402, or any requirement imposed in a pretreatment program approved under CWA §§ 402 (a)(3) or 402 (b)(8); *Ch.26*, 27, and 28 of the TWC; and Ch. 361 of the Texas Health and Safety Code including but not limited to knowingly making any false statement, representation, or certification on any report, record, or other document submitted or required to be maintained under a permit, including monitoring reports or reports of compliance or noncompliance, or falsifying, tampering with or knowingly rendering inaccurate any monitoring device or method required by a permit or violating any other requirement imposed by state or federal regulations.

According to the rules in 30 TAC Chapter 60 (CHs), during the ED's technical review, WQD staff review the CH for the five-year period prior to the date the application was received by the TCEQ. of an applicant for the company or entity, and the proposed site for the five-year period prior to the date the application was received by the TCEQ, which for permit applications received after September 1, 2002, include a rating for both an Applicant and a proposed or existing site with classifications and ratings including:

1. ***High Performer classification***, a rating of fewer than 0.10 points, considered to have an above-satisfactory compliance record;
2. S***atisfactory Performer classification***, a rating between 0.10 points to 55 points and is considered to generally comply with environmental regulations;

[6] 30 TAC § 305.125(9).

3. ***Unsatisfactory performer classification***, has a rating above 55 points and is considered to perform below minimal acceptable performance standards established by the commission.[10]

A CH includes multimedia compliance-related components about the site under review and include enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emissions events, investigations, notices of violations, audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs and early compliance.

A CH is created for (1) the Applicant, the Owner or Operator of a WWTF (OO), which can be an individual, a company, a governmental agency, or any of several other kinds of entities, and (2) the site or facility. The OO rating and classification is the average of the ratings for all sites the OO owns or operates.

COMMENT 6:

Kathleen Bowen commented expressing concerns about air contaminants from the proposed facility affecting quality of life for nearby residents.

RESPONSE 6:

The TCEQ is the agency responsible for enforcing air pollution laws. The Texas Clean Air Act provides that certain facilities may be exempt from the requirements of an air quality permit if, upon review, it is found that those facilities will not make a significant contribution of air contaminants to the atmosphere and that human health, and the environment will be protected. According to the TCEQ rules in 30 TAC Section 106.532, domestic WWTPs have undergone this review and are permitted by rule if the WWTP only performs the functions listed in the rule.

The proposed facility will be an activated sludge process plant operated in the complete mix mode. The activated sludge process is the most frequently used biological wastewater treatment process for treating domestic wastewater, and the use of the complete mix aeration variation has been known to produce highly treated effluent with low biosolids production. Activated sludge process plants do not make a significant contribution of air contaminants to the atmosphere pursuant to the THSC-Texas Clean Air Act § 382.057 and § 382.05196 and is therefore permitted by rule.

This application was reviewed for health impacts and the application of best available control technology; and based on this review, the proposed facility should comply with all applicable health effects guidelines and emission control requirements.

However, if anyone experiences suspected incidents of noncompliance with the permit or TCEQ rules, they may be reported to TCEQ by calling toll-free 1-888-777-3186, or the TCEQ Region 4 Office in Fort Worth at (817) 588-5800. Citizen complaints may also be filed on-line at _____

Similarly, the proposed permit's provisions do not, nor the scope of TCEQ's regulatory jurisdiction, limit nearby landowners' ability to use a court of law's remedies for trespass, nuisance, or other causes of action from a TCEQ-authorized entity's activities, that may or do result in injury to property, animals, vegetation, or human health or welfare, or interfere with the use and enjoyment of their property.

If the proposed facility, its discharge, or the Applicant create any non-compliance conditions, the TCEQ may be contacted to investigate if potential permit violations

occurred by the methods described above on page no. 9 at the seventh bullet under "Access to Rules, Laws, and Records." If an inspection by the TCEQ finds that the Applicant is not complying with all requirements of the proposed permit, or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.

COMMENT 7:

Kameron Zabojnik commented expressing concern about groundwater contamination.

RESPONSE 7:

The ED's Tech review of a TPDES application focuses on controlling the discharge of pollutants into WITS, which includes both navigable and non-navigable water bodies. *Ch.26* defines "water" or "WITS" to mean groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.[7]

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

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

The legislature has determined that "the goal of groundwater policy in this state is that the existing quality of groundwater is not degraded. This goal of non-degradation does not mean zero-contaminant discharge."[8] Chapter 26 of the Texas Water Code further states, "discharges of pollutants, disposal of wastes, or other activities subject to regulation by state agencies must be conducted in a manner that will maintain present uses and not impair potential uses of groundwater or pose a public health hazard (TWC § 26.401(c)(2))."

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

[7] Texas Water Code § 26.001(5).
[8] Texas Water Code § 26.401(b)

contamination, please see the Texas Groundwater Protection Committee's (TGPC) webpages, *Ground Water Contamination* and *Reporting Contamination.*

The TGPC may be contacted through email at tgpc@tceq.texas.gov, through the TGPC website, or at (512) 239-4600. However, for groundwater emergencies, please contact the OCE's Region 4 at (512) 339-3795, or 1-888-777-3186.

Ground Water Links

Coliform Monitoring, Analyzing, and Reporting Guide (RG-421)
https://www.tceq.texas.gov/downloads/drinking-water/microbial/rg-421.pdf

National Ground Water Association's webpage *Water Testing*
http://wellowner.org/water-quality/water-testing/

What to Do About Coliform Bacteria in Well Water https://twon.tamu.edu/wp-content/uploads/sites/3/2021/06/what-to-do-about-coliform-in-well-water.pdf

Disinfecting Your Private Well
https://www.tceq.texas.gov/downloads/drinking-water/preparedness-resources/gi-432.pdf

Texas Groundwater Protection Committee (TGPC)
https://tgpc.texas.gov/

TGPC's *Groundwater Contamination* and *Reporting Contamination* webpages
https://tgpc.texas.gov/groundwater-contamination/
https://tgpc.texas.gov/groundwater-contamination/#3

COMMENT 8:

Lynda Hulgan commented expressing concerns over the public notice process for the proposed permit.

RESPONSE 8:

Notice provisions for Applicants and the Commission are found in 30 TAC Chapter 39 (Public Notice). When the ED determines that an application is administratively complete, the Chief Clerk mails this determination, along with a Notice of Receipt of Application and Intent to Obtain Permit (NORI), to the Applicant.[9] Not later than 30 days after the ED determines that the application is administratively complete, the Applicant must publish the NORI in the newspaper that has the largest circulation within the county or municipality in which the facility is located.[10] The Applicant must also make a copy of the administratively complete application available for public viewing in the county in which the facility is located.[11] Finally, the Applicant, using county deed records, must identify all landowners adjacent to the proposed facility and discharge and submit the list to the TCEQ Chief Clerk's office so it can mail timely copies of the public notices for the application to the adjacent landowners.

After completing the technical review of an application, the ED files its preliminary determination and the draft permit with the Chief Clerk.[12] The Chief Clerk must mail the preliminary decision, along with the Notice of Application and Preliminary Decision

[9] 30 TAC § 39.418(a).
[10] 30 TAC § 39.405(f).
[11] 30 TAC § 39.405(g).
[12] 30 TAC § 39.419(a).

(NAPD), to the Applicant, who must then publish the NAPD in the same newspaper as the NORI.[13] The Chief Clerk must also mail the NAPD to adjacent landowners and to persons who have filed public comment or hearing requests.[14]

The NAPD must set a deadline for filing public comments with the Chief Clerk that is no earlier than 30 days after its publication in a newspaper.[15] If the ED holds a public meeting on the application after the 30 day period, then the public comment period is automatically extended to the end of the public meeting.[16] The ED may hold a public meeting at any time in the county where the facility is located if there is evidence of substantial public interest, or if a legislator representing the general area where the facility will be located requests a meeting.[17] As the public comment period has ended, the ED must file this Response to Public Comments, addressing all timely, relevant and material, or significant public comments submitted during the comment period, regardless of whether the comments were withdrawn.[18]

In this case, the application was received on December 12, 2022, and declared administratively complete on February 23, 2023. The Applicant published the applicable public notices of for this application in English in *The Ellis County Press,* and in Spanish in the *ALDIA.* The Applicant published the NORI in English on March 9, 2023, and in Spanish on March 22, 2023. On June 7, 2023, the ED completed the Tech Review of the application and prepared the proposed permit, which if approved, establishes the conditions under which the proposed facility must operate. The Applicant next published the NAPD in English on July 27, 2023, and in Spanish on July 19, 2023. The Applicant published the NOPM on January 11, 2024. The public comment period ended on February 15, 2024, at the close of the public meeting held by the TCEQ. The notices are not intended to provide a full description of the application, but rather to provide instructions on where to obtain additional information, such as more comprehensive description of the information in the application. Documents associated with the application are made public at the locations below to allow the public to review them and determine if they have additional comments or questions.

The permit application has been available for viewing and copying at the Ferris Public Library, located at 301 East 10th Street, Ferris, Texas 75125, since publication of the NORI. The final permit application, proposed permit, statement of basis/technical summary, and the ED's preliminary decision are now available for viewing and copying at the same location since publication of the NAPD. Additionally, during regular business hours, the public may review or copy the public file for this application, which includes the application, its attachments, the comment letters, this Response to Public Comment, and any other communications made during the review of this application, at TCEQ's Office of the Chief Clerk.

COMMENT 10:

John Hamilton Williams expressed concern that the area is in a FEMA Zone AE Special Flood Hazard area.

[13] 30 TAC § 39.419(b).
[14] 30 TAC § 39.413.
[15] 30 TAC § 39.551(c)(3).
[16] 30 TAC § 55.152(b).
[17] 30 TAC § 55.154(c).
[18] 30 TAC § 55.156.

RESPONSE 10:

In section 5.A of Domestic Technical Report 1.1, the applicants provided information regarding the facility's location in relation to the 100-year flood plain. According to that response (FEMA Firm Panel 0225F, Map No. 48139C0225F), the facility will be located above the 100-year flood plain. Therefore, the facility will meet the section 309.13(a) requirements.

COMMENT 11:

Todd Little commented questioning whether the TPDES program has a greater requirement or standard for the public good than the national, NPDES program administered by the EPA. Mr. Little asked if the standard is greater to or equal, or is it a lesser standard.

RESPONSE 11:

The NPDES program is a federal regulatory program to control discharges of pollutants to surface waters of the United States. On September 14, 1998, Texas assumed the authority to administer the NPDES program within its boundaries, which is the inception of the TPDES program. The TCEQ's WQC in Texas is a combination of the WQ authority from *Ch.26* and the federally delegated NPDES authority, which adds WQ oversight from the Clean Water Act. The TPDES program now controls discharges of pollutants into Texas' waterbodies, defined by the TWC as "WITS," with the exception of discharges associated with oil, gas, and geothermal exploration and development activities, which are regulated by the Railroad Commission of Texas.

The standards of the NPDES program apply equally to the TPDES program.

COMMENT 12:

George Martinez commented that the developer must adhere to home sites on a minimum of 1-acre lots as he has done for the past five years, and that the financial interest of developers seeking to maximize their returns at the price of local residents and ecosystems is not the best plan of action.

Michael Jones, Nancy Salmon, Charles Giles, and Gregory Crow all commented expressing concerns that Risinger Road cannot handle the increased traffic the development will cause, making it a dangerous situation.

Michael Jones commented that the proposed development will bring thousands of extra residents, the area schools are not prepared to handle that many additional students, and Ellis County doesn't have the resources to support such a large increase in population in a short period of time. Mr. Crow also expressed concern that a proposed increase of approximately 1800 mobile homes will strain public utilities and services. Mr. Crow commented that local water officials have already stated there would be inadequate water supply for the 1800 additional homes. Mr. Risinger commented that potable water is not available for this proposed development.

Charles Giles and John Forehand commented expressing concerns about the decrease in property values from the proposed facility. Mr. Giles also commented about dumping trash, and an increase in crime because of the proposed facility.

RESPONSE 12:

The ED encourages and advocates for public participation in the environmental permitting process and appreciates participation from all the citizens that do.

Although the ED gives due consideration to public input and participation in the permitting process, the scope of the TCEQ's jurisdiction for reviewing applications for TPDES permits is limited to what information *Ch.26* allows the TCEQ to require and evaluate in a TPDES application. Thus, there are certain concerns of citizens that the ED cannot address as part of the technical review for a TPDES application, and while the ED understands the significance of these concerns, she does not have the authority to address these concerns in the context of a TPDES permit. Rather, the ED is limited to providing pollution control by limiting the discharges of pollutants through a TPDES permit, which protects the WQ of WITS.

More specifically, the technical review performed by the ED for TPDES applications focuses on controlling the discharge of pollutants into WITS. Likewise, TPDES permits establish terms and conditions that apply pollution control for TPDES discharges based on TCEQ's water quality pollution control; as such, the water quality permitting process is limited to controlling the discharge of pollutants into WITS, which includes both navigable and non-navigable water bodies. *Ch.26* defines "water" or "WITS" to mean groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.[19]

The Commission and the ED, in their respective determinations of whether to issue a TPDES permit, do not have jurisdiction under *Ch.26* or the TCEQ rules to address or consider property values, the marketability of surrounding properties, traffic hazards or volumes, impacts to municipal or country roads, road maintenance or repair, availability of public utility services, types of developments and their anticipated sizes, or trash along the discharge route, unless related to a permit violation, if water quality is maintained. These issues are more appropriately addressed by departments within local governmental entities such as the County of Ellis and the Cities of Ferris or Palmer. For more information, please visit the websites or the phone numbers for general information below.

The TCEQ's Resource Protection Team may also be contacted to identify the appropriate local or county officials or offices, by calling (512) 239-4600, or by email at: **wcp@tceq.texas.gov**.

Ellis County

- https://co.ellis.tx.us/
  Phone: (972)-825-5000

City of Ferris

- https://www.ferristexas.gov/
  Phone: (972) 544-2110

City of Palmer

- https://ci.palmer.tx.us/
  Phone: (972)-449-3160

[19] Texas Water Code § 26.001(5).

COMMENT 13:

Aaron Risley, John Williams, Jerry Burch, Jack Risinger, Geneva Risinger, Michael Jones, Donna Blagg, Travis Jenkins, Dave Foster, Ryan King, Kenneth Holland, Rita Holland, Beth Foster, Robert Spencer, Randy Stinson, Cheryl Zink, Jerry Burch, Lance Hanson, Gregory Crow, Cathy York, Paul Burns, George Ham, Theresa Liska, Carolyn Taylor, Lawrence Hunt, Robert Rosson, Margaret Martinek, Emil Martinek, Ragen Martinek, Jennifer Martinek, Leah Martinek, Ernest Martinek, Roy Edgar, Lori Young, Stephanie Shuster, Brenda Mavridis, David Risinger, Randy Stinson, Glenda Williams, George Martinez, and Kenneth and Bettye Burns all commented expressing concerns about flooding and erosion from the proposed discharge.

RESPONSE 13:

While the Texas Legislature has given the TCEQ the responsibility to protect WQ, and *Ch.26* authorizes the TCEQ to issue TPDES permits to provide WQ pollution control by limiting the discharges of pollutants to WITS through a TPDES permit, the TCEQ, nor the ED, has any jurisdiction to address flooding or erosion along the discharge route.

Even though the TCEQ has no jurisdiction to regulate flooding in the context of a wastewater discharge permit, to the extent that a concern over flooding also involves WQ, the Applicant is always required to comply with all the numeric and narrative effluent limitations and other conditions in the proposed permit, including during flooding conditions. Likewise, the proposed permit includes limits and other requirements that the Applicant must meet even during rainfall events and periods of flooding. According to the application, the proposed facility will be located above the 100-year flood plain. For additional protection, the proposed permit includes Other Requirement No. 4, which requires the Applicant to provide protection for the facility against a 100-year flood event.

For flooding concerns, members of the public may contact the Ellis County Floodplain Administrator for Ellis County by contacting Ellis County Floodplain Management Office, at (785) 625-1061 or https://www.ellisco.net/345/Flood-Plain-Management from 8:00 a.m. – 5:00 p.m., Monday through Friday.

The TCEQ's Resource Protection Team can be contacted for identifying and contacting the appropriate local or county officials or offices, by calling (512) 239-4600, or by email at: **wcp@tceq.texas.gov**.

Other state resources include the Texas Water Development Board's program to mitigate damage caused by flooding, which can contacted through: http://www.twdb.texas.gov/flood/index.asp.

Additionally, the Federal Emergency Management Agency has programs designed to mitigate damage caused by flooding, that can be found at the following website: https://www.fema.gov/floodplain-management.

CHANGES MADE TO THE PERMIT IN RESPONSE TO COMMENT

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

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, Executive Director

Erin Chancellor, Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division

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

REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

VII. CERTIFICATE OF SERVICE

I certify that on August 5, 2024, the Executive Director's Response to Public Comment for Permit No. WQ0016273001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.

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

Jon Niermann, *Chairman*
Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 12, 2024

TO: All interested persons.

RE: Clear Utilities, LLC
TPDES Permit No. WQ0016273001

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

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

Laurie Gharis
Chief Clerk

LG/cb

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
Clear Utilities, LLC
TPDES Permit No. WQ0016273001

The Executive Director has made the Response to Public Comment (RTC) for the application by Clear Utilities, LLC for TPDES Permit No. WQ0016273001 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 (WQ0016273001) 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 Ferris Public Library, 301 East 10th Street, Ferris, Texas

Jon Niermann, *Presidente*
Bobby Janecka, *Comisionado*
Catarina R. Gonzales, *Comisionada*
Kelly Keel, *Director Ejecutivo*

COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas reduciendo y previniendo la contaminación

12 de agosto de 2024

TO: Todas las personas interesadas.

RE: Clear Utilities, LLC
TPDES Permiso No. WQ0016273001

Decisión del Director Ejecutivo.

El director ejecutivo ha tomado la decisión de que la solicitud de permiso mencionada anteriormente cumple con los requisitos de la ley aplicable. **Esta decisión no autoriza la construcción u operación de ninguna instalación propuesta.** Esta decisión será considerada por los comisionados en una reunión pública programada regularmente antes de que se tome cualquier medida sobre esta solicitud, a menos que todas las solicitudes de audiencia o reconsideración de casos impugnados hayan sido retiradas antes de esa reunión.

Se adjuntan a esta carta las instrucciones para ver en Internet la Respuesta del Director Ejecutivo al Comentario Público (RTC). Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a chiefclk@tceq.texas.gov. Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios públicos, están disponibles para su revisión en la Oficina Central de TCEQ. Además, una copia de la solicitud completa, el borrador del permiso y la decisión preliminar del director ejecutivo están disponibles para ver y copiar en Ferris, 301 East 10th Street, Ferris, Texas.

Si no está de acuerdo con la decisión del director ejecutivo y cree que es una "persona afectada" como se define a continuación, puede solicitar una audiencia de caso impugnado. Además, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Los procedimientos para la evaluación de la comisión de las solicitudes de audiencia/solicitudes de reconsideración se encuentran en 30 Código Administrativo de Texas, Capítulo 55, Subcapítulo F. A continuación, se presenta una breve descripción de los procedimientos para estas dos solicitudes.

Cómo solicitar una audiencia de caso impugnado.

Es importante que su solicitud incluya toda la información que respalde su derecho a una audiencia de caso impugnado. Su solicitud de audiencia debe demostrar que cumple con los requisitos legales aplicables para que se le conceda su solicitud de audiencia. La consideración de la comisión de su solicitud se basará en la información que usted proporcione.

La solicitud debe incluir lo siguiente:

(1) Su nombre, dirección, número de teléfono durante el día y, si es posible, un número de fax.

(2) El nombre del solicitante, el número de permiso y otros números enumerados anteriormente para que su solicitud pueda procesarse adecuadamente.

(3) Una declaración que exprese claramente que está solicitando una audiencia de caso impugnado. Por ejemplo, la siguiente declaración sería suficiente: "Solicito una audiencia de caso impugnado".

(4) Si la solicitud es realizada por un grupo o asociación, la solicitud debe identificar:

(A) una persona por nombre, dirección, número de teléfono durante el día y, si es posible, el número de fax, de la persona que será responsable de recibir todas las comunicaciones y documentos para el grupo.;

(B) los comentarios sobre la solicitud presentada por el grupo que constituyen la base de la solicitud de audiencia; y

(C) por nombre y dirección física, uno o más miembros del grupo que de otro modo tendrían derecho a solicitar una audiencia por derecho propio. Los intereses que el grupo busca proteger deben estar relacionados con el propósito de la organización. Ni la reclamación alegada ni la reparación solicitada deben requerir la participación de los miembros individuales en el caso.

Además, su solicitud debe demostrar que usted es una **"persona afectada".** Una persona afectada es aquella que tiene un interés justiciable personal relacionado con un derecho, deber, privilegio, poder o interés económico legal afectado por la solicitud. Su solicitud debe describir cómo y por qué se vería afectado negativamente por la instalación o actividad propuesta de una manera que no sea común al público en general. Por ejemplo, en la medida en que su solicitud se base en estas preocupaciones, debe describir el impacto probable en su salud, seguridad o usos de su propiedad que puedan verse afectados negativamente por la instalación o las actividades propuestas. Para demostrar que tiene un interés personal justiciable, debe indicar, tan específicamente como pueda, su ubicación y la distancia entre su ubicación y la instalación o actividades propuestas.

Su solicitud debe plantear cuestiones de hecho controvertidas que sean relevantes y materiales para la decisión de la comisión sobre esta solicitud que fueron planteadas **por usted** durante el período de comentarios públicos. La solicitud no puede basarse únicamente en cuestiones planteadas en los comentarios que haya retirado.

Para facilitar la determinación por parte de la comisión del número y alcance de los asuntos que se remitirán a la audiencia, usted debe: 1) especificar cualquiera de las respuestas del director ejecutivo a **sus** comentarios que usted disputa; 2) la base fáctica de la disputa; y 3) enumerar cualquier cuestión de derecho en disputa.

Cómo solicitar la reconsideración de la decisión del Director Ejecutivo.

A diferencia de una solicitud de audiencia de caso impugnado, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Una solicitud de reconsideración debe contener su nombre, dirección, número de teléfono durante el día y, si

es posible, su número de fax. La solicitud debe indicar que está solicitando la reconsideración de la decisión del director ejecutivo, y debe explicar por qué cree que la decisión debe ser reconsiderada.

Fecha límite para la presentación de solicitudes.

La oficina del Secretario Oficial debe **recibir** una solicitud de audiencia de caso impugnado o reconsideración de la decisión del director ejecutivo a más tardar **30 días calendario** después de la fecha de esta carta. Puede enviar su solicitud electrónicamente a www.tceq.texas.gov/agency/decisions/cc/comments.html o por correo a la siguiente dirección:

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

Procesamiento de solicitudes.

Las solicitudes oportunas para una audiencia de caso impugnado o para la reconsideración de la decisión del director ejecutivo se remitirán al Programa de Resolución Alternativa de Disputas de TCEQ y se incluirán en la agenda de una de las reuniones programadas regularmente de la comisión. Las instrucciones adicionales que explican estos procedimientos se enviarán a la lista de correo adjunta cuando se haya programado esta reunión.

Cómo obtener información adicional.

Si tiene alguna pregunta o necesita información adicional sobre los procedimientos descritos en esta carta, llame al Programa de Educación Pública, al número gratuito, 1-800-687-4040.

Atentamente,

Laurie Gharis
Secretaria Oficial

LG/cb

Recinto

RESPUESTA DEL DIRECTOR EJECUTIVO AL COMENTARIO DEL PÚBLICO
para
Clear Utilities, LLC
TPDES Permiso No. WQ0016273001

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de Clear Utilities, LLC del permiso de TPDES No. WQ0016273001 Puede ver e imprimir el documento visitando la Base de Datos Integrada de los Comisionados de TCEQ en el siguiente enlace:

https://www.tceq.texas.gov/goto/cid

Para ver el RTC en el enlace anterior, ingrese el número de identificación TCEQ para esta solicitud (WQ0016273001) y haga clic en el botón "Buscar". Los resultados de la búsqueda mostrarán un enlace al RTC.

Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a chiefclk@tceq.texas.gov.

Información adicional

Para obtener más información sobre el proceso de participación pública, puede comunicarse con la Oficina del Asesor de Interés Público al (512) 239-6363 o llamar al Programa de Educación Pública, al número gratuito, (800) 687-4040.

Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios, están disponibles para su revisión en la Oficina Central de TCEQ en Austin, Texas. Además, una copia de la solicitud completa, el borrador del permiso y la decisión preliminar del director ejecutivo están disponibles para ver y copiar en Ferris, 301 East 10th Street, Ferris, Texas.

MAILING LIST / LISTA DE CORREO
for / para
Clear Utilities, LLC
TPDES Permit No. WQ0016273001/ TPDES Permiso No. WQ0016273001

FOR THE APPLICANT /
PARA EL SOLICITANTE:

Steven Winslow
Clear Utilities, LLC
5451 Farm-to-Market Road 1488
Magnolia, Texas 77354

Lesley Reel, P.E.
Squared Engineering
3307 West Davis Street, Suite 100
Conroe, Texas 77304

INTERESTED PERSONS /
PERSONAS INTERESADAS:

See Attached List

FOR THE EXECUTIVE DIRECTOR / PARA EL DIRECTOR EJECUTIVO
via electronic mail /
por correo electrónico:

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

Michael Parr, Staff Attorney
Texas Commission on Environmental Quality
Environmental Law Division MC-173
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Deba Dutta, Technical Staff
Texas Commission on Environmental Quality
Water Quality Division MC-148
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Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL /
PARA ABOGADOS DE INTERÉS PÚBLICO
via electronic mail /
por correo electrónico:

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

FOR THE CHIEF CLERK /
PARA EL SECRETARIO OFICIAL
via electronic mail
por correo electrónico:

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2191 PALMYRA RD
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CONNELL , KATREENA
1081 S MAIN ST
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CONWAY , MARC
690 HAMPEL RD
PALMER TX 75152-6016

CRAIG , MATTHEW
515 BENT TRL
RED OAK TX 75154-5417

CROW , GREGORY DALE
761 RISINGER RD
FERRIS TX 75125-1273

CROW , CARLA
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CURRY , MARK
1440 HUNSUCKER RD
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VENUS TX 76084-4870

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VENUS TX 76084-4870

GRIFFIN , RENE
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HANSON , MR LANCE
453 PACE RD
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HANSON JR , MR LANCE
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JONES , NICHOLAS
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WILLIAMS , JENNIFER
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RED OAK TX 75154-4029

WILLIAMS , JOHN
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PALMER TX 75152-8101

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PALMER TX 75152-9118

NEW TPDES PERMIT NO. WQ0016273001

APPLICATION BY	**§**	**BEFORE THE**
CLEAR UTILITIES, LLC FOR	**§**	**TEXAS COMMISSION ON**
NEW TPDES PERMIT NO.	**§**	**ENVIRONMENTAL**
WQ0016273001	**§**	**QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

I. INTRODUCTION

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ) files this Response to Public Comment on the application by Clear Utilities, LLC (Applicant) for new Texas Pollutant Discharge Elimination System Permit (TPDES) number (No.) WQ0016273001 and on the ED's preliminary decision on the application. Before a permit is issued, the ED is required by Title 30 of the Texas Administrative Code (30 TAC), section (§) 55.156 to prepare a response to all timely, relevant, and material, or significant comments. The TCEQ's Office of the Chief Clerk (OCC) received timely comments from Catreena Connell, Joshua Hester, Von & Linda Hulgan, Ernest Martinek, Joe Benavidez, Glenda Williams, Wes Calhoun, Mark Curry, Guadalupe Sanchez, Joun and Brenda Griffin, Todd Little, Dave Foster, Kathleen Brown, Kameron Zabojnik, Randy Stinson, Nick Hamm, Paul Burns, Darren Wynn, David Risinger, Darren Wynn, Kathleen Mavridis, Matthew Craig, Steve & Nancy Solomon, Darren Wynn, Rhonda Hamm, Richard & Kelly Kern, Aaron Risley, Marc Conway, Kimberly Curry, Kathy Dewolfe, George Martinez, John Marshall, Marie & Nick Hamm, Theresa Liska, Amy Haufler, Gregory Crow, Carolyn Taylor, Cathy York, Charles Giles, Kenneth Burns, Bettye Burns, Joseph King, Ryan King, Jerry Burch, Jack Risinger, Carla Crow, Thomas Pearl, Nancy Salmon, Geneva Risinger, Michael Jones, Krista Martin, Dennis Forester, Randy Stinson, John Williams, Jonathan Perrymore, Nicholas Jones, George Ham, Roy Edgar, David Miller, Glenda Williams, Lori Young, Carla Crow, Mercedes Garcia, and Stephanie Shuster. This response addresses all comments received by the OCC in writing during the public comment period, whether withdrawn or not, and any public meetings that were held by the TCEQ. If more information is needed about this permit application or the TPDES permitting process, please call TCEQ's Public Education Program at 1-800-687-4040. General information about the TCEQ can be found on TCEQ's website at **http://www.tceq.texas.gov.**

II. BACKGROUND

A. Application Request

The Applicant applied for new TPDES Permit No. WQ0016273001 to authorize effluent, otherwise known as treated wastewater (WW), discharges in the Interim I, II (IP1-2), and Final phases of the permit, at daily average flow limits of 0.125, 0.1875, and 0.25 Million Gallons per Day (MGD), *respectively* (the proposed discharge).

B. Description of Facility and Discharge Route

If this permit is ultimately issued, the proposed facility, a Wastewater Treatment Facility (WWTF), will serve the Risinger Ridge development and will be located approximately 0.95 miles southwest of the intersection of Risinger Road and Interstate Highway 45, in Ellis County, Texas 75125. The proposed facility will be constructed

across the three phases of the proposed permit, and when constructed will be an activated sludge process plant, operated in the complete mix mode with single staged nitrification. Treatment units across all three phases consist of a bar screen, a chlorine contact chamber, and two final clarifiers. The remaining treatment units include aeration basins and aerobic sludge digesters, with the number of each treatment unit corresponding to the number of the phase (IP1-2). In the Final Phase, the remaining treament units consist of four aeration basins and aerobic sludge digesters. Sludge generated at the proposed facility is hauled by a registered transporter to City of Fort Worth Village Creek-WWTF (WQ0010494013), to be digested, dewatered, and then disposed of with the bulk of the sludge from the plant accepting the sludge. Sludge is also authorized to be disposed of at a TCEQ-authorized land application site, co-disposal landfill, WWTF, or a facility that further processes sludge.

The proposed discharge route is first to a pond, then an unnamed tributary (UT1), then to a second-order unnamed tributary (UT2), which is essentially a tributary formed from first order tributaries and is used here only to distinguish between the two unnamed tributaries. The proposed discharge then continues to Brushy and Red Oak Creeks, and then to the Upper Trinity River in Segment No. 0805 of the Trinity River Basin.

C. Other Terms, Acronyms, or Abbreviations Used in this Response to Comments

Because the wastewater (WW) permitting process contains technical and complex terms, the list below aims to provide readers with greater clarity and readability.

- **CI**: Chlorine (disinfection for discharge)
- **UV**: Ultra-Violet light (disinfection for discharge)
- **DO**: Dissolved Oxygen
- **IP1**: Interim Phase I of the proposed permit
- **IP2**: Interim Phase II of the proposed permit
- **WQ**: Water Quality
- **WW**: Wastewater
- **TSS**: Total Suspended Solids (WW limit)
- **EPA**: United States Environmental Protection Agency
- **UT1**: The first unnamed tributary of the discharge route
- **UT2**: The second-order unnamed tributary in the discharge route
- **CFU**: Colony Forming Units
- **OCE**: Office of Compliance and Enforcement of the TCEQ
- **ALU**: Aquatic Life Use, a type of WQ Use in Texas waterbodies
- **TWC**: Texas Water Code
- **CWA**: Clean Water Act
- **MGD**: Million Gallons per Day
- **WLA**: Waste Load Allocation (pollutant loading in a WITS)
- **WQD**: Water Quality Division of the TCEQ
- **WQC**: Control of WQ from *Ch.26*, TCEQ's Water Quality Control
- **WITS**: Water(s) in the State
- **USGS**: United States' Geological Survey (federal agency)
- **NORI**: Notice of Receipt & Intent to Obtain a Water Quality Permit
- **NAPD**: Notice of Application & Preliminary Decision
- ***E. coli***: Escherichia coli-bacteria (WW limit)
- **NH_3-N**: Ammonia Nitrogen (WW limit)
- **TMDL**: Total Maximum Daily Load

- **NOPM**: Notice of Public Meeting
- **$CBOD_5$**: 5-day Carbonaceous Biochemical Oxygen Demand (WW limit)
- **Limits**: WW Discharge Limits/ Effluent limits
- ***Ch.26***: Chapter 26 of the TWC (Water Quality Control)
- **WWTF**: Wastewater Treatment Facility
- **WQMP**: Water Quality Management Plan of the State of Texas
- **TPDES**: Texas Pollutant Discharge Elimination System
- **NPDES**: National Pollutant Discharge Elimination System
- **USFWS**: United States' Fish and Wildlife Service (federal agency)

- **TSWQS**: Texas Surface Water Quality Standards (30 TAC Chapter 307)
- **30 TAC**: Title 30, Texas Administrative Code (Environmental Quality)
- **Effluent**: Treated domestic WW after discharge
- **DO limit**: The DO concentration required in a TPDES discharge
- **DO level**: The amount of DO in a particular WITS
- **Region 4**: TCEQ's Regional OCE for Dallas/Fort Worth, Texas
- **WQ Uses**: Designated WQ uses from the Appendices of the TSWQS
- **WQ Goals**: WQ uses, levels, standards, conditions and requirements
- **217 Rules**: Design Criteria for Domestic WWTFs (30 TAC Chapter 217)
- **Discharge**: A flow of WW emanating from a WWTF
- **WQD staff**: Staff from the Water Quality Division of the TCEQ
- **DO Criteria**: The Minimum DO Criterion assigned by the TSWQS for WITS
- **Application**: The TPDES application submitted by Clear Utilities, LLC
- **TCEQ Rules**: Title 30, Texas Administrative Code (Environmental Quality)
- **Appendix A**: Appendix A of the TSWQS-30 TAC § 307.10
- **Commission**: The Texas Commission on Environmental Quality
- **DO Modeling**: Analyses using mathematical models of DO impacts to WITS
- **Tech Review**: The Technical Review of a TPDES application by the WQD
- **Tier I Review**: The TSWQS Tier I Antidegradation Review
- **Tier II Review**: The TSWQS Tier II Antidegradation Review
- **Modeling Team**: Water Quality Assessment Team
- **Standards Team**: Water Quality Standards Implementation Team
- **Proposed permit**: Draft-TPDES permit No. WQ0016273001
- **Proposed facility**: Risinger Ridge WWTF
- **TCEQ IPs**: RG-194 - TCEQ's *Implementation Procedures for the Texas Surface Water Quality Standards*-June 2010

III. THE EXECUTIVE DIRECTOR'S TECHNICAL REVIEW

The basis for the ED's technical review of TPDES applications is the TCEQ's WQC established by the Texas Legislature's passage of Chapter 26 of the Texas Water Code ((*Ch.26*) and (TWC)) that gives the TCEQ primary authority over WQ, or control of WQ in Texas (WQC). The TCEQ's WQC combines the WQ authority from *Ch.26* with federally delegated CWA WQ authority for the TPDES program, which controls discharges of pollutants into Texas' waterbodies, defined by the TWC as "WITS."

To implement the WQC of the TCEQ, the CWA and *Ch.26* grant the TCEQ the authority to issue permits for discharges of waste or pollutants into, or adjacent to WITS if, after the ED's Tech Review, a proposed TPDES permit complies with the WQ goals of the CWA, *Ch.26*, the TSWQS, and the TCEQ IPs. In the same way, the ED recommends issuance or denial of an application based on whether the information contained in the application complies with the WQ goals of the CWA, *Ch.26*, the

TSWQS, and the TCEQ IPs. Through the ED's Tech review, the WQD evaluates a TPDES application as an authorization to discharge to WITS and must determine the limits and conditions established in a TPDES permit comply with the WQ goals of the CWA, *Ch.26*, the TSWQS, and the TCEQ IPs.

Not only is a TPDES-permitted discharge required to achieve a certain level of WQ and meet other WQ goals, a TPDES-permitted WWTF's method of achieving that quality must also meet certain standards to achieve WQ goals. Just as the TSWQS and the TCEQ IPs provide a roadmap for a TPDES permit's limits and conditions, the TCEQ's 217 rules (Design Criteria for WWTFs) provide a guide for identifying the types of treatment technology that can achieve the treatment levels required by WQ goals. Similarly, the proposed permit requires the Applicant to submit a summary transmittal letter of the proposed facility's plans and specifications according to 30 TAC § 217.6(d). If requested by WQD staff, the permittee must submit final plans and specifications (specs), *and* a final engineering design report which comply with the TCEQ's 217 rules. The Applicant must clearly show how the treatment system will meet the permitted limits required on Pages 2, 2a, and 2b of the proposed permit.[6] WQD staff must ensure that the WWTF design can adequately treat the effluent according to the limits in the proposed permit during the review of the plans and specs for the proposed facility.

The TSWQS, specifically the word "standards," is defined in TCEQ rule as desirable uses such as existing, attainable, designated, or presumed uses, otherwise known as WQ uses, and the necessary, narrative, and numerical WQ conditions to support and protect those WQ uses in WITS. Conversely, the TCEQ may refuse to issue a permit when the ED's Tech Review finds that issuing the permit would violate the provisions of any state or federal law or rules or regulations derived from those laws, or when it finds that issuing the permit would interfere with TCEQ's WQC.

To maintain a level of WQ sufficient to protect the existing WQ uses of WITS in a route for a proposed discharge requires WQD staff on the Standards and Modeling Teams to review the data from the application and employ it, according to the TSWQS and the TCEQ IPs, when performing multiple WQ-specific analyses. This ensures compliance with the TSWQS because WQD staff follow the prescribed methodology in the TCEQ IPs when drafting limits and conditions for TPDES permits. The TCEQ IPs is a regulatory guidance document written specifically for permits to comply with the TSWQS. Correspondingly, within the regulatory framework of the TSWQS, a subset of WQ uses known as ALUs, govern the DO criteria, which refers to the 24-hour minimum DO level required to support ALUs in WITS. DO criteria are critical for the overall health of WITS, and in conjunction with ALUs, are necessary to protect the aquatic life in WITS. So, to ensure protective limits in TPDES permits, DO modeling analyses are performed by the Modeling Team to evaluate the potential impacts from a proposed discharge on instream DO levels of WITS in the route of a proposed discharge. DO levels are affected by various factors, including potential direct DO impacts by oxygen-demanding constituents in a proposed discharge, such as $CBOD_5$, NH_3-N, and DO, which are the specific limits established by the Modeling Team's DO modeling analyses for TPDES applications.

Thus, the WQD staff and the ED's Tech Review are responsible for evaluating impacts of a proposed discharge on the designated WQ uses of WITS in the route of a proposed discharge starting at the outfall, and then establishing appropriate limits to protect those WQ uses as the TSWQS require. Considering the TCEQ's data centric

WQC, all determinations, reviews, or analyses of the ED's Tech Review can be subsequently reexamined and modified upon receipt of contradictory data.

A. Texas Surface Water Quality Standards Review

An Antidegradation Review of the proposed discharge is the first WQ-analysis conducted on the application by the Standards Team after it reviews and verifies the classifications, designations, and descriptions of the WITS in the route of the proposed discharge (pond, UT1, UT2, Brushy and Red Oak Creeks, and the Upper Trinity River in Segment No. 0805 (Segment No. 0805)). More specifically, the TSWQS and the TCEQ IPs require the Standards Team, for all new-proposed discharges, to perform a Tier I review to assess the effects on WITS in the area of impact from the proposed discharge for a certain distance from the outfall based on the volume of the discharge, otherwise known as the "impact zone."

For this application, the impact zone was 2.0 miles based on a proposed discharge of up to 0.90 MGD. However, the standard practice of the Standards Team is to assess the first 3.0 miles of WITS to ensure a discharge is thoroughly vetted. In this case, 3.0 miles included the pond, UT1, UT2, Brushy and Red Oak Creeks.

The Standards Team assigned ALUs according to the TSWQS and additional information received during the permitting process, thus, the flow characterization of the pond and initial portion of UT1 (0.14 miles downstream of pond) is intermittent with perennial pools. UT1 then becomes UT2, which is characterized as intermittent greater than 0.14 miles downstream of the pond and returns to intermittent with perennial pools at Brushy Creek. Red Oak Creek's flow characterization is perennial.

The Standards Team then reviewed the information from the application consistent with the provisions of the TSWQS (30 TAC §§ 307.4 (h) & (l)) that specifically address ALUs, DO, and the assessment of unclassified waters for ALUs, as the proposed discharge is first to the pond and UT1, unclassified waterbodies. Additional data received during the permitting process enabled the Standards Team to determine the ALU designations and assign the corresponding DO criteria specified by the TCEQ's IPs and the TSWQS for pond, UT1, UT2, Brushy and Red Oak Creeks, and (Segment No. 0805)).

The Aquatic Life Uses (ALU) uses for Segment No. 0805, as designated in Appendix A of the TSWQS are primary contact recreation and a "high" ALU, with a corresponding DO criteria of 5.0 mg/L, which is also true for Red Oak Creek. The TSWQS (§ 307.4 (h)) assign the pond and UT1 a 3.0 mg/L DO criteria with a corresponding "limited" ALU designation, as they characterized as intermittent with perennial pools. UT2, characterized as an intermittent stream, is assigned a DO criteria of 2.0 mg/L by the TSWQS (§ 307.4(l)) and has a "minimal" ALU designation. Brushy Creek also has a "limited" ALU designation and is assigned criteria of 3.0 mg/L DO.

The results of the Tier I Review of the proposed discharge and its impact zone indicated that there is no expectation of impairment of existing WQ uses because the proposed discharge has limits designed to maintain numerical and narrative criteria to protect the existing WQ uses of the WITS receiving the proposed discharge.

B. Dissolved Oxygen Modeling

The second analysis of the ED's Tech Review involved the Modeling Team performing DO modeling (analyses) using a mathematical model, an "uncalibrated QUAL-TX model." Conventional limits such as those for DO, $CBOD_5$, and NH_3-N are based on stream standards and WLAs for WQ-limited streams established in the TSWQS and the WQMP. However, coefficients and kinetics used in the modeling come from a combination of site specific, standardized default, and estimated values.

By adhering to the provisions of the TSWQS, the TCEQ IPs, and the WQMP the Modeling Team developed protective limits, predicted to be necessary to maintain DO levels above the DO criteria indicated by the Standards Team for the pond and UT2 (3.0 mg/L 2.0 mg/L, *respectively*), of 10.0 mg/L $CBOD_5$, 3.0 mg/L NH_3-N, with a concentration of 5.0 mg/L DO in IP1. Limits in IP2 include 10.0 mg/L $CBOD_5$, 2.0 mg/L NH_3-N, with a concentration of 4.0 mg/L DO. In the Final phase, the limits are 10.0 mg/L $CBOD_5$, 2.0 mg/L NH_3-N, with a concentration of 5.0 mg/L DO.

C. Disinfection and Other limits

With prior ED approval, an equivalent method of disinfection may be substituted for the methods described below. During all phases of the proposed permit, the effluent must be monitored five times per week by grab sample, be disinfected using CI, contain a CI residual based on peak flow, of at least 1.0 mg/l, and must not exceed a total CI residual of 4.0 mg/after a detention time of at least 20 minutes.

In a case such as this, end-of-pipe compliance with pH limits of 6.0-9.0 standard units reasonably assures instream compliance with pH criteria in the TSWQS when the discharge authorized is from a minor facility and the unclassified waterbodies have "minimal" or "limited" ALUs. This conservative, technology-based approach reasonably assures instream compliance with TSWQS due to relatively smaller discharge volumes authorized by these permits. This conservative approach is informed by TCEQ sampling conducted throughout Texas that indicate instream buffering quickly restores pH levels to ambient conditions.

Segment No. 0805 is currently listed on the State's inventory of impaired and threatened waters, the 2022 CWA § 303(d) list. The listings are for Dioxin and PCBs in edible tissue from confluence of the Cedar Creek Reservoir discharge canal upstream to confluence of Elm Fork Trinity River [Assessment Units (AUs) 0805_01 thru

0805_04] and from confluence of Tenmile Creek upstream to confluence of Fivemile Creek (AU 0805_06). This is a public domestic wastewater treatment facility. The facility does not receive industrial wastewater contributions; therefore the effluent from this facility should not contribute to the dioxin or PCBs in edible tissue impairment of this segment.

The TMDL Project No. 5: *Nine Total Maximum Daily Loads for Legacy Pollutants in Streams and a Reservoir in Dallas and Tarrant Counties, For Segments 0805, 0841, and 0841A* has been approved for Segment No. 0805. The report *Nine TMDLs for Legacy Pollutants in Streams and a Reservoir in Dallas and Tarrant Counties* was adopted by the TCEQ on December 20, 2000 and approved by the EPA on June 27, 2001. The approved TMDL does not include an allocation for point sources for certain legacy pollutants. Legacy pollutant is a collective term used to describe substances whose use has been banned or severely restricted by the EPA. Because of their slow rate of decomposition, these substances frequently remain at elevated levels in the environment for many years after their widespread use has ended. No additional loading of legacy pollutants is allowed or expected due to the EPA restrictions. Gradual declines in environmental legacy pollutant concentrations occur as a result of natural attenuation processes. No authorized point source discharges of these pollutants are allowed by law. Therefore, no load reductions for these legacy pollutants are required in the proposed permit at this time.

The TMDL Project No. 66: *Two Total Maximum Daily Loads for Indicator Bacteria in the Upper Trinity River, Dallas, Texas* have been approved for this segment. In May 2011, the TCEQ adopted *Two Total Maximum Daily Loads for Indicator Bacteria in the Upper Trinity River, Segment 0805*. The EPA approved the TMDL on August 3, 2011. This document describes TMDLs for two assessment units within Segment 0805 (0805_03, 0805_04) in Dallas County where concentrations of bacteria exceed the criteria used to evaluate the attainment of the designated contact recreation use. The loads allocated in the TMDL are only applicable to those sources located in the target assessment units. This facility is not located in the area covered by the Waste Load Allocation requirements of the TMDL. The proposed permit is not subject to the requirements of the TMDL; however, effluent limits and monitoring requirements for bacteria are included based on other requirements.

The proposed discharge is also not expected to impact any federal endangered or threatened aquatic or aquatic dependent species or proposed species or their critical habitat. This determination is based on the USFWS' biological opinion on the State of Texas authorization of the TPDES program (September 14, 1998; October 21, 1998, update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. With respect to the presence of endangered or threatened species, the proposed permit does not require EPA's review.

Through the ED's Tech Review, WQD Staff provide appropriate limits to maintain and protect the existing instream WQ uses. For that reason, and provided the Applicant operates and maintains the proposed facility according to the TCEQ rules and the requirements in the proposed permit, the ED has determined that the proposed permit, if issued, meets all statutory and regulatory requirements and is protective of human health, the environment, and WQ.

IV. PROCEDURAL BACKGROUND

The TCEQ received the application on December 12, 2022, and declared it administratively complete on February 23, 2023. The Applicant published the applicable public notices of for this application in English in *The Ellis County Press* and in Spanish in the *ALDIA.* The Applicant published the NORI in English on March 9, 2023, and in Spanish on March 22, 2023. On June 7, 2023, the ED completed the Tech Review of the application and prepared the proposed permit, which if approved, establishes the conditions under which the proposed facility must operate. The Applicant next published the NAPD in English on July 27, 2023, and in Spanish on July 19, 2023. The Applicant published the NOPM on January 11, 2024. The public comment period ended on February 15, 2024, at the close of the public meeting held by the TCEQ. Because the application was received after September 1, 2015, and declared administratively complete after September 1, 1999, it is subject to both the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999, and the procedural requirements and rules implementing Senate Bill 709, 84th Legislature, 2015, which are implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55.

V. ACCESS TO RULES, LAWS, AND RECORDS

- Texas' administrative rules: Secretary of State Website: www.sos.state.tx.us
- Texas statutes: www.statutes.capitol.texas.gov
- TCEQ's rules on the Secretary of State Website: www.sos.texas.gov/tac/index.shtml (select "TAC Viewer" (right side) → "Title 30 Environmental Quality")
- TCEQ's website: www.tceq.texas.gov. TCEQ's rules downloadable in Adobe PDF format on the TCEQ website: navigate to "Rules, Data, Forms, Publications" (lower right side) → "Rules and Rulemaking" → "Current TCEQ Rules" → "Download TCEQ Rules"
- Federal: Title 40 of the Code of Federal Regulations: www.eCFR.gov/current/title-40
- Federal environmental laws: https://www.epa.gov/laws-regulations
- **Environmental or citizen complaints may be filed online at: https://www.tceq.texas.gov/compliance/complaints/index.html** (select "use our online form") or by sending an email to: **complaint@TCEQ.Texas.gov**

Since publication of the NORI, the application has been available for viewing and copying at the Ferris Public Library, located at 301 East 10th Street, Ferris, Texas 75125. The final permit application, proposed permit, statement of basis/technical summary, and the ED's preliminary decision were available for viewing and copying at the same location since publication of the NAPD.

Commission records for the proposed facility are available for viewing and copying at TCEQ's main office in Austin, Texas at 12100 Park 35 Circle, Building F, 1st Floor in the OCC (for the current application until final action is taken). Some documents located at the OCC may also be found in the TCEQ Commissioners' Integrated Database at www.tceq.texas.gov/goto/cid.

If individuals wish to file a complaint about the proposed facility concerning its compliance with the provisions of its permit or with TCEQ rules, the TCEQ's regional OCE should be contacted. Specifically, Region 4 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 at the eighth bullet under "Access to Rules, Laws, and Records," above. If an inspection by the TCEQ

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

VI. COMMENTS AND RESPONSES

COMMENT 1:

Lori Young, Vincent Fasulo, Gudalupe Sanchez, Kathleen Bowen, and Todd Little all commented in opposition of the proposed facility, its location, and its discharge.

RESPONSE 1:

The ED acknowledges the comments in opposition to the proposed permit, the proposed facility, the proposed facility's location, and the concerns expressed by all commenters.

However, the TCEQ is statutorily mandated by TWC § 26.028 (Action on Application) to begin processing applications for TPDES permits, when it receives the application, and to issue notices to the public of the TCEQ's processing of the application. Likewise, TWC § 26.027 makes clear that the TCEQ may issue permits for discharges into Water in the State through the ED's evaluation of TPDES permit applications using the information provided in the application and recommending permit issuance or denial, based on the application's compliance with the TWC, TCEQ rules, and the TSWQS (30 TAC Chapter 307).

Applicants are the entity that proposes the location of the WWTF, the discharge point, and the route for the proposed discharge, rather than the ED. Instead, the ED may only evaluate a location for a WWTF according to what is proposed in the application, the Location Standards of the TCEQ rules, and the impact of the discharge on the WQ uses of the receiving streams starting at the outfall. Likewise, the TCEQ's WQC does not include the ability to mandate a different location for a WWTF, if the location in the application complies with 30 TAC Chapter 309, Subchapter B (Location Standards), specifically 30 TAC § 309.13 pertaining to "Unsuitable Site Characteristics" for a discharge facility.

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

Kathleen Bowen commented expressing concerns about water quality and the proposed discharge negatively affecting downstream water supplies to the detriment to those who recreate in the Upper Trinity River. Nancy Salmon commented that she is concerned about the effect on human health from the proposed discharge, as she is a cancer survivor. Kathy Dewolfe commented expressing concern about exposure to harmful chemicals from the proposed discharge.

Kameron Zabojnik commented expressing concerns about prescriptions and heavy metals in the proposed discharge.

RESPONSE 2:

The ED acknowledges these comments and the significance of protecting human health, and the WQ and WQ uses of WITS, and gives that significance due consideration in deciding whether to issue a TPDES permit. Similarly, the ED considers the health of area residents, as well as those of the public when reviewing applications for wastewater discharge permits. As discussed above and below, the ED's technical review of TPDES applications also considers human health.

As mentioned previously, the CWA, *Ch.26*, the TSWQS, and the TCEQ IPs contain WQ goals that TPDES permits, and their methods of achieving that quality, must meet. Equally important, WQD staff evaluated the application as an authorization to discharge to WITS, which requires adherence to those same WQ goals. In the same way, the TSWQS, *Ch.26*, and the TCEQ IPs were established for the protection of human health, existing surface and groundwater quality, the environment, the health of aquatic and animal life, and specifically, existing, designated WQ uses of WITS, all of which are the same WQ goals. In the same way, the policy of the TSWQS and *Ch.26* is:

[1]

The TSWQS is a primary mechanism for the TCEQ to implement its WQC to achieve WQ goals, such as protection of human health, existing surface and groundwater quality, the environment, the health of aquatic and animal life, and specifically, existing, designated WQ uses of WITS, which involves meeting and maintaining numerical and narrative WQ conditions. The TSWQS require discharges not cause WITS to be toxic to any form of life, not degrade WITS, and not result in impairments of existing, attainable, or designated WQ uses. Similarly, TCEQ's WQC mandates discharges adhere to the TSWQS by use of the TCEQ IPs for drafting TPDES permits.

The focus of the TCEQ's IPs is for WQD staff to draft permits with provisions to meet the requirements of the TSWQS, namely specific numeric and narrative WQ criteria applicable to WITS receiving a discharge that protect WQ goals like existing WQ uses of WITS, human health, the environment, and the health of aquatic and animal life. With that focus, WQD staff designed the proposed permit to be protective of the uses of all WITS that could be potentially affected by the proposed discharge. In other words, to achieve the goal of supporting a level of WQ sufficient to protect existing WQ uses of WITS, the proposed permit was drafted to preclude degradation of WQ in the Upper Trinity River (Segment No. 0805) with effluent limits, monitoring requirements, and conditions designed to ensure protection of WITS according to the TSWQS and the TCEQ's IPs.

Protecting WQ in WITS receiving the proposed discharge are the assigned ALUs themselves, which govern what WQ uses and criteria will apply to protect Segment No. 0805 and the creeks upstream of Segment No. 0805, their ALUs, and the aquatic life that dwell in them, as well as consumption by terrestrial wildlife. The proposed facility is a minor municipal facility that will discharge first to a pond, which is unclassified

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

and has a "limited" ALU, as is the same for UT1. WITS, such as the pond and UT1 that support only "limited" ALUs still have criteria protecting both the aquatic life that live in the waterbodies and terrestrial wildlife that use the waterbodies as a source of water or food. To ensure that DO will be maintained above the limit established by the Standards Team for UT2 and UT2 (2.0 and 3.0 mg/L DO, *respectively*), the proposed permit requires a DO limit or concentration of 5.0 mg/L to meet a DO criteria that supports an aquatic community with a "minimal" or "limited" ALU but will not negatively affect WITS that support a "high" ALU, such as the Upper Trinity River.

According to the TCEQ's IPs, "Limited" ALUs fall under a Tier I Antidegradation Review, which evaluates all pollution that could cause an impairment of existing WQ uses and ensures that those WQ uses are not impaired by increases in pollution loading. The numerical and narrative criteria necessary to protect existing WQ uses will be maintained because the primary focus of WQD Staff performing the ED's Tech Review, the TSWQS, and the TCEQ's IPs, is DO, which is critical for the overall health and WQ of WITS.

The proposed permit also contains several water quality-specific parameters or requirements that limit the potential impact on WITS receiving the proposed discharge. This is because the proposed permit's effluent limits and conditions were derived from a rigorous, data-centric technical review to ensure compliance with the TSWQS. As stated above, the proposed permit's limits for some of the major constituents were evaluated with a mathematical model of the receiving waters, and results indicated that limits of 10 mg/L $CBOD_5$, 2.0 mg/L NH_3-N, and a 5.0 mg/L DO concentration are required for the proposed facility to discharge up to 0.25 MGD to the WITS receiving the proposed discharge. These effluent limits are consistent with the WQMP, and while they are not contained in the approved WQMP, the limits will be included in the next WQMP update.

WQD staff, when drafting the proposed permit, also incorporated pertinent site-specific factors to reduce uncertainty and bolster confidence in the results of the ED's Tech Review. For example, the Applicant is required to build a collection system and WWTF according to the plans and specifications approved by the ED and must ensure the proposed facility's plans and specifications meet all design requirements in the proposed permit and the 30 TAC Chapter 217 rules. 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 reasonably likely to adversely affect human health." WQD Staff determined that the proposed permit complies with the TSWQS, ensuring that the proposed discharge is protective of human health. This is because the ED followed the methodologies outlined in the TCEQ's IPs for drafting the proposed permit, which specify that TPDES permits must maintain WITS to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three. The methodologies were specifically designed to ensure no source will be allowed to discharge WW that: 1) results in instream aquatic toxicity; 2) causes a violation of an applicable narrative or numerical standard in the TSWQS; 3) results in the endangerment of a drinking water supply; or 4) results in aquatic bioaccumulation that threatens human health. Accordingly, human health impacts from the proposed discharge are unlikely to occur, as the Applicant is only authorized to discharge according to the limitations, monitoring requirements, and other conditions of the proposed permit.

Human health is protected by the TCEQ rules in 30 TAC § 309.3(g)(1) (Disinfection), which requires disinfection of WW or effluent prior to discharges to WITS in a manner conducive to the protection of public health. The TCEQ's Disinfection rules, implemented though provisions in a TPDES permit protect human health with bacteria limits to ensure that the proposed discharge meets the stream bacterial standard of the TSWQS. The proposed permit not only includes bacteria limits, but also monitoring requirements to verify proper disinfection, which is another example of protection of human health from the TSWQS.

TCEQ's Disinfection rules do not mandate a specific method of disinfection, as an applicant may disinfect domestic WW through use of 1) chlorination, 2) UV, or 3) an equivalent method of disinfection with prior approval from the ED. Whichever form is used, the design criteria for the disinfection system, including safety requirements, must follow the requirements of the 217 rules, specifically Subchapters K or L (Chemical or UV disinfection, *respectively*).

Subchapter K specifies the disinfection requirements for CI systems such as sizing, configuration, dosage, system details, controls, cleaning, safety, and minimum replacement parts for the CI disinfection units. Whereas Subchapter L of the 217 rules specifies the requirements for UV systems, including effluent limits, redundancy, dosage, system sizing, reactor design, Bioassay test procedures, monitoring/alarms, cleaning, safety, and maintenance, of UV systems. Most importantly for protection of human health, the 217 rules require all disinfection systems to have a backup power system capable of providing sufficient power to operate continuously during all power outages.

In this case, the Applicant chose chemical disinfection using CI in all phases of the proposed permit. Chlorination may be via gaseous, liquid, or tablet forms. CI is one of the most practical and effective means of disinfection because it can kill disease-causing bacteria and nuisance organisms and can eliminate certain noxious odors during disinfection.[2] Thus, the proposed discharge, when disinfected with CI, must contain a CI residual of at least 1.0 mg/L. The permit limit for maximum total CI residual is 4.0 mg/L after a detention time of at least 20 minutes (based on peak flow), which must be monitored five times per week by grab sample.[3]

Related to heavy metals, contaminates, or other chemicals in the proposed discharge, the only chemical addition to the treatment process is CI for disinfection purposes. Other than the permit limitation for maximum total CI, no other chemical treatment was indicated in the application. Moreover, conventional domestic WW does not typically contain toxic contaminates in measurable quantities that might result in toxic effects in the receiving waters unless there are significant industrial users contributing to the waste stream. The proposed facility will receive WW from residential users and will not be accepting industrial WW.

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

[2] U.S. EPA *Wastewater Technology Fact Sheet- Chlorine Disinfection* (EPA 832-F-99-062).
[3] Aqua Texas Inc., Draft Permit, Effluent Limitations and Monitoring Requirements, p.2; *see also* 30 TEX. ADMIN. CODE § 309.3(g)(2).

that might result in toxic effects in the receiving waterbodies, unless there are significant industrial users contributing wastewater. Therefore, human health and water quality will be protected as long as the Applicant operates the proposed facility in compliance with TCEQ's rules and the terms and conditions of the proposed permit.

COMMENT 3:

John Williams, Dennis Forester, and Heather French all commented expressing concerns about the harmful effects of the proposed discharge on the ecosystem, cattle, deer, wild hogs, bobcats, armadillos, raccoons, rabbits, and other wildlife.

David Miller commented that there are numerous species of amphibians that require the intermittent water to survive, and some of these species may be threatened as their habitat is changed. Constant flow will adversely affect their habitat and these species will die off.

RESPONSE 3:

The proposed permit was developed to protect all animal life, vegetation, and aquatic and terrestrial life according to the TSWQS, provided the Applicant operates and maintains the proposed facility according to TCEQ rules and the requirements in the proposed permit. The TSWQS require that TPDES-permitted discharges not cause surface waters to be toxic to aquatic life, terrestrial wildlife, livestock, or other animal life, not degrade receiving waters, and not result in situations that impair existing, attainable, or designated WQ uses. Likewise, the proposed permit's effluent limits will protect the WQ uses and the WQ of the WITS receiving the proposed discharge for the benefit of the aquatic and terrestrial wildlife that depend on it. This is because WQD Staff, during the ED's technical review must verify that the proposed permit's limits, conditions, and provisions will ensure that the TSWQS will be maintained by the proposed discharge, which provides protection for aquatic, terrestrial, and wildlife.

WQD Staff determined that the proposed discharge will be consistent with the TSWQS, which validates that it is protective of animal, aquatic, terrestrial, and wildlife. WQD Staff's determination is possible because WQD Staff drafted the proposed permit with provisions that safeguard compliance with the TSWQS. For example, the proposed permit contains additional protection for animal, aquatic, terrestrial, and wildlife through the conditions related to the rule in 30 TAC § 309.3(g)(1) (Disinfection), which requires the effluent to be disinfected prior to discharge in a manner conducive to protect, aquatic, terrestrial, and wildlife.

For any wildlife concerns, please visit the Texas Parks and Wildlife Department's (TPWD) website at https://tpwd.texas.gov or by phone at
state agency that oversees and protects wildlife and their habitat. The TPWD was also sent notice of the application and did not express any opposition to the proposed permit.

COMMENT 4:

John Williams, Gregory Crow, Roy Edgar, Ernest Martinek, Nick Hamm, and Geneva Risinger commented expressing concern about nuisance odors.

RESPONSE 4:

Instances of foul odors from a discharge of effluent can exist when there are insufficient levels of DO concentrations in the effluent. To prevent odors from occurring the number of oxygen-demanding constituents must be controlled, as

maintaining an adequate DO concentration in the early stages of WW treatment helps to minimize sulfide generation, which is the most common cause of odor. The proposed effluent limits, specifically the minimum DO limit, restrict the amount of oxygen-demanding constituents and are set at levels to significantly reduce the odors in the effluent being discharged and prevent degradation of the receiving waters. However, all WWTFs have the potential to generate odors. The treatment process proposed by the Applicant supplies oxygen in the air, "aeration," into the effluent for biodegradation of organic contaminants in the effluent, and oxygen converts the sulfide compounds into odorless sulfates.

To control and abate odors, the TCEQ rules require domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor according to 30 TAC § 309.13(e), which provides options for applicants to satisfy the nuisance odor abatement and control requirements. Additionally, nuisance-odor controls have been incorporated into the proposed permit according to 30 TAC § 309.13(e) of the TCEQ's rules, which require domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor by complying with one of three options: 1) ownership of the buffer zone area; 2) restrictive easements from the adjacent property owners for any part of the buffer zone not owned by the applicant; or 3) providing nuisance odor control.

For the proposed facility, the Applicant has chosen chlorine disinfection. Chlorination may be via gaseous, liquid, or tablet forms. Chlorine is one of the most practical and effective means of disinfection because it can kill disease-causing bacteria and nuisance organisms and can eliminate certain noxious odors during disinfection.[4] The effluent from the proposed facility, disinfected with chlorine, must contain a chlorine residual of at least 1.0 mg/L. The permit limit for maximum total chlorine residual is 4.0 mg/L after a detention time of at least 20 minutes (based on peak flow), which must be monitored five times per week by grab sample.[5]

However, the TCEQ's issuance of a permit does not authorize injuries to other persons, their property, or an invasion of their property rights. Similarly, the proposed permit's provisions do not, nor does the scope of TCEQ's regulatory jurisdiction, limit nearby landowners' ability to use a court of law's remedies if anyone experiences nuisance odor conditions or any other suspected incidents of noncompliance with the permit or TCEQ rules. The proposed permit does not limit affected individual's ability to seek legal remedies against the Applicant for any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that interfere with the normal use and enjoyment of property.

Likewise, the Applicant has a duty to comply with all conditions of the proposed permit. Failure to comply with any permit condition is grounds for enforcement actions, permit amendments, revocations, suspensions, denial of permit renewal applications, or even an application for a permit for another facility. This is because permit violations constitute violations of not only the TWC, but also the Texas Health and Safety Code.

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

COMMENT 5:

Lori Young commented expressing concern that there will be no oversight to keep the proposed facility in compliance with the TCEQ rules.

Darren Wynn commented expressing concerns about severe weather causing freezing temperatures to freeze pipes or do other damage to the proposed facility.

RESPONSE 5:

The proposed permit was developed according to the TSWQS and the TCEQ IPs to be protective of WQ goals referenced above, provided the proposed facility is operated and maintained according to TCEQ rules and the proposed permit's requirements, which describe enforceable conditions for operating and maintaining a WWTF that act as safeguards intended to minimize the occurrence of operational mishaps.

For example, Compliance Condition 2(a) of the proposed permit requires the Applicant to tacitly acknowledge that acceptance of an issued permit is an agreement to comply with all the terms and conditions embodied in the permit and the rules and other orders of the Commission. Moreover, Compliance Condition 2(b) requires the Applicant to comply with all conditions of the proposed permit, and failure to do so constitutes a violation of the permit and the TWC or the Texas Health and Safety Code. Compliance Condition 2(d) requires the Applicant to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment.

Operational Requirement No. 9 of the proposed permit requires the proposed facility, a domestic WWTF, to be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined by the TCEQ rules, found at 30 TAC Chapter 30. According to 30 TAC § 30.350, the proposed permit requires the proposed facility to be operated by a chief operator or an operator holding a Category C license or higher (Figure: 30 TAC § 30.350(e)). The ED determines the level of operator required based on the treatment technology and the maximum permitted flow. A Class C operator must have a high school diploma (or equivalent), two years of work experience and 60 hours of training.

Related to severe weather, Operational Requirement No. 4 makes the Applicant responsible for installing, prior to plant start-up, and subsequently maintaining adequate safety measures to prevent the discharge of untreated or inadequately

treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated WW.

For ensuring the proposed facility is compliant with applicable TCEQ rules, the TCEQ's 30 TAC Chapter 217 rules identify types of treatment technology that can achieve the treatment levels required in the proposed permit. Similarly, Other Requirement No. 6 of the proposed permit requires the Applicant to submit a summary transmittal letter of the proposed facility's plans and specifications according to 30 TAC § 217.6(d). If requested by WQD staff, the permittee must submit final plans and specifications *and* a final engineering design report which comply with the TCEQ's 30 TAC Chapter 217 rules. The Applicant must clearly show how the treatment system will meet the permitted limits required on Pages 2, 2a, and 2b of the proposed permit.[6] The ED's staff will ensure that the plant design can adequately treat the domestic WW in accordance with the effluent limits in the proposed permit during the review of the plans and specifications for the proposed facility.

Operational Requirement No. 2 requires the Applicant, upon request by from the ED, to take appropriate samples and provide proper analysis to demonstrate compliance with Commission rules. Sampling, analysis, and reporting for compliance with provisions of the proposed permit must be performed by the Applicant according to the proposed permit's provisions on Monitoring and Reporting Requirements and the proposed permit's Definitions and Standard Permit Conditions, which are based on the TCEQ's rules found at 30 TAC §§ 319.4 - 319.12. Data from Discharge Monitoring Reports (DMRs) must be submitted each month to the TCEQ's Compliance Monitoring Team within the OCE and must be available for inspections by compliance investigators from OCE's Region 4.

Compliance Condition 2(g) prohibits unauthorized discharges of WW or any other waste, and Compliance Condition 2(i) ties all these proposed permit conditions together and allows them to function as intended because it subjects the Applicant to administrative, civil, and criminal penalties from Chapter 7 of the TWC (Enforcement), for violations of the proposed permit and TCEQ rules, including, but not limited to, negligently or knowingly violating the federal CWA §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in the proposed permit issued under the CWA § 402, or any requirement imposed in proposed permit's pretreatment requirements approved under the CWA §§ 402(a)(3) or 402(b)(8).

These and other requirements in the proposed permit have historically been effective at keeping applicants informed as to conditions at the facility related to meeting the effluent limits, avoiding treatment system problems, and preventing unauthorized discharges of raw sewage. That being so, spills are not expected to occur at the proposed facility if it is maintained and operated in accordance with TCEQ rules and the provisions in the proposed permit.

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

Additionally, according to the TCEQ rules any noncompliance which may endanger human health or safety or the environment must be reported to the TCEQ by the Applicant, and the report of noncompliance must be provided orally or by facsimile transmission to OCE's Region 4 within 24 hours of becoming aware of the

noncompliance.[6] A written submission of the report of noncompliance information must also be provided by the Applicant to OCE's Region 4 *and* the Compliance Monitoring Team within five working days of becoming aware of the noncompliance. This includes any unanticipated bypass that exceeds any effluent limitation in the proposed permit, and any effluent violation which deviates from the permitted effluent limitation by more than 40% must be reported in writing to the OCE's Region 11, and the Compliance Monitoring Team within five working days of becoming aware of the noncompliance by more than 40%. The written submission must describe the noncompliance; its cause; the potential danger to human health or safety or the environment; the period of noncompliance, including exact dates and times; the time the noncompliance is expected to continue if has not been corrected; and the steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.

The TCEQ's OCE plays an important role in protecting human health because it ensures that the Applicant, its operator, and the proposed facility follow applicable state and federal regulations. OCE's Region 4 is required to conduct a mandatory Comprehensive Compliance Investigation at minor facilities (facilities with permitted flow less than 1 MGD) once every five fiscal years. Additional mandatory investigations can be required if the proposed facility is classified as Significantly Non-Complaint (SNC). SNC is determined by the Compliance Monitoring Section of the TCEQ's OCE and is based on self-reported effluent violations.

As provided by Chapter 7 of the TWC (Enforcement), the Applicant is subject to applicable administrative (TWC §§ 7.051 - 7.075), civil (TWC §§ 7.101 - 7.111), and criminal penalties (TWC §§ 7.141 - 7.202) for violations including, but not limited to, negligently or knowingly violating the federal CWA §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under CWA § 402, or any requirement imposed in a pretreatment program approved under CWA §§ 402 (a)(3) or 402 (b)(8); *Ch.26*, 27, and 28 of the TWC; and Ch. 361 of the Texas Health and Safety Code including but not limited to knowingly making any false statement, representation, or certification on any report, record, or other document submitted or required to be maintained under a permit, including monitoring reports or reports of compliance or noncompliance, or falsifying, tampering with or knowingly rendering inaccurate any monitoring device or method required by a permit or violating any other requirement imposed by state or federal regulations.

According to the rules in 30 TAC Chapter 60 (CHs), during the ED's technical review, WQD staff review the CH for the five-year period prior to the date the application was received by the TCEQ. of an applicant for the company or entity, and the proposed site for the five-year period prior to the date the application was received by the TCEQ, which for permit applications received after September 1, 2002, include a rating for both an Applicant and a proposed or existing site with classifications and ratings including:

1. ***High Performer classification***, a rating of fewer than 0.10 points, considered to have an above-satisfactory compliance record;
2. S***atisfactory Performer classification***, a rating between 0.10 points to 55 points and is considered to generally comply with environmental regulations;

[6] 30 TAC § 305.125(9).

3. ***Unsatisfactory performer classification***, has a rating above 55 points and is considered to perform below minimal acceptable performance standards established by the commission.[10]

A CH includes multimedia compliance-related components about the site under review and include enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emissions events, investigations, notices of violations, audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs and early compliance.

A CH is created for (1) the Applicant, the Owner or Operator of a WWTF (OO), which can be an individual, a company, a governmental agency, or any of several other kinds of entities, and (2) the site or facility. The OO rating and classification is the average of the ratings for all sites the OO owns or operates.

COMMENT 6:

Kathleen Bowen commented expressing concerns about air contaminants from the proposed facility affecting quality of life for nearby residents.

RESPONSE 6:

The TCEQ is the agency responsible for enforcing air pollution laws. The Texas Clean Air Act provides that certain facilities may be exempt from the requirements of an air quality permit if, upon review, it is found that those facilities will not make a significant contribution of air contaminants to the atmosphere and that human health, and the environment will be protected. According to the TCEQ rules in 30 TAC Section 106.532, domestic WWTPs have undergone this review and are permitted by rule if the WWTP only performs the functions listed in the rule.

The proposed facility will be an activated sludge process plant operated in the complete mix mode. The activated sludge process is the most frequently used biological wastewater treatment process for treating domestic wastewater, and the use of the complete mix aeration variation has been known to produce highly treated effluent with low biosolids production. Activated sludge process plants do not make a significant contribution of air contaminants to the atmosphere pursuant to the THSC-Texas Clean Air Act § 382.057 and § 382.05196 and is therefore permitted by rule.

This application was reviewed for health impacts and the application of best available control technology; and based on this review, the proposed facility should comply with all applicable health effects guidelines and emission control requirements.

However, if anyone experiences suspected incidents of noncompliance with the permit or TCEQ rules, they may be reported to TCEQ by calling toll-free 1-888-777-3186, or the TCEQ Region 4 Office in Fort Worth at (817) 588-5800. Citizen complaints may also be filed on-line at _____

Similarly, the proposed permit's provisions do not, nor the scope of TCEQ's regulatory jurisdiction, limit nearby landowners' ability to use a court of law's remedies for trespass, nuisance, or other causes of action from a TCEQ-authorized entity's activities, that may or do result in injury to property, animals, vegetation, or human health or welfare, or interfere with the use and enjoyment of their property.

If the proposed facility, its discharge, or the Applicant create any non-compliance conditions, the TCEQ may be contacted to investigate if potential permit violations

occurred by the methods described above on page no. 9 at the seventh bullet under "Access to Rules, Laws, and Records." If an inspection by the TCEQ finds that the Applicant is not complying with all requirements of the proposed permit, or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.

COMMENT 7:

Kameron Zabojnik commented expressing concern about groundwater contamination.

RESPONSE 7:

The ED's Tech review of a TPDES application focuses on controlling the discharge of pollutants into WITS, which includes both navigable and non-navigable water bodies. *Ch.26* defines "water" or "WITS" to mean groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.[7]

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

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

The legislature has determined that "the goal of groundwater policy in this state is that the existing quality of groundwater is not degraded. This goal of non-degradation does not mean zero-contaminant discharge."[8] Chapter 26 of the Texas Water Code further states, "discharges of pollutants, disposal of wastes, or other activities subject to regulation by state agencies must be conducted in a manner that will maintain present uses and not impair potential uses of groundwater or pose a public health hazard (TWC § 26.401(c)(2))."

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

[7] Texas Water Code § 26.001(5).
[8] Texas Water Code § 26.401(b)

contamination, please see the Texas Groundwater Protection Committee's (TGPC) webpages, *Ground Water Contamination* and *Reporting Contamination.*

The TGPC may be contacted through email at tgpc@tceq.texas.gov, through the TGPC website, or at (512) 239-4600. However, for groundwater emergencies, please contact the OCE's Region 4 at (512) 339-3795, or 1-888-777-3186.

Ground Water Links

Coliform Monitoring, Analyzing, and Reporting Guide (RG-421)
https://www.tceq.texas.gov/downloads/drinking-water/microbial/rg-421.pdf

National Ground Water Association's webpage *Water Testing*
http://wellowner.org/water-quality/water-testing/

What to Do About Coliform Bacteria in Well Water https://twon.tamu.edu/wp-content/uploads/sites/3/2021/06/what-to-do-about-coliform-in-well-water.pdf

Disinfecting Your Private Well
https://www.tceq.texas.gov/downloads/drinking-water/preparedness-resources/gi-432.pdf

Texas Groundwater Protection Committee (TGPC)
https://tgpc.texas.gov/

TGPC's *Groundwater Contamination* and *Reporting Contamination* webpages
https://tgpc.texas.gov/groundwater-contamination/
https://tgpc.texas.gov/groundwater-contamination/#3

COMMENT 8:

Lynda Hulgan commented expressing concerns over the public notice process for the proposed permit.

RESPONSE 8:

Notice provisions for Applicants and the Commission are found in 30 TAC Chapter 39 (Public Notice). When the ED determines that an application is administratively complete, the Chief Clerk mails this determination, along with a Notice of Receipt of Application and Intent to Obtain Permit (NORI), to the Applicant.[9] Not later than 30 days after the ED determines that the application is administratively complete, the Applicant must publish the NORI in the newspaper that has the largest circulation within the county or municipality in which the facility is located.[10] The Applicant must also make a copy of the administratively complete application available for public viewing in the county in which the facility is located.[11] Finally, the Applicant, using county deed records, must identify all landowners adjacent to the proposed facility and discharge and submit the list to the TCEQ Chief Clerk's office so it can mail timely copies of the public notices for the application to the adjacent landowners.

After completing the technical review of an application, the ED files its preliminary determination and the draft permit with the Chief Clerk.[12] The Chief Clerk must mail the preliminary decision, along with the Notice of Application and Preliminary Decision

[9] 30 TAC § 39.418(a).
[10] 30 TAC § 39.405(f).
[11] 30 TAC § 39.405(g).
[12] 30 TAC § 39.419(a).

(NAPD), to the Applicant, who must then publish the NAPD in the same newspaper as the NORI.[13] The Chief Clerk must also mail the NAPD to adjacent landowners and to persons who have filed public comment or hearing requests.[14]

The NAPD must set a deadline for filing public comments with the Chief Clerk that is no earlier than 30 days after its publication in a newspaper.[15] If the ED holds a public meeting on the application after the 30 day period, then the public comment period is automatically extended to the end of the public meeting.[16] The ED may hold a public meeting at any time in the county where the facility is located if there is evidence of substantial public interest, or if a legislator representing the general area where the facility will be located requests a meeting.[17] As the public comment period has ended, the ED must file this Response to Public Comments, addressing all timely, relevant and material, or significant public comments submitted during the comment period, regardless of whether the comments were withdrawn.[18]

In this case, the application was received on December 12, 2022, and declared administratively complete on February 23, 2023. The Applicant published the applicable public notices of for this application in English in *The Ellis County Press,* and in Spanish in the *ALDIA.* The Applicant published the NORI in English on March 9, 2023, and in Spanish on March 22, 2023. On June 7, 2023, the ED completed the Tech Review of the application and prepared the proposed permit, which if approved, establishes the conditions under which the proposed facility must operate. The Applicant next published the NAPD in English on July 27, 2023, and in Spanish on July 19, 2023. The Applicant published the NOPM on January 11, 2024. The public comment period ended on February 15, 2024, at the close of the public meeting held by the TCEQ. The notices are not intended to provide a full description of the application, but rather to provide instructions on where to obtain additional information, such as more comprehensive description of the information in the application. Documents associated with the application are made public at the locations below to allow the public to review them and determine if they have additional comments or questions.

The permit application has been available for viewing and copying at the Ferris Public Library, located at 301 East 10th Street, Ferris, Texas 75125, since publication of the NORI. The final permit application, proposed permit, statement of basis/technical summary, and the ED's preliminary decision are now available for viewing and copying at the same location since publication of the NAPD. Additionally, during regular business hours, the public may review or copy the public file for this application, which includes the application, its attachments, the comment letters, this Response to Public Comment, and any other communications made during the review of this application, at TCEQ's Office of the Chief Clerk.

COMMENT 10:

John Hamilton Williams expressed concern that the area is in a FEMA Zone AE Special Flood Hazard area.

[13] 30 TAC § 39.419(b).
[14] 30 TAC § 39.413.
[15] 30 TAC § 39.551(c)(3).
[16] 30 TAC § 55.152(b).
[17] 30 TAC § 55.154(c).
[18] 30 TAC § 55.156.

RESPONSE 10:

In section 5.A of Domestic Technical Report 1.1, the applicants provided information regarding the facility's location in relation to the 100-year flood plain. According to that response (FEMA Firm Panel 0225F, Map No. 48139C0225F), the facility will be located above the 100-year flood plain. Therefore, the facility will meet the section 309.13(a) requirements.

COMMENT 11:

Todd Little commented questioning whether the TPDES program has a greater requirement or standard for the public good than the national, NPDES program administered by the EPA. Mr. Little asked if the standard is greater to or equal, or is it a lesser standard.

RESPONSE 11:

The NPDES program is a federal regulatory program to control discharges of pollutants to surface waters of the United States. On September 14, 1998, Texas assumed the authority to administer the NPDES program within its boundaries, which is the inception of the TPDES program. The TCEQ's WQC in Texas is a combination of the WQ authority from *Ch.26* and the federally delegated NPDES authority, which adds WQ oversight from the Clean Water Act. The TPDES program now controls discharges of pollutants into Texas' waterbodies, defined by the TWC as "WITS," with the exception of discharges associated with oil, gas, and geothermal exploration and development activities, which are regulated by the Railroad Commission of Texas.

The standards of the NPDES program apply equally to the TPDES program.

COMMENT 12:

George Martinez commented that the developer must adhere to home sites on a minimum of 1-acre lots as he has done for the past five years, and that the financial interest of developers seeking to maximize their returns at the price of local residents and ecosystems is not the best plan of action.

Michael Jones, Nancy Salmon, Charles Giles, and Gregory Crow all commented expressing concerns that Risinger Road cannot handle the increased traffic the development will cause, making it a dangerous situation.

Michael Jones commented that the proposed development will bring thousands of extra residents, the area schools are not prepared to handle that many additional students, and Ellis County doesn't have the resources to support such a large increase in population in a short period of time. Mr. Crow also expressed concern that a proposed increase of approximately 1800 mobile homes will strain public utilities and services. Mr. Crow commented that local water officials have already stated there would be inadequate water supply for the 1800 additional homes. Mr. Risinger commented that potable water is not available for this proposed development.

Charles Giles and John Forehand commented expressing concerns about the decrease in property values from the proposed facility. Mr. Giles also commented about dumping trash, and an increase in crime because of the proposed facility.

RESPONSE 12:

The ED encourages and advocates for public participation in the environmental permitting process and appreciates participation from all the citizens that do.

Although the ED gives due consideration to public input and participation in the permitting process, the scope of the TCEQ's jurisdiction for reviewing applications for TPDES permits is limited to what information *Ch.26* allows the TCEQ to require and evaluate in a TPDES application. Thus, there are certain concerns of citizens that the ED cannot address as part of the technical review for a TPDES application, and while the ED understands the significance of these concerns, she does not have the authority to address these concerns in the context of a TPDES permit. Rather, the ED is limited to providing pollution control by limiting the discharges of pollutants through a TPDES permit, which protects the WQ of WITS.

More specifically, the technical review performed by the ED for TPDES applications focuses on controlling the discharge of pollutants into WITS. Likewise, TPDES permits establish terms and conditions that apply pollution control for TPDES discharges based on TCEQ's water quality pollution control; as such, the water quality permitting process is limited to controlling the discharge of pollutants into WITS, which includes both navigable and non-navigable water bodies. *Ch.26* defines "water" or "WITS" to mean groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.[19]

The Commission and the ED, in their respective determinations of whether to issue a TPDES permit, do not have jurisdiction under *Ch.26* or the TCEQ rules to address or consider property values, the marketability of surrounding properties, traffic hazards or volumes, impacts to municipal or country roads, road maintenance or repair, availability of public utility services, types of developments and their anticipated sizes, or trash along the discharge route, unless related to a permit violation, if water quality is maintained. These issues are more appropriately addressed by departments within local governmental entities such as the County of Ellis and the Cities of Ferris or Palmer. For more information, please visit the websites or the phone numbers for general information below.

The TCEQ's Resource Protection Team may also be contacted to identify the appropriate local or county officials or offices, by calling (512) 239-4600, or by email at: **wcp@tceq.texas.gov**.

Ellis County

- https://co.ellis.tx.us/
  Phone: (972)-825-5000

City of Ferris

- https://www.ferristexas.gov/
  Phone: (972) 544-2110

City of Palmer

- https://ci.palmer.tx.us/
  Phone: (972)-449-3160

[19] Texas Water Code § 26.001(5).

COMMENT 13:

Aaron Risley, John Williams, Jerry Burch, Jack Risinger, Geneva Risinger, Michael Jones, Donna Blagg, Travis Jenkins, Dave Foster, Ryan King, Kenneth Holland, Rita Holland, Beth Foster, Robert Spencer, Randy Stinson, Cheryl Zink, Jerry Burch, Lance Hanson, Gregory Crow, Cathy York, Paul Burns, George Ham, Theresa Liska, Carolyn Taylor, Lawrence Hunt, Robert Rosson, Margaret Martinek, Emil Martinek, Ragen Martinek, Jennifer Martinek, Leah Martinek, Ernest Martinek, Roy Edgar, Lori Young, Stephanie Shuster, Brenda Mavridis, David Risinger, Randy Stinson, Glenda Williams, George Martinez, and Kenneth and Bettye Burns all commented expressing concerns about flooding and erosion from the proposed discharge.

RESPONSE 13:

While the Texas Legislature has given the TCEQ the responsibility to protect WQ, and *Ch.26* authorizes the TCEQ to issue TPDES permits to provide WQ pollution control by limiting the discharges of pollutants to WITS through a TPDES permit, the TCEQ, nor the ED, has any jurisdiction to address flooding or erosion along the discharge route.

Even though the TCEQ has no jurisdiction to regulate flooding in the context of a wastewater discharge permit, to the extent that a concern over flooding also involves WQ, the Applicant is always required to comply with all the numeric and narrative effluent limitations and other conditions in the proposed permit, including during flooding conditions. Likewise, the proposed permit includes limits and other requirements that the Applicant must meet even during rainfall events and periods of flooding. According to the application, the proposed facility will be located above the 100-year flood plain. For additional protection, the proposed permit includes Other Requirement No. 4, which requires the Applicant to provide protection for the facility against a 100-year flood event.

For flooding concerns, members of the public may contact the Ellis County Floodplain Administrator for Ellis County by contacting Ellis County Floodplain Management Office, at (785) 625-1061 or https://www.ellisco.net/345/Flood-Plain-Management from 8:00 a.m. – 5:00 p.m., Monday through Friday.

The TCEQ's Resource Protection Team can be contacted for identifying and contacting the appropriate local or county officials or offices, by calling (512) 239-4600, or by email at: **wcp@tceq.texas.gov**.

Other state resources include the Texas Water Development Board's program to mitigate damage caused by flooding, which can contacted through: http://www.twdb.texas.gov/flood/index.asp.

Additionally, the Federal Emergency Management Agency has programs designed to mitigate damage caused by flooding, that can be found at the following website: https://www.fema.gov/floodplain-management.

CHANGES MADE TO THE PERMIT IN RESPONSE TO COMMENT

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

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, Executive Director

Erin Chancellor, Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division

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REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

VII. CERTIFICATE OF SERVICE

I certify that on August 5, 2024, the Executive Director's Response to Public Comment for Permit No. WQ0016273001 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