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**SOAH DOCKET NO. 582-23-10368
TCEQ DOCKET NO. 2022-1731-MWD**

**APPLICATION OF R040062, LP § BEFORE THE STATE OFFICE
FOR § OF
TPDES PERMIT NO. WQ0016008001 § ADMINISTRATIVE HEARINGS**

**JONAH WATER SPECIAL UTILITY DISTRICT'S RESPONSE TO
R040062, LP'S MOTION FOR SUMMARY DISPOSITION**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE VANDROVEC:

COMES NOW, Protestant, Jonah Water Special Utility District ("Jonah") and files this, its Response to R040062, LP's Motion for Summary Disposition, which was filed on July 6, 2023. Pursuant to 1 Texas Administrative Code ("TAC") § 155.505(b)(2), "the response and opposing summary disposition evidence shall be filed no later than 15 days after filing of motion."¹ Fifteen days after July 6, 2023, is July 21, 2023, and Jonah's Response is timely filed. In support thereof, Jonah respectfully shows the following:

I. PROCEDURAL HISTORY

On June 11, 2021, R040062, LP ("Applicant") filed an application for Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0016008001.² The TCEQ Executive Director ("ED") issued its Response to Public Comment on August 30, 2022, and the ED's Decision Letter on September 7, 2022.³ The Applicant requested a direct referral of the application

¹ 1 Tex. Admin. Code § 155.505(b)(2).

² Applicant's Application is attached hereto as **Exhibit A** and incorporated herein for all purposes.

³ The ED's Decision Letter indicates that the decision does not authorize construction or operation of any proposed facilities and that it 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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting. The ED's Decision Letter and Response to Public Comment is attached hereto as **Exhibit B** and incorporated herein for all purposes.

to the State Office of Administrative Hearings (“SOAH”) pursuant to 30 TAC§ 55.210 on November 17, 2022, and the matter was transferred to SOAH on January 19, 2023.⁴

At the April 24, 2023 Preliminary Hearing, the Administrative Law Judge (“ALJ”) took jurisdiction and named the following parties: Applicant, ED, Office of Public Interest Counsel (“OPIC”), Jonah Special Utility District (“Jonah”), City of Georgetown (“Georgetown”), Shawn Bichsel, and Alex Cifuentes. The ALJ also admitted exhibits constituting the administrative record into evidence. On June 9, 2023, the City of Georgetown filed a Motion to Withdraw Party Status which was granted by ALJ Vandrovec on July 12, 2023.⁵

On June 9, 2023, Jonah filed testimony of General Manager, William Brown and district engineer, Miles Whitney. On July 6, 2023, the Applicant filed testimony of David Tuckfield and Janet Sims and filed the pending Motion for Summary Disposition which were both accepted by SOAH on July 7, 2023. Additionally, testimony of Brittany Lee and Sonia Bhuiya, TCEQ staff on behalf of the ED, was also filed with SOAH on July 7, 2023.

II. SUPPORTING EXHIBITS

Attached hereto and incorporated herein for all purposes are the following documents provided in support of Jonah’s Response:

Exhibit A	Applicant’s Domestic Wastewater Permit Application
Exhibit B	Decision of the Executive Director, dated September 7, 2022, and Response to Public Comment, dated August 30, 2022
Exhibit C	Direct Testimony and Attachments of David Tuckfield, Esq., filed July 7, 2023, on Behalf of R040062, LP
Exhibit D	Direct Testimony of William Brown, filed June 9, 2023, on Behalf of Jonah Water Special District

⁴ TCEQ Request to Docket Case (Jan. 19, 2023).

⁵ Order Granting Motion to Withdraw As A Party (Jul 12, 2023).

Exhibit E	Direct Testimony of Miles Whitney, filed June 9, 2023, on Behalf of Jonah Water Special Utility District
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III. LEGAL STANDARD

Pursuant to Texas Water Code (“TWC”) § 5.557, the Applicant’s choice to request direct referral of this application subjects it to a contested case hearing on whether the application complies with all applicable statutory and regulatory requirements.⁶ This also triggers application of Texas Government Code § 2003.047 regarding SOAH hearings for the Texas Commission on Environmental Quality. More specifically, subsections (i-1) through (i-3) of Section 2003.047 apply to contested cases regarding permit applications referred under TWC Section 5.556 or 5.557, and describe the procedural process and rights of the parties as follows:

(i-1) In a contested case regarding a permit application referred under Section 5.556 or 5.557, Water Code, the filing with the office of the application, the draft permit prepared by the executive director of the commission, the preliminary decision issued by the executive director, and other sufficient supporting documentation in the administrative record of the permit application establishes a prima facie demonstration that:

- (1) the draft permit meets all state and federal legal and technical requirements; and
- (2) a permit, if issued consistent with the draft permit, would protect human health and safety, the environment, and physical property.

(i-2) A party may rebut a demonstration under Subsection (i-1) by presenting evidence that:

- (1) relates to a matter referred under Section 5.557, Water Code, or an issue included in a list submitted under Subsection (e) in connection with a matter referred under Section 5.556, Water Code; and
- (2) demonstrates that one or more provisions in the draft permit violate a specifically applicable state or federal requirement.

⁶ TWC § 5.557(a).

(i-3) If in accordance with Subsection (i-2) a party rebuts a presumption established under Subsection (i-1), the applicant and the executive director may present additional evidence to support the draft permit.

With regard to summary disposition, TCEQ rules, SOAH rules and Texas case law are applicable and guiding. A motion for summary disposition may be granted if the moving party demonstrates that it is entitled to relief as a matter of law. The TCEQ rule at 30 TAC § 80.137 sets forth criteria for determining when summary disposition is appropriate. Section 80.137(c) provides that:

(c) Summary disposition. Summary disposition shall be rendered if the pleadings, admissions, affidavits, stipulations, deposition transcripts, interrogatory answers, other discovery responses, exhibits and authenticated or certified public records if any, on file in the case at the time of hearing, or filed thereafter and before disposition with the permission of the judge, show that there is no genuine issue as to any material fact and the moving party is entitled to summary disposition as a matter of law on all or some of the issues expressly set out in the motion or in an answer or any other response.⁷

This is consistent with SOAH's procedural rule at 1 TAC § 155.505(e) regarding summary disposition evidence, which states in pertinent part:

(1) Summary disposition evidence may include deposition transcripts; interrogatory answers and other discovery responses; pleadings; admissions; affidavits; materials obtained by discovery; matters officially noticed; stipulations; authenticated or certified public, business, or medical records; and other admissible evidence. No oral testimony shall be received at a hearing on a motion for summary disposition.

(2) Summary disposition may be based on uncontroverted written testimonial evidence of an interested witness, or of an expert witness as to subject matter concerning which the judge must be guided solely by the opinion testimony of experts, if the evidence is clear, positive and direct, otherwise credible and free from contradictions and inconsistencies, and could have been readily controverted.

(3) All summary disposition evidence offered in support of or in opposition to a motion for summary disposition shall be filed with the motion or

⁷ 30 TAC § 80.137(c).

response. Copies of relevant portions of materials obtained by discovery that are relied upon to support or oppose a motion for summary disposition shall be included in the summary disposition evidence.⁸

In addition to the criteria explicitly stated in 30 TAC § 80.137(c), Texas case law clarifies that summary judgment may be appropriately granted when there is no genuine issue as to any material fact.⁹ The court in *Wilkinson* explained that:

[t]he purpose of this rule is to expedite the final determination of any case in which there is no controverted issue of any material fact or facts.¹⁰ But in passing upon a motion for summary judgment, it is the duty of the court to overrule the same unless it clearly appears from the record before the court that all the material facts involved in the case are without any dispute, and that reasonable minds could not differ in arriving at the ultimate conclusion or conclusions to be drawn from the undisputed facts disclosed by the record under consideration.¹¹

The court must give the party opposing the motion “the benefit of every reasonable inference which properly may be drawn in favor of [their] position.”¹² And, if the non-movant brings forth more than a scintilla of probative evidence to raise a genuine issue of material fact on the challenged element, the court should not grant the motion.¹³ More than a scintilla of evidence exists if the evidence would enable reasonable and fair minded jurors to differ in their

⁸ 1 TAC § 155.505(e).

⁹ *Harper v. Fikes*, 336 S.W.2d 631, 636 (Tex. Civ. App.—Austin 1960, writ ref’d n.r.e.); *Smith v. Ellis*, 319 S.W.2d 745, 749 (Tex. Civ. App.—Waco 1958, no writ); *Wilkinson v. Stafford*, 298 S.W.2d 867, 869 (Tex. Civ. App.—Waco), rev’d on other grounds, 304 S.W.2d 364 (Tex. 1957); *Toliver v. Bergmann*, 297 S.W.2d 208, 210 (Tex. Civ. App.—San Antonio 1956, no writ).

¹⁰ *Hester v. Weaver*, Tex. Civ. App., 252 S.W.2d 214 (er. ref.); *Gulbenkian v. Penn*, 151 Tex. 412, 252 S.W.2d 929.

¹¹ *Womack v. Allstate Insurance Co.*, Tex., 296 S.W.2d 233; *Smith v. Bolin*, 153 Tex. 486, 271 S.W.2d 93; *Fowler v. Texas Employers Insurance Ass’n.*, Tex. Civ. App., 237 S.W.2d 373 (er. ref.); *Lesikar v. Lesikar*, Tex. Civ. App., 251 S.W.2d 555 (er. ref. n.r.e.); *Al & Lloyd Parker Co. v. Perkins*, Tex. Civ. App., 251 S.W.2d 765; *St. John v. Fitzgerald*, Tex. Civ. App., 281 S.W.2d 201.

¹² *Smith*, 319 S.W.2d at 749; see also *State v. Durham*, 860 S.W.2d 63 (Tex. 1993).

¹³ *Smith v. O’Donnell*, 288 S.W.3d 417, 424 (Tex.2009).

conclusions.¹⁴ Further, the court must resolve “all doubts as to the existence of a genuine issue as to a material fact” against the party moving for summary judgment and “accept as true all evidence of the party opposing the motion which tends to support such party's contention.”¹⁵

IV. RESPONSE TO APPLICANT’S ARGUMENTS

A. The Applicant’s regionalization demonstration is incomplete.

The Applicant contends that Jonah’s prefiled testimony puts forth no substantive evidence challenging the Applicant’s prima facie demonstration. Applicant’s assertion fails due to substantive omissions in both the Applicant’s filings and the Commission’s analysis of whether Applicant has demonstrated that the application complies with all applicable statutory and regulatory requirements. These omissions leave gaps in the record for which Jonah provided evidence that controverts and contradicts the Applicant’s compliance with the applicable statutory and regulatory requirements.

1. The application fails to address all statutory and regulatory requirements.

Jonah agrees that the process specified in Texas Government Code § 2003.047, subsections (i-1)-(i-3) applies to this case. In accordance with subsection (i-1), the first step includes the following elements that, if complete and accurate, constitute a prima facie demonstration that the draft permit meets all state and federal legal and technical requirements; and a permit, if issued consistent with the draft permit, would protect human health and safety, the environment, and physical property:

- the filing of the application by the applicant
- the executive director’s preparation of a draft permit

¹⁴ Garcia v. City of Elsa, 2012 Tex. App. LEXIS 3341, 2012 WL 1484105, citing Hamilton v. Wilson, 249 S.W.3d 425, 427 (Tex. 2008)

¹⁵ Smith v. Ellis, 319 S.W.2d 745, 749 (Tex. Civ. App.—Waco 1958, no writ) see also Gulbenkian v. Penn, 151 Tex. 412, 252 S.W.2d 929; Flowers v. Central Power & Light Co., Tex.Civ.App., 314 S.W.2d 373, W/E Ref. N.R.E.;

- the executive director’s issuance of the preliminary decision; and
- and other sufficient supporting documentation in the administrative record of the permit application.

However, in this case the elements listed in subsection (i-1) of § 2003.047 are not complete and accurate. The application, Applicant’s analysis, and the ED’s preliminary decision and supporting documentation in the administrative record fail to address all of the applicable statutory and regulatory requirements. In particular, the Applicant and ED each fail to address two statutory requirements applicable when an entity seeks to provide service within a district’s boundaries, both of which affect the regionalization analysis required for this application. The first requirement relates to consent required by the district and the second to the state’s regionalization policy in relation to districts.

- a. Jonah’s consent is required before an entity may provide service within Jonah’s territorial boundaries.*

TWC 13.044(c) requires the Applicant to obtain consent from Jonah and provide evidence of Jonah’s consent as part of its application. TCEQ’s application requests information concerning two types of entities for which an applicant could potentially need consent, but fails to include information regarding the third type of entity from which consent may be required before service can be provided in a particular area.¹⁶ TWC § 13.244(c) requires that “[e]ach applicant for a certificate or for an amendment shall file with the utility commission evidence required by the utility commission to show that the applicant has received the required consent, franchise, or permit of the proper municipality or other public authority.” This includes special utility districts

¹⁶ See **Exhibit A**, APP. EXHIBIT A000332-000333 (TCEQ 10054 (06/01/2017) Domestic Wastewater Permit Application Technical Reports Pages 21-22 of 80; Bates 046-47).

such as Jonah and thus without Jonah's consent, the Applicant will be legally barred from providing service.¹⁷

Like cities and CCN holders that have the authority to provide service within their city limits or CCN territory and require consent before another provider provides service within those boundaries, Jonah, as a special utility district has the authority to provide both water and wastewater service within its district boundaries and to require consent prior to another entity providing service therein.¹⁸

As reflected on page 21 of the permit application regarding regionalization, TCEQ requires an applicant to indicate whether "any portion of the proposed service area is located in an incorporated city" and "[i]f consent to provide service is available from the city," the applicant must attach "a justification for the proposed facility and a cost analysis of expenditures that includes the cost of connecting to the city versus the cost of the proposed facility or expansion attached."

Similarly, the application also requires an applicant to indicate whether any portion of the proposed service area is located inside another utility's CCN area and if so, the applicant must provide "a justification for the proposed facility and a cost analysis of expenditures that includes the cost of connecting to the CCN facilities versus the cost of the proposed facility or expansion."

¹⁷ 13.244(c) requires that "[e]ach applicant for a certificate or for an amendment shall file with the utility commission evidence required by the utility commission to show that the applicant has received the required consent, franchise, or permit of the proper municipality or other public authority."

¹⁸ Water Code § 13.244(c) and 16 TAC § 24. 225(c). Jonah is a special utility district, a political subdivision of the State of Texas operating under Texas Water Code Chapter 65 and thus has all of the rights, powers, privileges, authority and functions conferred by, and shall be subject to all duties imposed by, the rules and regulations of the Texas Commission on Environmental Quality and the general laws of the State of Texas relating to special utility districts. This includes the power to provide wastewater service. Jonah Water SUD was created via Texas Water Commission Order in the matter of the petition of Jonah Water Supply Corporation for creation of and conversion to Jonah Water Special Utility District, Ordering Provision No. 6, May 15, 1992.

Neither the application, nor any supplemental documentation provide the requisite analysis to address Applicant's failure to obtain Jonah's consent or Applicant's failure to include a required cost analysis. Instead, the Applicant's witness, Mr. Tuckfield incorrectly asserts that it does not matter that the proposed facility might be within Jonah's district boundaries, citing to the TCEQ website.¹⁹ Mr. Tuckfield's reliance on TCEQ website is faulty because TCEQ's website is not a substitute for state law, here TWC Section 13.244(c).

SOAH's procedural rules regarding summary disposition allow an ALJ to grant a motion for summary disposition based on uncontroverted written testimonial evidence of an interested witness, or of an expert witness as to subject matter concerning which the judge must be guided solely by the opinion testimony of experts, if the evidence is clear, positive and direct, otherwise credible and free from contradictions and inconsistencies, and could have been readily controverted.²⁰ Mr. Tuckfield's unsupported analysis and testimony on this topic, in contradiction to and inconsistent with state law, renders it unreliable and thus not credible.²¹ Additionally, Jonah's prefiled testimony provides more than a scintilla of evidence to rebut or contradict Applicant's testimony. For example, Jonah General Manager Mr. Brown's testimony demonstrates that the Applicant did not seek or receive consent to provide wastewater service in Jonah's CCN Area which, as reflected in Exhibit MW-1, is also within Jonah's district boundary.²² Therefore, the ALJ should not rely on Mr. Tuckfield's testimony when determining whether to grant the Applicant's motion.

¹⁹ See Exhibit C, Direct Testimony and Attachments of David Tuckfield, Esq. filed on Behalf of R040062, LP at 22:22-27.

²⁰ 1 TAC § 155.505(e)

²¹ 1 TAC § 155.505(e) allows an ALJ to grant a motion for summary disposition based on uncontroverted written testimonial evidence of an interested witness, or of an expert witness as to subject matter concerning which the judge must be guided solely by the opinion testimony of experts, if the evidence is clear, positive and direct, otherwise credible and free from contradictions and inconsistencies, and could have been readily controverted.

²² See **Exhibit D**, Direct Testimony of William Brown, and **Exhibit E**, Direct Testimony of Miles Whitney.

- b. *Analysis of the TCEQ's regionalization policy under TWC Section 49.230 is required.*

The Applicant and ED staff accurately cite to portions of the state's regionalization policy in Texas Water Code §§ 26.003 and 26.0282, but omit an analysis under § 49.230 applicable when a district is affected by an application for wastewater permit. This section provides:

AREA-WIDE WASTEWATER TREATMENT. The powers and duties conferred on the district are granted subject to the policy of the state to encourage the development and use of integrated area-wide wastewater collection, treatment, and disposal systems to serve the wastewater disposal needs of the citizens of the state whenever economically feasible and competitive to do so, it being an objective of the policy to avoid the economic burden to the people and the impact on the quality of the water in the state that result from the construction and operation of numerous small wastewater collection, treatment, and disposal facilities to serve an area when an integrated area-wide wastewater collection, treatment, and disposal system for the area can be reasonably provided.

As explained in greater detail below, Jonah's testimony and exhibits demonstrate that there are numerous proposed wastewater permits pending in a concentrated area of significant growth necessitating an analysis of whether an integrated area-wide wastewater collection, treatment, and disposal system can be reasonably provided to avoid economic burden to the people and a negative impact on the quality of water in the state that may result from the construction and operation of numerous small wastewater collection, treatment, and disposal facilities proposed for the area. Testimony of both Jonah witnesses includes the expected number of new residents, the proximity of the numerous proposed wastewater plants to existing Jonah water infrastructure that could affect water quality, the actions Jonah has taken with regard to this applicant, and thus the need for further consideration of the portion of the state's regionalization policy included in TWC § 49.230.

2. Jonah has provided more than a scintilla of evidence controverting Applicant's Regionalization Analysis.

In the testimony of Miles Whitney, Jonah's professional civil engineer, Mr. Whitney explains that he is responsible for the design and management of the water and wastewater projects for Jonah, including TCEQ discharge permit applications and renewals.²³ He also assists with future planning efforts, including master planning, capital improvement plans.²⁴ Mr. Whitney describes that in the area where the proposed wastewater facility will be located, there are ten pending wastewater applications within or near Jonah's district boundary and three other pending wastewater treatment plants within 3.3 miles of the subject application.²⁵ Further, Mr. Whitney's Exhibit MW-1 documents the location and proximity of the pending permits demonstrating the need for consideration of the state's regionalization policy to address construction and operation of numerous small wastewater collection, treatment, and disposal facilities in as described in TWC § 49.230.²⁶

MW-1 also documents that the proposed facility is located within Jonah's district boundary and its water CCN territory. Jonah's district boundary is marked with a red dashed line and its water CCN territory is marked with a solid blue line. The location of the pending application is marked with a green dot with a white tag depicting the Applicant name and draft permit number. Additionally, MW-1 depicts Jonah's wastewater master plan study area, indicating that the district is actively planning for wastewater service within the district.²⁷

²³ See **Exhibit E**, Direct Testimony of Miles Whitney.

²⁴ Id. at 3:8-14.

²⁵ Id at 5:16-23.

²⁶ Id. at Exhibit MW-1.

²⁷ Id.

As noted above, testimony of Jonah General Manager, William (Bill) Brown, demonstrates that the Applicant did not seek or receive consent to provide wastewater service in Jonah's CCN Area which, as reflected in Exhibit MW-1, is also within Jonah's district boundary.²⁸ Additionally, Mr. Brown testifies that nothing in the Application indicates that Jonah is unable or unwilling to provide such service.²⁹ Moreover, Mr. Brown testifies to the exponential growth in Jonah's service area and increasing demands for both water and wastewater treatment, including the need for regional wastewater treatment to comply with the State's regionalization policy.³⁰ Finally, Mr. Brown's testimony contests the regionalization analysis, indicating that the applicant has not explained why the area would not be best served by the regionalization of wastewater treatment within Jonah.³¹

B. Jonah has provided more than a scintilla of evidence controverting Applicant's Water Quality Analysis.

As noted above, Mr. Whitney's testimony and exhibit document the proximity of the proposed facility to existing Jonah water sources. More specifically, Mr. Whitney testifies that the subject application is within 1.6 miles of three active and one inactive Jonah water wells.³² Mr. Brown's testimony also calls into question the potential impact on the water quality of the creek beds, tributaries, and other bodies of water and drainage-ways as a result of this application, explaining the discharge route will send effluent to Jonah's water source.³³ Exhibit MW-1 documents multiple wastewater permit applications that, if issued, will dump effluent into the same tributaries of the San Gabriel River, but an analysis of cumulative impacts of this application with

²⁸ See **Exhibit D**, Direct Testimony of William Brown at 4:12-18.

²⁹ Id at 6:5-6.

³⁰ Id at 7:5-10.

³¹ Id at 7:11-21.

³² See **Exhibit E**, Direct Testimony of Miles Whitney at 5:20-6:6.

³³ See **Exhibit D**, Direct Testimony of William Brown at 8:13-21.

consideration for the other pending permits that will affect Jonah's water source has not been conducted.

Both Mr. Brown and Mr. Whitney raise concerns regarding the proposed facility's impact on water quality. ED witness Lee does not directly address the water quality concerns raised by Jonah witnesses. In response to the water quality concerns raised by Mr. Brown, Ms. Lee states: "...I do not determine construction and operational standards, or implement limits based on construction and operation."³⁴ In response to the water quality concerns raised by Mr. Whitney, Ms. Lee indicates "I am not qualified to determine whether a facility's operational status or construction specifications are satisfactory to meet the recommended limits, and therefore cannot address Mr. Whitney's concerns about proper maintenance and operation sustainability."³⁵ ED witness Bhuiya addresses the limits in the permit but punts on the issue of construction and glosses over operation concerns indicating that the permit requires to the plans and specs to be approved at a later date and without explanation or provision of any information she reviewed regarding the applicants qualifications to run the facility, she agrees that the applicant has the experience to operate and maintain the plant.³⁶ Applicant witness Ms. Sims fails to address any of Mr. Brown's or Mr. Whitney's concerns directly.³⁷ This leaves open a genuine issue of material fact regarding the impact of the proposed facility on water quality based on the construction and operational standards in the permit.

³⁴ ED-BL-1:12: 1-3-27.

³⁵ ED-BL-1 14: 24-27.

³⁶ ED-SB-1 9:19-22 and 9:29-32.

³⁷ Applicant's Exhibit 10, Direct Testimony and Attachments of Janet Sims. 2:21-3:2

V. CONCLUSION

As demonstrated above, Jonah has provided more than a scintilla of evidence contesting and rebutting the Applicant's prima facie case and demonstrating that gaps exist in the Applicant's and Commission's analysis whether the application complies with all applicable statutory and regulatory requirements required under Texas Water Code § 5.557. Mr. Tuckfield's flawed testimony and faulty reliance on the TCEQ's website as guidance is not a substitute for the failure to apply Texas Water Code § 13.244(c). The omission of this analysis renders the application incomplete. Additionally, the omission of a regionalization analysis under Texas Water Code § 49.230 also renders the application incomplete. The lack of analysis creates genuine issues of material fact regarding compliance with all applicable regionalization requirements.

Jonah's witnesses' testimony raise concerns regarding the impacts on water quality based on operational and construction standards in the permit. Neither the Commission's testimony, nor the Applicant's supplemental testimony directly address this issue thus leaving another gap in the record regarding compliance with all applicable requirements. This gap renders another genuine issue of material fact to be addressed through a hearing on the merits.

In sum, Jonah's testimony and evidence coupled with the applicant's and ED's omissions demonstrate that genuine issues of material fact exist in this proceeding, necessitating a hearing on the merits and barring the ALJ from granting summary disposition under TCEQ rule 30 Tex. Admin. Code ("TAC") § 80.137 and SOAH Rule 1 TAC § 155.505(e).

VI. PRAYER

WHEREFORE, PREMISES CONSIDERED, Protestant, Jonah Water Special Utility District, prays that Applicant, R040062, LP's Motion for Summary Disposition be DENIED, and that Jonah be granted any such further relief to which it may be entitled.

Respectfully submitted,



Erin R. Selvera

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ATTORNEYS FOR PETITIONERS

CERTIFICATE OF SERVICE

I hereby certify that I have served or will serve a true and correct copy of the foregoing document on all parties of record on this 21st day of July 2023, as follows:

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
DOMESTIC WASTEWATER PERMIT APPLICATION

DOMESTIC TECHNICAL REPORT 1.0

The Following Is Required For All Applications
Renewal, New, And Amendment

Section 1. Permitted or Proposed Flows (Instructions Page 51)

A. Existing/Interim I Phase

Design Flow (MGD): 0.075

2-Hr Peak Flow (MGD): 0.300

Estimated construction start date: September 2022

Estimated waste disposal start date: July 2023

B. Interim II Phase

Design Flow (MGD): N/A

2-Hr Peak Flow (MGD):

Estimated construction start date:

Estimated waste disposal start date:

C. Final Phase

Design Flow (MGD): 0.200

2-Hr Peak Flow (MGD): 0.800

Estimated construction start date: June 2024

Estimated waste disposal start date: March 2025

D. Current operating phase: N/A

Provide the startup date of the facility: N/A

Section 2. Treatment Process (Instructions Page 51)

A. Treatment process description

Provide a detailed description of the treatment process. Include the type of

treatment plant, mode of operation, and all treatment units. Start with the plant's head works and finish with the point of discharge. Include all sludge processing and drying units. If more than one phase exists or is proposed in the permit, a description of *each phase* must be provided. Process description:

The proposed Indigo Water Resource Recovery Facility is an activated sludge with nitrification process plant operated in the extended aeration mode. The treatment processes for the Interim phase are as follows: Raw wastewater will be pumped into an aeration basin for secondary biological treatment. The secondary treated wastewater will flow into a clarifier for clarification. Then the clarified water will flow into a chlorine contact chamber for disinfection prior to discharge. Activated sludge will be returned from the clarifier to the aeration basin(s) or wasted to an aerated sludge holding tank. The treatment processes will be the same for the Final phases.

Port or pipe diameter at the discharge point, in inches: 12

B. Treatment Units

In Table 1.0(1), provide the treatment unit type, the number of units, and dimensions (length, width, depth) of each treatment unit, accounting for *all* phases of operation.

Table 1.0(1) - Treatment Units

Treatment Unit Type	Number of Units	Dimensions (L x W x D)
See Attachment F.		

C. Process flow diagrams

Provide flow diagrams for the existing facilities and each proposed phase of construction.

Attachment: G

Section 3. Site Drawing (Instructions Page 52)

Provide a site drawing for the facility that shows the following:

- The boundaries of the treatment facility;
- The boundaries of the area served by the treatment facility;
- If land disposal of effluent, the boundaries of the disposal site and all storage/holding ponds; and
- If sludge disposal is authorized in the permit, the boundaries of the land application or disposal site.

Attachment: H

Provide the name and a description of the area served by the treatment facility.

The area served will be the proposed development and adjacent property outside of the City of Georgetown.

Section 4. Unbuilt Phases (Instructions Page 52)

Is the application for a renewal of a permit that contains an unbuilt phase or phases?

Yes ☐

No ☒

If yes, does the existing permit contain a phase that has not been constructed within five years of being authorized by the TCEQ?

Yes ☐

No ☐

If yes, provide a detailed discussion regarding the continued need for the unbuilt phase. Failure to provide sufficient justification may result in the Executive Director recommending denial of the unbuilt phase or phases.

Section 5. Closure Plans (Instructions Page 53)

Have any treatment units been taken out of service permanently, or will any units be taken out of service in the next five years?

Yes ☐ No ☒

If yes, was a closure plan submitted to the TCEQ?

Yes ☐ No ☐

If yes, provide a brief description of the closure and the date of plan approval.

Section 6. Permit Specific Requirements (Instructions Page 53)

For applicants with an existing permit, check the *Other Requirements* or *Special Provisions* of the permit.

A. Summary transmittal

Have plans and specifications been approved for the existing facilities and each proposed phase?

Yes ☐ No ☐ N/A

If yes, provide the date(s) of approval for each phase:

Provide information, including dates, on any actions taken to meet a requirement or provision pertaining to the submission of a summary transmittal letter. Provide a copy of an approval letter from the TCEQ, if applicable.

B. Buffer zones

Have the buffer zone requirements been met?

Yes ☒ No ☐

Provide information below, including dates, on any actions taken to meet the conditions of the buffer zone. If available, provide any new documentation

relevant to maintaining the buffer zones.

C. Other actions required by the current permit

Does the *Other Requirements* or *Special Provisions* section in the existing permit require submission of any other information or other required actions? Examples include Notification of Completion, progress reports, soil monitoring data, etc.

Yes ☐

No ☐

N/A

If **yes**, provide information below on the status of any actions taken to meet the conditions of an *Other Requirement* or *Special Provision*.

D. Grit and grease treatment

1. Acceptance of grit and grease waste

Does the facility have a grit and/or grease processing facility onsite that treats and decants or accepts transported loads of grit and grease waste that are discharged directly to the wastewater treatment plant prior to any treatment?

Yes ☐

No ☒

If **No**, stop here and continue with Subsection E. Stormwater Management.

2. Grit and grease processing

Describe below how the grit and grease waste is treated at the facility. In your description, include how and where the grit and grease is introduced to the treatment works and how it is separated or processed. Provide a flow diagram showing how grit and grease is processed at the facility.

3. Grit disposal

Does the facility have a Municipal Solid Waste (MSW) registration or permit for grit disposal?

Yes ☐ No ☐

If **No**, contact the TCEQ Municipal Solid Waste team at 512-239-0000. Note: A registration or permit is required for grit disposal. Grit shall not be combined with treatment plant sludge. See the instruction booklet for additional information on grit disposal requirements and restrictions.

Describe the method of grit disposal.

4. Grease and decanted liquid disposal

Note: A registration or permit is required for grease disposal. Grease shall not be combined with treatment plant sludge. For more information, contact the TCEQ Municipal Solid Waste team at 512-239-0000.

Describe how the decant and grease are treated and disposed of after grit separation.

E. Stormwater management

1. Applicability

Does the facility have a design flow of 1.0 MGD or greater in any phase?

Yes ☐ No ☒

Does the facility have an approved pretreatment program, under 40 CFR Part 403?

Yes ☐ No ☒

If no to both of the above, then skip to Subsection F, Other Wastes Received.

2. MSGP coverage

Is the stormwater runoff from the WWTP and dedicated lands for sewage disposal currently permitted under the TPDES Multi-Sector General Permit (MSGP), TXR050000?

Yes ☐ No ☐

If yes, please provide MSGP Authorization Number and skip to Subsection F, Other Wastes Received:

TXR05 [REDACTED] or TXRNE [REDACTED]

If no, do you intend to seek coverage under TXR050000?

Yes ☐ No ☐

3. Conditional exclusion

Alternatively, do you intend to apply for a conditional exclusion from permitting based TXR050000 (Multi Sector General Permit) Part II B.2 or TXR050000 (Multi Sector General Permit) Part V, Sector T 3(b)?

Yes ☐ No ☐

If yes, please explain below then proceed to Subsection F, Other Wastes Received:

4. Existing coverage in individual permit

Is your stormwater discharge currently permitted through this individual TPDES or TLAP permit?

Yes ☐ No ☐

If yes, provide a description of stormwater runoff management practices at the site that are authorized in the wastewater permit then skip to Subsection F, Other Wastes Received.

5. Zero stormwater discharge

Do you intend to have no discharge of stormwater via use of evaporation or other means?

Yes ☐ No ☐

If yes, explain below then skip to Subsection F. Other Wastes Received.

Note: If there is a potential to discharge any stormwater to surface water in the state as the result of any storm event, then permit coverage is required under the MSGP or an individual discharge permit. This requirement applies to all areas of facilities with treatment plants or systems that treat, store, recycle, or reclaim domestic sewage, wastewater or sewage sludge (including dedicated lands for sewage sludge disposal located within the onsite property boundaries) that meet the applicability criteria of above. You have the option of obtaining coverage under the MSGP for direct discharges, (recommended), or obtaining coverage under this individual permit.

6. Request for coverage in individual permit

Are you requesting coverage of stormwater discharges associated with your treatment plant under this individual permit?

Yes ☐ No ☐

If yes, provide a description of stormwater runoff management practices at the site for which you are requesting authorization in this individual wastewater permit and describe whether you intend to comingle this discharge with your treated effluent or discharge it via a separate dedicated stormwater outfall. Please also indicate if you intend to divert stormwater to the treatment plant headworks and indirectly discharge it to water in the state.

Note: Direct stormwater discharges to waters in the state authorized through this individual permit will require the development and implementation of a stormwater pollution prevention plan (SWPPP) and will be subject to additional monitoring and reporting requirements. Indirect discharges of stormwater via headworks recycling will require compliance with all individual permit requirements including 2-hour peak flow limitations. All stormwater discharge authorization requests will require additional information during the technical review of your application.

F. Discharges to the Lake Houston Watershed

Does the facility discharge in the Lake Houston watershed?

Yes ☐ No ☒

If yes, a Sewage Sludge Solids Management Plan is required. See Example 5 in the instructions.

G. Other wastes received including sludge from other WWTPs and septic waste

1. Acceptance of sludge from other WWTPs

Does the facility accept or will it accept sludge from other treatment plants at the facility site?

Yes ☐ No ☒

If yes, attach sewage sludge solids management plan. See Example 5 of the instructions.

In addition, provide the date that the plant started accepting sludge or is anticipated to start accepting sludge, an estimate of monthly sludge acceptance (gallons or millions of gallons), an estimate of the BOD₅ concentration of the sludge, and the design BOD₅ concentration of the influent from the collection system. Also note if this information has or has not changed since the last permit action.

N/A

Note: Permits that accept sludge from other wastewater treatment plants may be required to have influent flow and organic loading monitoring.

2. Acceptance of septic waste

Is the facility accepting or will it accept septic waste?

Yes ☐ No ☒

If **yes**, does the facility have a Type V processing unit?

Yes ☐ No ☒

If **yes**, does the unit have a Municipal Solid Waste permit?

Yes ☐ No ☒

If **yes to any of the above**, provide a the date that the plant started accepting septic waste, or is anticipated to start accepting septic waste, an estimate of monthly septic waste acceptance (gallons or millions of gallons), an estimate of the BOD₅ concentration of the septic waste, and the design BOD₅ concentration of the influent from the collection system. Also note if this information has or has not changed since the last permit action.

N/A

Note: Permits that accept sludge from other wastewater treatment plants may be required to have influent flow and organic loading monitoring.

3. Acceptance of other wastes (not including septic, grease, grit, or RCRA, CERCLA or as discharged by IUs listed in Worksheet 6)

Is the facility accepting or will it accept wastes that are not domestic in nature excluding the categories listed above?

Yes ☐ No ☒

If **yes**, provide the date that the plant started accepting the waste, an estimate how much waste is accepted on a monthly basis (gallons or millions of gallons), a description of the entities generating the waste, and any distinguishing chemical or other physical characteristic of the waste. Also note if this information has or has not changed since the last permit action.

N/A

Section 7. Pollutant Analysis of Treated Effluent (Instructions Page 58)

Is the facility in operation?

Yes ☐

No ☒

If **no**, this section is not applicable. Proceed to Section 8.

If **yes**, provide effluent analysis data for the listed pollutants. **Wastewater treatment facilities** complete Table 1.0(2). **Water treatment facilities** discharging filter backwash water, complete Table 1.0(3).

Note: The sample date must be within 1 year of application submission.

Table 1.0(2) - Pollutant Analysis for Wastewater Treatment Facilities

Pollutant	Average Conc.	Max Conc.	No. of Samples	Sample Type	Sample Date/Time
CBOD ₅ , mg/l					
Total Suspended Solids, mg/l					
Ammonia Nitrogen, mg/l					
Nitrate Nitrogen, mg/l					
Total Kjeldahl Nitrogen, mg/l					
Sulfate, mg/l					
Chloride, mg/l					
Total Phosphorus, mg/l					
pH, standard units					
Dissolved Oxygen*, mg/l					
Chlorine Residual, mg/l					
<i>E.coli</i> (CFU/100ml) freshwater					
Enterococci (CFU/100ml)					

Pollutant	Average Conc.	Max Conc.	No. of Samples	Sample Type	Sample Date/Time
saltwater					
Total Dissolved Solids, mg/l					
Electrical Conductivity, μ mohs/cm, †					
Oil & Grease, mg/l					
Alkalinity (CaCO ₃)*, mg/l					

*TPDES permits only

†TLAP permits only

Table 1.0(3) - Pollutant Analysis for Water Treatment Facilities

Pollutant	Average Conc.	Max Conc.	No. of Samples	Sample Type	Sample Date/Time
Total Suspended Solids, mg/l					
Total Dissolved Solids, mg/l					
pH, standard units					
Fluoride, mg/l					
Aluminum, mg/l					
Alkalinity (CaCO ₃), mg/l					

Section 8. Facility Operator (Instructions Page 60)

Facility Operator Name: Inframark LLC

Facility Operator's License Classification and Level: WWOL

Facility Operator's License Number: OC0000232

Section 9. Sewage Sludge Management and Disposal (Instructions Page 60)

A. Sludge disposal method

Identify the current or anticipated sludge disposal method or methods from the

following list. Check all that apply.

- ☐ Permitted landfill
- ☐ Permitted or Registered land application site for beneficial use
- ☐ Land application for beneficial use authorized in the wastewater permit
- ☐ Permitted sludge processing facility
- ☐ Marketing and distribution as authorized in the wastewater permit
- ☐ Composting as authorized in the wastewater permit
- ☐ Permitted surface disposal site (sludge monofill)
- ☐ Surface disposal site (sludge monofill) authorized in the wastewater permit
- ☒ Transported to another permitted wastewater treatment plant or permitted sludge processing facility. If you selected this method, a written statement or contractual agreement from the wastewater treatment plant or permitted sludge processing facility accepting the sludge must be included with this application. **See Attachment I.**
- ☐ Other:

B. Sludge disposal site

Disposal site name: **Austin Wastewater Processing Facility**

TCEQ permit or registration number: **MSW 2384**

County where disposal site is located: **Travis**

C. Sludge transportation method

Method of transportation (truck, train, pipe, other): **truck**

Name of the hauler: **WasteWater Transportation Services**

Hauler registration number: **24343**

Sludge is transported as a:

Liquid ☒ semi-liquid ☐ semi-solid ☐ solid ☐

**Section 10. Permit Authorization for Sewage Sludge Disposal
(Instructions Page 60)****A. Beneficial use authorization**

Does the existing permit include authorization for land application of sewage sludge for beneficial use?

Yes ☐ No ☒

If **yes**, are you requesting to continue this authorization to land apply sewage sludge for beneficial use?

Yes ☐ No ☐

If **yes**, is the completed **Application for Permit for Beneficial Land Use of Sewage Sludge (TCEQ Form No. 10451)** attached to this permit application (see the instructions for details)?

Yes ☐ No ☐

B. Sludge processing authorization

Does the existing permit include authorization for any of the following sludge processing, storage or disposal options?

Sludge Composting Yes ☐ No ☒

Marketing and Distribution of sludge Yes ☐ No ☒

Sludge Surface Disposal or Sludge Monofill Yes ☐ No ☒

Temporary storage in sludge lagoons Yes ☐ No ☒

If **yes** to any of the above sludge options and the applicant is requesting to continue this authorization, is the completed **Domestic Wastewater Permit Application: Sewage Sludge Technical Report (TCEQ Form No. 10056)** attached to this permit application?

Yes ☐ No ☐

Section 11. Sewage Sludge Lagoons (Instructions Page 61)

Does this facility include sewage sludge lagoons?

Yes ☐ No ☒

If **yes**, complete the remainder of this section. If **no**, proceed to Section 12.

A. Location information

The following maps are required to be submitted as part of the application. For each map, provide the Attachment Number.

- Original General Highway (County) Map:
Attachment: [REDACTED]
- USDA Natural Resources Conservation Service Soil Map:
Attachment: [REDACTED]
- Federal Emergency Management Map:
Attachment: [REDACTED]
- Site map:
Attachment: [REDACTED]

Discuss in a description if any of the following exist within the lagoon area.
Check all that apply.

- ☐ Overlap a designated 100-year frequency flood plain
- ☐ Soils with flooding classification
- ☐ Overlap an unstable area
- ☐ Wetlands
- ☐ Located less than 60 meters from a fault
- ☐ None of the above

Attachment: [REDACTED]

If a portion of the lagoon(s) is located within the 100-year frequency flood plain, provide the protective measures to be utilized including type and size of protective structures:

B. Temporary storage information

Provide the results for the pollutant screening of sludge lagoons. These results are in addition to pollutant results in Section 7 of Technical Report 1.0.

Nitrate Nitrogen, mg/kg: [REDACTED]

Total Kjeldahl Nitrogen, mg/kg: [REDACTED]

Total Nitrogen (=nitrate nitrogen + TKN), mg/kg: [REDACTED]

Phosphorus, mg/kg: [REDACTED]

Potassium, mg/L [redacted]
pH, standard units [redacted]
Ammonia Nitrogen, mg/L [redacted]
Arsenic [redacted]
Cadmium [redacted]
Chromium [redacted]
Copper [redacted]
Lead [redacted]
Mercury [redacted]
Molybdenum [redacted]
Nickel [redacted]
Selenium [redacted]
Zinc [redacted]
Total PCBs [redacted]

Provide the following information:

Volume and frequency of sludge to the lagoon(s): [redacted]

Total dry tons stored in the lagoons(s) per 365-day period: [redacted]

Total dry tons stored in the lagoons(s) over the life of the unit [redacted]

C. Liner information

Does the active/proposed sludge lagoon(s) have a liner with a maximum hydraulic conductivity of 1×10^{-10} cm/sec?

Yes ☐ No ☐

If yes, describe the liner below. Please note that a liner is required

[Redacted description of liner]

D. Site development plan

Provide a detailed description of the methods used to deposit sludge in the

lagoon(s):

Attach the following documents to the application.

- Plan view and cross-section of the sludge lagoon(s)

Attachment:

- Copy of the closure plan

Attachment:

- Copy of deed recordation for the site

Attachment:

- Size of the sludge lagoon(s) in surface acres and capacity in cubic feet and gallons

Attachment:

- Description of the method of controlling infiltration of groundwater and surface water from entering the site

Attachment:

- Procedures to prevent the occurrence of nuisance conditions

Attachment:

E. Groundwater monitoring

Is groundwater monitoring currently conducted at this site, or are any wells available for groundwater monitoring, or are groundwater monitoring data otherwise available for the sludge lagoon(s)?

Yes ☐ No ☐

If groundwater monitoring data are available, provide a copy. Provide a profile of soil types encountered down to the groundwater table and the depth to the shallowest groundwater as a separate attachment.

Attachment:

Section 12. Authorizations/Compliance/Enforcement

(Instructions Page 63)**A. Additional authorizations**

Does the permittee have additional authorizations for this facility, such as reuse authorization, sludge permit, etc?

Yes ☐ No ☒

If **yes**, provide the TCEQ authorization number and description of the authorization:

N/A

B. Permittee enforcement status

Is the permittee currently under enforcement for this facility?

Yes ☐ No ☒

Is the permittee required to meet an implementation schedule for compliance or enforcement?

Yes ☐ No ☒

If **yes** to either question, provide a brief summary of the enforcement, the implementation schedule, and the current status:

N/A

Section 13. RCRA/CERCLA Wastes (Instructions Page 63)**A. RCRA hazardous wastes**

Has the facility received in the past three years, does it currently receive, or will it receive RCRA hazardous waste?

Yes ☐ No ☒

B. Remediation activity wastewater

Has the facility received in the past three years, does it currently receive, or will it receive CERCLA wastewater, RCRA remediation/corrective action wastewater or other remediation activity wastewater?

Yes ☐ No ☒

C. Details about wastes received

If yes to either Subsection A or B above, provide detailed information concerning these wastes with the application.

Attachment: N/A

Exhibit A

Section 14. Laboratory Accreditation (Instructions Page 64)

All laboratory tests performed must meet the requirements of *30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification*, which includes the following general exemptions from National Environmental Laboratory Accreditation Program (NELAP) certification requirements:

- The laboratory is an in-house laboratory and is:
 - periodically inspected by the TCEQ; or
 - located in another state and is accredited or inspected by that state; or
 - performing work for another company with a unit located in the same site; or
 - performing pro bono work for a governmental agency or charitable organization.
- The laboratory is accredited under federal law.
- The data are needed for emergency-response activities, and a laboratory accredited under the Texas Laboratory Accreditation Program is not available.
- The laboratory supplies data for which the TCEQ does not offer accreditation.

The applicant should review *30 TAC Chapter 25* for specific requirements.

The following certification statement shall be signed and submitted with every application. See the *Signature Page* section in the Instructions, for a list of designated representatives who may sign the certification.

CERTIFICATION:

I certify that all laboratory tests submitted with this application meet the requirements of *30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification*.

Printed Name: Louis Mertz

Title: Manager

Signature: 

Date: 6/2/2021

Exhibit A

DOMESTIC TECHNICAL REPORT 1.1

The following is required for new and amendment applications

Section 1. Justification for Permit (Instructions Page 66)

A. Justification of permit need

Provide a detailed discussion regarding the need for any phase(s) not currently permitted. Failure to provide sufficient justification may result in the Executive Director recommending denial of the proposed phase(s) or permit.

See Attachment J.

B. Regionalization of facilities

Provide the following information concerning the potential for regionalization of domestic wastewater treatment facilities:

1. Municipally incorporated areas

If the applicant is a city, then Item 1 is not applicable. Proceed to Item 2 Utility CCN areas.

Is any portion of the proposed service area located in an incorporated city?

Yes ☐ No ☒ Not Applicable ☐

If yes, within the city limits of: N/A

If yes, attach correspondence from the city.

Attachment: N/A

If consent to provide service is available from the city, attach a justification for the proposed facility and a cost analysis of expenditures that includes the cost of connecting to the city versus the cost of the proposed facility or expansion attached.

Attachment: N/A

2. Utility CCN areas

Exhibit A

Is any portion of the proposed service area located inside another utility's CCN area?

Yes ☐ No ☒

If **yes**, attach a justification for the proposed facility and a cost analysis of expenditures that includes the cost of connecting to the CCN facilities versus the cost of the proposed facility or expansion.

Attachment: N/A

3. Nearby WWTPs or collection systems

Are there any domestic permitted wastewater treatment facilities or collection systems located within a three-mile radius of the proposed facility?

Yes ☒ No ☐

If **yes**, attach a list of these facilities that includes the permittee's name and permit number, and an area map showing the location of these facilities.

Attachment: K.1

If **yes**, attach copies of your certified letters to these facilities **and** their response letters concerning connection with their system.

Attachment: K.2

Does a permitted domestic wastewater treatment facility or a collection system located within three (3) miles of the proposed facility currently have the capacity to accept or is willing to expand to accept the volume of wastewater proposed in this application?

Yes ☒ No ☐

If **yes**, attach an analysis of expenditures required to connect to a permitted wastewater treatment facility or collection system located within 3 miles versus the cost of the proposed facility or expansion.

Attachment: K.3

Section 2. Organic Loading (Instructions Page 67)

Is this facility in operation?

Yes ☐ No ☒

If **no**, proceed to Item B, Proposed Organic Loading.

Exhibit A

If yes, provide organic loading information in Item A, Current Organic Loading

A. Current organic loading

Facility Design Flow (flow being requested in application): N/A

Average Influent Organic Strength or BOD₅ Concentration in mg/l: N/A

Average Influent Loading (lbs/day = total average flow X average BOD₅ conc. X 8.34): N/A

Provide the source of the average organic strength or BOD₅ concentration.

N/A

B. Proposed organic loading

This table must be completed if this application is for a facility that is not in operation or if this application is to request an increased flow that will impact organic loading.

Table 1.1(1) - Design Organic Loading

Source	Total Average Flow (MGD) Interim I/Final	Influent BOD ₅ Concentration (mg/l)
Municipality		
Subdivision	0.075/0.2	300
Trailer park - transient		
Mobile home park		
School with cafeteria and showers		
School with cafeteria, no showers		
Recreational park,		

Exhibit A

Source	Total Average Flow (MGD)	Influent BOD ₅ Concentration (mg/l)
overnight use		
Recreational park, day use		
Office building or factory		
Motel		
Restaurant		
Hospital		
Nursing home		
Other		
TOTAL FLOW from all sources	0.075/0.2	
AVERAGE BOD ₅ from all sources		300

Section 3. Proposed Effluent Quality and Disinfection (Instructions Page 68)

A. Existing/Interim I Phase Design Effluent Quality

Biochemical Oxygen Demand (5-day), mg/l: 10

Total Suspended Solids, mg/l: 15

Ammonia Nitrogen, mg/l: 3

Total Phosphorus, mg/l: --

Dissolved Oxygen, mg/l: 4

Other:

Exhibit A

B. Interim II Phase Design Effluent Quality

Biochemical Oxygen Demand (5-day), mg/l:

Total Suspended Solids, mg/l:

Ammonia Nitrogen, mg/l:

Total Phosphorus, mg/l:

Dissolved Oxygen, mg/l:

Other:

C. Final Phase Design Effluent Quality

Biochemical Oxygen Demand (5-day), mg/l: 10

Total Suspended Solids, mg/l: 15

Ammonia Nitrogen, mg/l: 3

Total Phosphorus, mg/l:

Dissolved Oxygen, mg/l: 4

Other:

D. Disinfection Method

Identify the proposed method of disinfection.

- ☒ Chlorine: 1.0 mg/l after 20 minutes minutes detention time at peak flow

Dechlorination process: N/A

- ☐ Ultraviolet Light: seconds contact time at peak flow

- ☐ Other:

Section 4. Design Calculations (Instructions Page 68)

Attach design calculations and plant features for each proposed phase. Example 4 of the instructions includes sample design calculations and plant features.

Attachment: L

Section 5. Facility Site (Instructions Page 68)

A. 100-year floodplain

Will the proposed facilities be located above the 100-year frequency flood level?

Yes ☒ No ☐

If **no**, describe measures used to protect the facility during a flood event. Include a site map showing the location of the treatment plant within the 100-year frequency flood level. If applicable, provide the size and types of protective structures.

[Redacted area for flood protection measures]

Provide the source(s) used to determine 100-year frequency flood plain.

The current FEMA Flood Insurance Rate Map, panel 48491C0505F, with an effective date of 12/19/2019.

For a new or expansion of a facility, will a wetland or part of a wetland be filled?

Yes ☐ No ☒

If **yes**, has the applicant applied for a US Corps of Engineers 404 Dredge and Fill Permit?

Yes ☐ No ☐

If **yes**, provide the permit number: [Redacted]

If **no**, provide the approximate date you anticipate submitting your application to the Corps: [Redacted]

B. Wind rose

Attach a wind rose. Attachment: M

Section 6. Permit Authorization for Sewage Sludge Disposal (Instructions Page 69)

A. Beneficial use authorization

Are you requesting to include authorization to land apply sewage sludge for beneficial use on property located adjacent to the wastewater treatment facility under the wastewater permit?

Yes ☐ No ☒

If **yes**, attach the completed Application for Permit for Beneficial Land Use of Sewage Sludge (TCEQ Form No. 10451)

Attachment: N/A

B. Sludge processing authorization

Identify the sludge processing, storage or disposal options that will be conducted at the wastewater treatment facility:

- ☐ Sludge Composting
- ☐ Marketing and Distribution of sludge
- ☐ Sludge Surface Disposal or Sludge Monofill

If **any of the above** sludge options are selected, attach a completed DOMESTIC WASTEWATER PERMIT APPLICATION: SEWAGE SLUDGE TECHNICAL REPORT (TCEQ Form No. 10056).

Attachment: N/A

**Section 7. Sewage Sludge Solids Management Plan (Instructions
Page 69)**

Attach a solids management plan to the application.

Attachment: N

The sewage sludge solids management plan must contain the following information:

- Treatment units and processes dimensions and capacities
- Solids generated at 100, 75, 50, and 25 percent of design flow
- Mixed liquor suspended solids operating range at design and projected actual flow
- Quantity of solids to be removed and a schedule for solids removal
- Identification and ownership of the ultimate sludge disposal site
- For facultative lagoons, design life calculations, monitoring well locations and depths, and the ultimate disposal method for the sludge from the facultative lagoon

An example of a sewage sludge solids management plan has been included as Example 5 of the instructions.

DOMESTIC TECHNICAL REPORT WORKSHEET 2.0

RECEIVING WATERS

The following is required for all TPDES permit applications

Section 1. Domestic Drinking Water Supply (Instructions Page 73)

Is there a surface water intake for domestic drinking water supply located within 5 miles downstream from the point or proposed point of discharge?

Yes ☐ No ☒

If yes, provide the following:

Owner of the drinking water supply: N/A

Distance and direction to the intake: N/A

Attach a USGS map that identifies the location of the intake.

Attachment: N/A

Section 2. Discharge into Tidally Affected Waters (Instructions Page 73)

Does the facility discharge into tidally affected waters?

Yes ☐ No ☒

If yes, complete the remainder of this section. If no, proceed to Section 3.

A. Receiving water outfall

Width of the receiving water at the outfall, in feet:

B. Oyster waters

Are there oyster waters in the vicinity of the discharge?

Yes ☐ No ☐

If yes, provide the distance and direction from outfall(s).

<div></div>

C. Sea grasses

Are there any sea grasses within the vicinity of the point of discharge?

Yes ☐ No ☐

If yes, provide the distance and direction from the outfall(s).

Section 3. Classified Segments (Instructions Page 73)

Is the discharge directly into (or within 300 feet of) a classified segment?

Yes ☐ No ☒

If yes, this Worksheet is complete.

If no, complete Sections 4 and 5 of this Worksheet.

**Section 4. Description of Immediate Receiving Waters
(Instructions Page 75)**

Name of the immediate receiving waters: Unnamed tributary

A. Receiving water type

Identify the appropriate description of the receiving waters.

☒ Stream

☐ Freshwater Swamp or Marsh

☐ Lake or Pond

Surface area, in acres:

Average depth of the entire water body, in feet:

Average depth of water body within a 500-foot radius of discharge point, in feet:

☐ Man-made Channel or Ditch

- ☐ Open Bay
- ☐ Tidal Stream, Bayou, or Marsh
- ☐ Other, specify:

B. Flow characteristics

If a stream, man-made channel or ditch was checked above, provide the following. For existing discharges, check one of the following that best characterizes the area *upstream* of the discharge. For new discharges, characterize the area *downstream* of the discharge (check one).

- ☒ Intermittent - dry for at least one week during most years
- ☐ Intermittent with Perennial Pools - enduring pools with sufficient habitat to maintain significant aquatic life uses
- ☐ Perennial - normally flowing

Check the method used to characterize the area upstream (or downstream for new dischargers).

- ☐ USGS flow records
- ☐ Historical observation by adjacent landowners
- ☒ Personal observation
- ☒ Other, specify: Aerial photograph

C. Downstream perennial confluences

List the names of all perennial streams that join the receiving water within three miles downstream of the discharge point.

Mankins Branch

D. Downstream characteristics

Do the receiving water characteristics change within three miles downstream of the discharge (e.g., natural or man-made dams, ponds, reservoirs, etc.)?

Yes ☐ No ☒

If yes, discuss how.

N/A

E. Normal dry weather characteristics

Provide general observations of the water body during normal dry weather conditions.

The channel for the proposed outfall location was covered with thick grass vegetation. No water observed.

Date and time of observation: 5/13/2021 @ 12:30 pm

Was the water body influenced by stormwater runoff during observations?

Yes ☐

No ☒

**Section 5. General Characteristics of the Waterbody (Instructions
Page 74)**

A. Upstream influences

Is the immediate receiving water upstream of the discharge or proposed discharge site influenced by any of the following? Check all that apply.

☐ Oil field activities

☐ Urban runoff

☐ Upstream discharges

☒ Agricultural runoff

☐ Septic tanks

☐ Other(s), specify

B. Waterbody uses

Observed or evidences of the following uses. Check all that apply.

☒ Livestock watering

☐ Contact recreation

☐ Irrigation withdrawal

☒ Non-contact recreation

☐ Fishing

☐ Navigation

- | | |
|--|--|
| <input type="checkbox"/> Domestic water supply | <input type="checkbox"/> Industrial water supply |
| <input type="checkbox"/> Park activities | <input type="checkbox"/> Other(s), specify _____ |

C. Waterbody aesthetics

Check one of the following that best describes the aesthetics of the receiving water and the surrounding area.

- ☐ Wilderness: outstanding natural beauty; usually wooded or unpastured area; water clarity exceptional
- ☒ Natural Area: trees and/or native vegetation; some development evident (from fields, pastures, dwellings); water clarity discolored
- ☐ Common Setting: not offensive; developed but uncluttered; water may be colored or turbid
- ☐ Offensive: stream does not enhance aesthetics; cluttered; highly developed; dumping areas; water discolored

**R040062 LP
INDIGO WATER RESOURCE RECLAMATION FACILITY
NEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
APPLICATION**

ATTACHMENT

REFERENCE

A. Core Data Form	Admin Report 1.0, Section 3.C
B. USGS Map	Admin Report 1.0, Section 13
C. Affected Landowner Information	Admin Report 1.1, Section 1
D. Original Photographs	Admin Report 1.1, Section 2
E. Buffer Zone Map	Admin Report 1.1, Section 3
F. Treatment Units	Tech Report 1.0, Section 2.B
G. Process Flow Diagram	Tech Report 1.0, Section 2.C
H. Site Drawing	Tech Report 1.0, Section 3
I. Sludge Acceptance Agreement	Tech Report 1.0, Section 9.A
J. Justification for Permit	Tech Report 1.1, Section 1.A
K. Nearby Collection System and Analysis of Expenditures	Tech Report 1.1, Section 1.B.3
L. Design Calculation and Plant Features	Tech Report 1.1, Section 4
M. Windrose	Tech Report 1.1, Section 5.B
N. Sewage Sludge Solids Management Plan	Tech Report 1.1, Section 7

Attachment A
Core Data Form
Admin Report 1.0, Section 3.C



Exhibit A

TCEQ Use Only

TCEQ Core Data Form

For detailed instructions regarding completion of this form, please read the Core Data Form Instructions or call 512-239-5175.

SECTION I: General Information

1. Reason for Submission (If other is checked please describe in space provided.)		
<input checked="" type="checkbox"/> New Permit, Registration or Authorization (Core Data Form should be submitted with the program application.)		
<input type="checkbox"/> Renewal (Core Data Form should be submitted with the renewal form)		<input type="checkbox"/> Other
2. Customer Reference Number (if issued)	Follow this link to search for CN or RN numbers in Central Registry**	3. Regulated Entity Reference Number (if issued)
CN		RN

SECTION II: Customer Information

4. General Customer Information		5. Effective Date for Customer Information Updates (mm/dd/yyyy)	
<input checked="" type="checkbox"/> New Customer		<input type="checkbox"/> Update to Customer Information	
<input type="checkbox"/> Change in Legal Name (Verifiable with the Texas Secretary of State or Texas Comptroller of Public Accounts)		<input type="checkbox"/> Change in Regulated Entity Ownership	
The Customer Name submitted here may be updated automatically based on what is current and active with the Texas Secretary of State (SOS) or Texas Comptroller of Public Accounts (CPA).			
6. Customer Legal Name (If an individual, print last name first: eg: Doe, John)		If new Customer, enter previous Customer below:	
R040062 LP			
7. TX SOS/CPA Filing Number	8. TX State Tax ID (11 digits)	9. Federal Tax ID (9 digits)	10. DUNS Number (if applicable)
803969672	32078183665		
11. Type of Customer:	<input type="checkbox"/> Corporation	<input type="checkbox"/> Individual	Partnership: <input type="checkbox"/> General <input checked="" type="checkbox"/> Limited
Government: <input type="checkbox"/> City <input type="checkbox"/> County <input type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/> Other	<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Other:	
12. Number of Employees		13. Independently Owned and Operated?	
<input checked="" type="checkbox"/> 0-20 <input type="checkbox"/> 21-100 <input type="checkbox"/> 101-250 <input type="checkbox"/> 251-500 <input type="checkbox"/> 501 and higher		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
14. Customer Role (Proposed or Actual) – as it relates to the Regulated Entity listed on this form. Please check one of the following			
<input type="checkbox"/> Owner <input type="checkbox"/> Operator <input checked="" type="checkbox"/> Owner & Operator			
<input type="checkbox"/> Occupational Licensee <input type="checkbox"/> Responsible Party <input type="checkbox"/> Voluntary Cleanup Applicant <input type="checkbox"/> Other:			
15. Mailing Address:	5599 San Felipe St., Suite 565		
City	Houston	State	TX
ZIP	77056	ZIP + 4	
16. Country Mailing Information (if outside USA)		17. E-Mail Address (if applicable)	
		lmertz@scipioventures.com	
18. Telephone Number	19. Extension or Code	20. Fax Number (if applicable)	
(832) 485-1907		() -	

SECTION III: Regulated Entity Information

21. General Regulated Entity Information (If 'New Regulated Entity' is selected below this form should be accompanied by a permit application)	
<input checked="" type="checkbox"/> New Regulated Entity <input type="checkbox"/> Update to Regulated Entity Name <input type="checkbox"/> Update to Regulated Entity Information	
The Regulated Entity Name submitted may be updated in order to meet TCEQ Agency Data Standards (removal of organizational endings such as Inc, LP, or LLC).	
22. Regulated Entity Name (Enter name of the site where the regulated action is taking place.)	
Indigo Water Resource Recovery Facility	

Exhibit A

23. Street Address of the Regulated Entity: (No PO Boxes)									
		City		State		ZIP		ZIP + 4	
24. County		Williamson							
Enter Physical Location Description if no street address is provided.									
25. Description to Physical Location:		The facility is located off the west end of Madison Drive approximately 5,500 feet west of the TX 130 Toll Road overpass to CR 105.							
26. Nearest City		Georgetown				State		Nearest ZIP Code	
						TX		78626	
27. Latitude (N) In Decimal:		30.60798		28. Longitude (W) In Decimal:		97.61900			
Degrees	Minutes	Seconds	Degrees	Minutes	Seconds				
30	36	28.73	-97	37	8.41				
29. Primary SIC Code (4 digits)		30. Secondary SIC Code (4 digits)		31. Primary NAICS Code (5 or 6 digits)		32. Secondary NAICS Code (5 or 6 digits)			
6552				237210					
33. What is the Primary Business of this entity? (Do not repeat the SIC or NAICS description.)									
Real estate developer									
34. Mailing Address:		5599 San Felipe St, Suite 565							
		City	Houston	State	TX	ZIP	77027	ZIP + 4	
35. E-Mail Address:		lmertz@scipioventures.com							
36. Telephone Number		37. Extension or Code		38. Fax Number (if applicable)					
(832) 485-1907				() -					

39. TCEQ Programs and ID Numbers Check all Programs and write in the permits/registration numbers that will be affected by the updates submitted on this form. See the Core Data Form instructions for additional guidance.

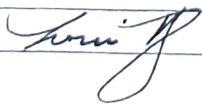
<input type="checkbox"/> Dam Safety	<input type="checkbox"/> Districts	<input type="checkbox"/> Edwards Aquifer	<input type="checkbox"/> Emissions Inventory Air	<input type="checkbox"/> Industrial Hazardous Waste
<input type="checkbox"/> Municipal Solid Waste	<input type="checkbox"/> New Source Review Air	<input type="checkbox"/> OSSF	<input type="checkbox"/> Petroleum Storage Tank	<input type="checkbox"/> PWS
<input type="checkbox"/> Sludge	<input type="checkbox"/> Storm Water	<input type="checkbox"/> Title V Air	<input type="checkbox"/> Tires	<input type="checkbox"/> Used Oil
<input type="checkbox"/> Voluntary Cleanup	<input checked="" type="checkbox"/> Waste Water	<input type="checkbox"/> Wastewater Agriculture	<input type="checkbox"/> Water Rights	<input type="checkbox"/> Other:
	New			

SECTION IV: Preparer Information

40. Name:	Janet Sims		41. Title:	Project Manager	
42. Telephone Number	43. Ext./Code	44. Fax Number	45. E-Mail Address		
(512) 734-1001		() -	jsims@perkinsconsultants.com		

SECTION V: Authorized Signature

46. By my signature below, I certify, to the best of my knowledge, that the information provided in this form is true and complete, and that I have signature authority to submit this form on behalf of the entity specified in Section II, Field 6 and/or as required for the updates to the ID numbers identified in field 39

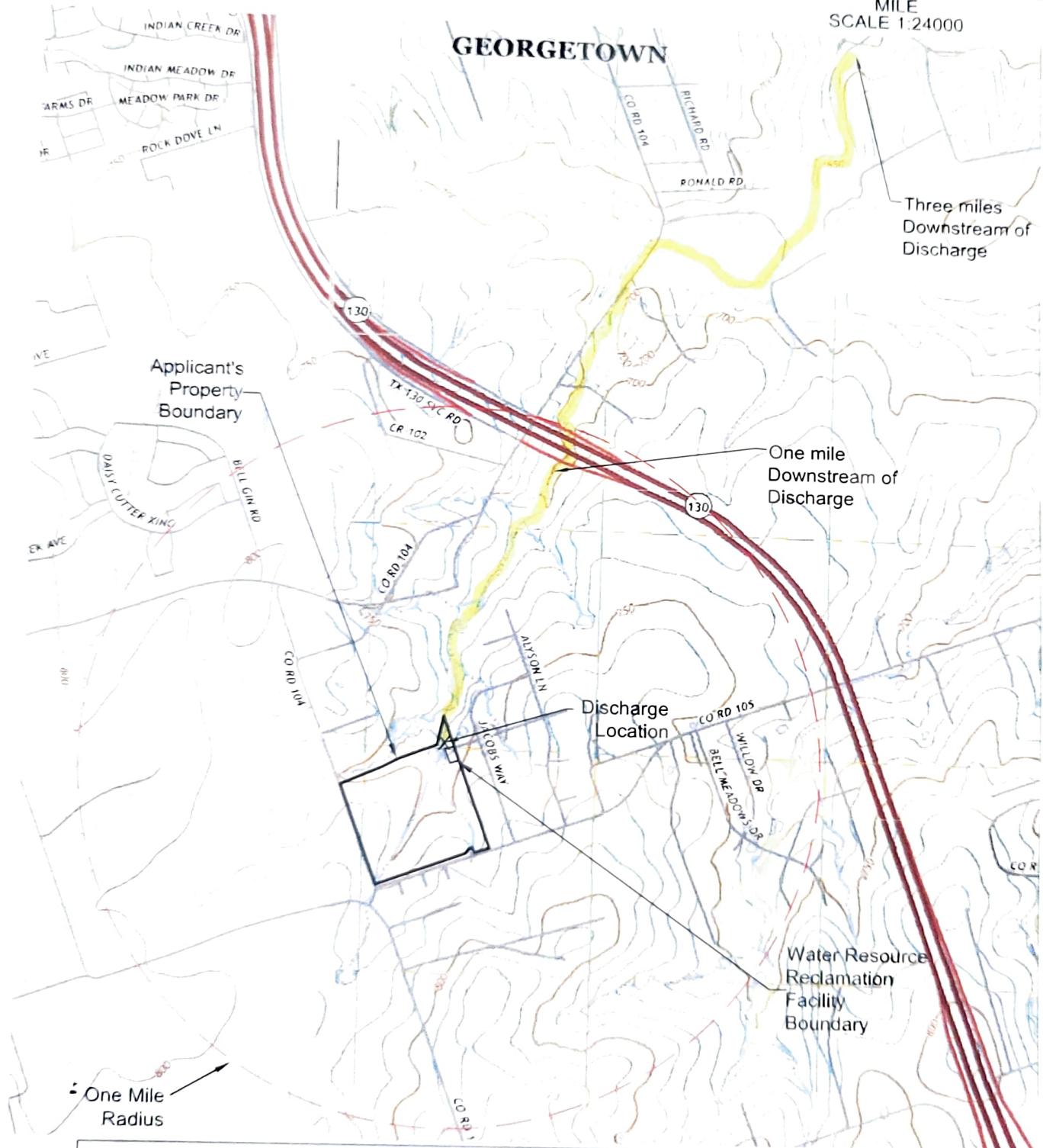
Company:	R040062 LP		Job Title:	Manager	
Name (In Print):	Louis Mertz		Phone:	(832) 485- 1907	
Signature:			Date:	6/2/2021	

Attachment B
USGS Map
Admin Report 1.0, Section 13

Exhibit A



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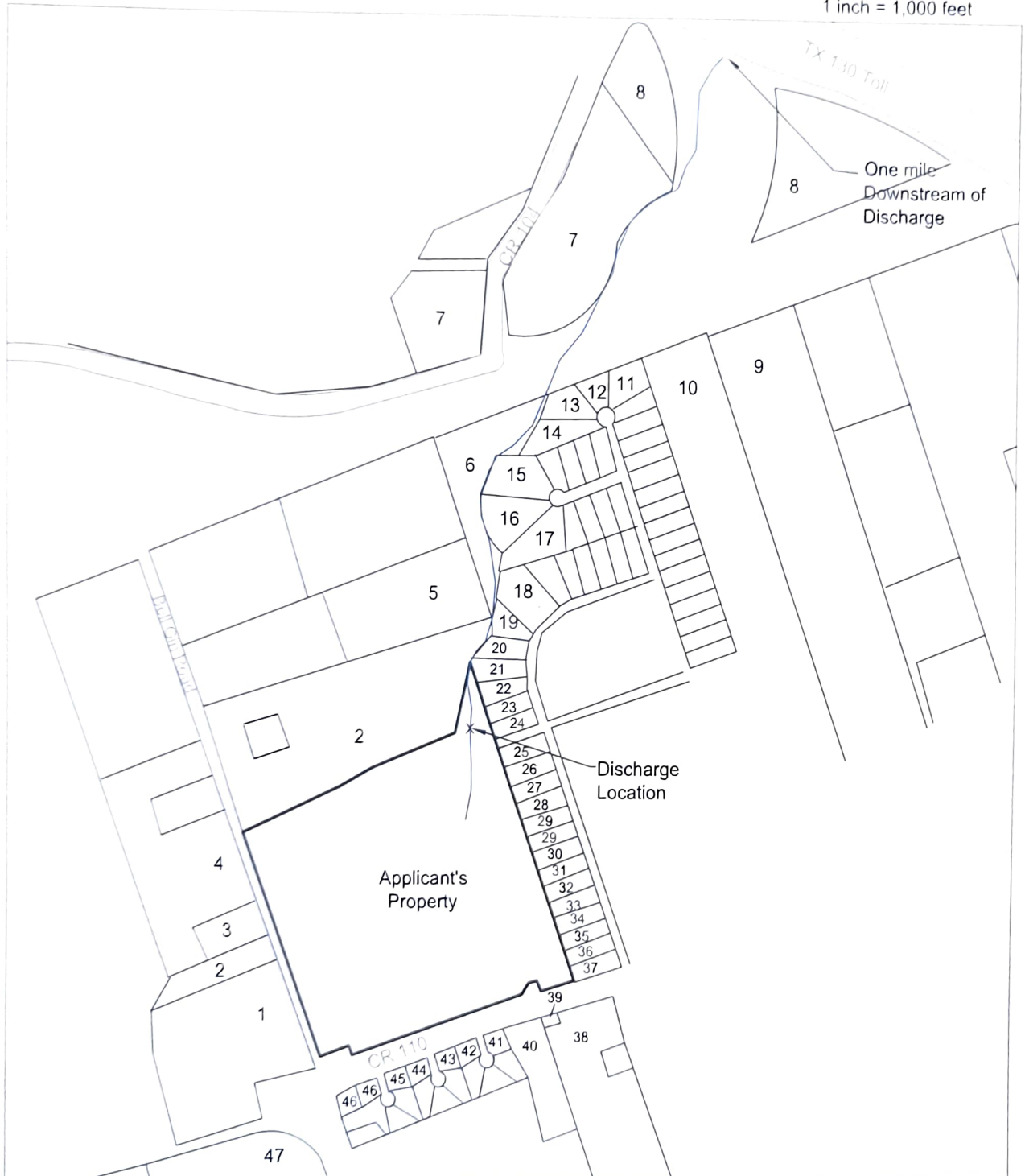
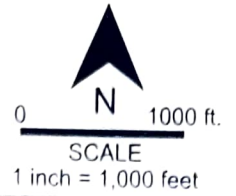
ATTACHMENT B
R040062 LP - INDIGO WATER RESOURCE RECOVERY FACILITY
NEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT APPLICATION
USGS MAP

Attachment C
Affected Landowner Information
Tech Report 1.1, Section 1

Exhibit A



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ENGINEERING
CONSULTANTS, INC.



ATTACHMENT C.1
R040062, LP - INDIGO WATER RESOURCE RECOVERY FACILITY
NEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT APPLICATION
AFFECTED LANDOWNER MAP

ATTACHMENT C.2
R040062, LP - INDIGO WATER RESOURCE RECOVERY FACILITY
NEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT APPLICATION
AFFECTED LANDOWNER LIST

- | | |
|---|---|
| 1 MYRA L VALENTA
3801 COUNTY ROAD 110
GEORGETOWN, TX 78626 | 11 LORIS TRAN & TRUNG NGUYEN
2801 W 45 TH ST
AUSTIN, TX 78731 |
| 2 JIMMY C WEBB
2929 BELL GIN RD
GEORGETOWN, TX 78626-7428 | 12 UNKNOWN |
| 3 KENT E. WEBB
3100 BELL GIN RD
GEORGETOWN, TX 78626-7402 | 13 DOMINGO GRANADOS
337 ALYSON LN
HUTTO, TX 78634-3051 |
| 4 JIM & VIRGINIA WEBB
2929 BELL GIN RD
GEORGETOWN, TX 78626-7428 | 14 KRISTI SWANN
6106 GLEN MEADOW DR
AUSTIN, TX 78745-4143 |
| 5 EQUITY TRUST DBA STERLING TRUST
408 RIVER CHASE BLVD
GEORGETOWN, TX 78628 | 15 TALON R RICHARDS
PO BOX 1366
TAYLOR, TX 76574 |
| 6 JOSHUA L RICHARDS
PO BOX 1366
TAYLOR, TX 76574-6366 | 16 CARLOS E CASAS & ALBERTO R DE CASA
520 OLIVIA CT
HUTTO, TX 78634-3064 |
| 7 EMMA L LAWHON FAMILY LAND
PARTNERSHIP
2200 PATRIOT WAY
GEORGETOWN, TX 78626-7421 | 17 DONALD RAY ROBBINS
P.O. BOX 1088
GEORGETOWN, TX 78627-1088 |
| 8 RIVER CITY PARTNERS LTD
501 E KOENIG LN
AUSTIN, TX 7875 | 18 ALEX CIFUENTES
223 JACOBS WAY
HUTTO, TX 78634 |
| 9 RICHARD A & KAREN T SLIVA
717 COUNTY ROAD 105
HUTTO, TX 78634-3013 | 19 RADY RICHARD Z & AGATHA O CO TRS RADY
FAMILY TRUST
13276 RESEARCH BLVD #105
AUSTIN, TX 78750-3225 |
| 10 LARRY J & RHONDA G REID
707 COUNTY ROAD 105
HUTTO, TX 78634-3013 | 20 HILARIO & MARIA A VELAZQUEZ
215 JACOBS WAY
HUTTO, TX 78634-3045 |

Exhibit A

- | | |
|---|--|
| 21 SHAWN & ENA BICHSEL
211 JACOBS WAY
HUTTO, TX 78634 | 32 LENARD C & GARNETTA D SMITH
121 JACOBS WAY
HUTTO, TX 78634-3019 |
| 22 JOSE & ESMERALDA ARREOLA
209 JACOBS WAY
HUTTO, TX 78634 | 33 WILEY R HENNIG
117 JACOBS WAY
HUTTO, TX 78634-3019 |
| 23 LORENZO & MINERVA VELAZQUEZ RENOJ
205 JACOBS WAY
HUTTO, TX 78634 | 34 REX NOWLIN
113 JACOBS WAY
HUTTO, TX 78634 |
| 24 VENANCIO SUAREZ FLORES
300 ALYSON LN
HUTTO, TX 78634 | 35 ESTHER SALAZAR
109 JACOBS WAY
HUTTO, TX 78634 |
| 25 PAULINA DE LUNA
153 JACOBS WAY
HUTTO, TX 78634 | 36 MARILYN A SOTER (TOD) TO CLAUDIA
NEWMAN
4125 EAST PIKE
ZANESVILLE, OH 43701-8426 |
| 26 MISAEL HERNANDEZ & TOMASA CHAVEZ &
RENE VEGA ALVAREZ & CECILIA HERNANDEZ
CHAVEZ
149 JACOBS WAY
HUTTO, TX 78634 | 37 ANDREW L & MAEDELLE T
101 JACOBS WAY
HUTTO, TX 78634 |
| 27 VICENTE & ANAGELICA T MACIAS
145 JACOBS WAY
HUTTO, TX 78634 | 38 HOMER R THOMAS
350 COUNTY ROAD 105
GEORGETOWN, TX 78626-7426 |
| 28 QUAN P VO
19841 COCHRANE WAY
GAITHERSBURG, MD 20879 | 39 JACK & DIANNE MOORE
% HOMER THOMAS 350 COUNTY ROAD 105
GEORGETOWN, TX 78626-7426 |
| 29 NATHAN MENDEZ & TRAM VO
137 JACOBS WAY
HUTTO, TX 78634-3021 | 40 ARCANGELS INVESTMENTS LLC
501 LONE STAR DR
CEDAR PARK, TX 78613 |
| 30 JOSE FELIX & JOSE MEJIA HERNANDEZ
129 JACOBS WAY
HUTTO, TX 78634-3019 | 41 GREGORY J & MARY D FREDERICK
101 BRIAN CIR
GEORGETOWN, TX 78626-9607 |
| 31 JOHN PIONTKOWSKI
125 JACOBS WAY
HUTTO, TX 78634-3019 | 42 THOMAS BROWNFIELD
102 BRIAN CIR
GEORGETOWN, TX 78626-9607 |

Exhibit A

- | | |
|--|--|
| 43 ELIZABETH RAMSEY DRISCOLL
513 MALLORY CT
EL PASO, TX 79912-4228 | 46 ARCANGELS INVESTMENTS LLC
501 LONE STAR DR
CEDAR PARK, TX 78613 |
| 44 DANIEL WISE
102 JENNIFER CIR
GEORGETOWN, TX 78626-9612 | 47 BERNARD S ANDERSON TR OF BERNARD &
GLADYS ANDERSON TRUST
16233 CAMERON RD
PFLUGERVILLE, TX 78660 |
| 45 DONNA L MOORE
101 MELISSA CIR
GEORGETOWN, TX 78626-9606 | |

Exhibit A



Attachment D
Original Photographs
Admin Report 1.1, Section 2

Exhibit A



Photograph 1. – At outfall looking south, upstream.

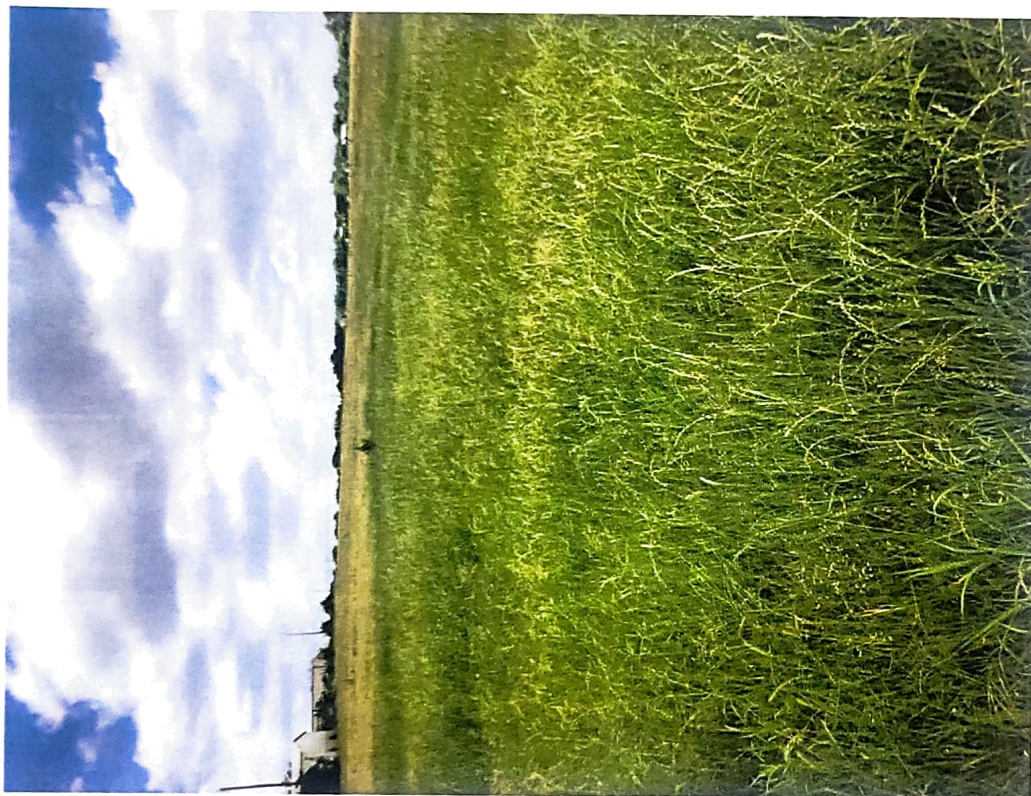


Photograph 2. – At outfall looking north, downstream.

ATTACHMENT D.1

R040062 LP

**INDIGO WATER RESOURCE RECLAMATION FACILITY
NEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT APPLICATION
PHOTOGRAPHS**



Photograph 3. – Proposed site of facility, looking south.

ATTACHMENT D.2

R040062 LP

**INDIGO WATER RESOURCE RECOVERY FACILITY
NEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT APPLICATION
PHOTOGRAPHS**

Exhibit A



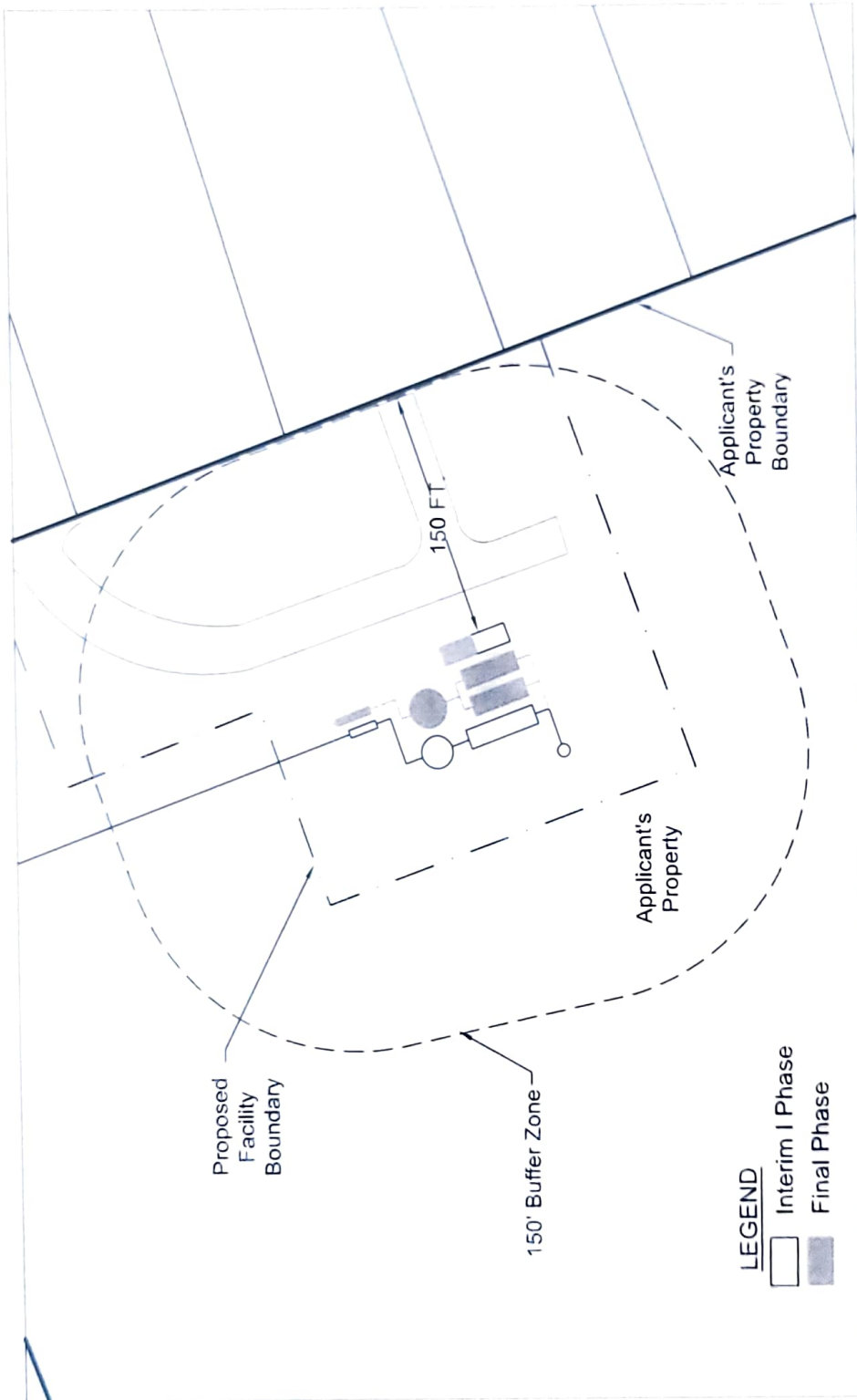
2 Photograph Location

ATTACHMENT D.3

R040062 LP

INDIGO WATER RESOURCE RECLAMATION FACILITY
NEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT APPLICATION
PHOTOGRAPH LOCATION MAP

**Attachment E
Buffer Zone Map
Admin Report 1.1, Section 3**



LEGEND
 Interim I Phase
 Final Phase

ATTACHMENT E
R040062, LP - INDIGO WATER RESOURCE RECOVERY FACILITY
NEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT APPLICATION N
BUFFER ZONE MAP

**Attachment F
Treatment Units
Tech Report 1.0, Section 2.B**

ATTACHMENT F
R040062 LP - INDIGO WATER RESOURCE RECOVERY FACILITY
NEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT APPLICATION
TREATMENT UNITS

Interim I Phase (0.075 MGD)

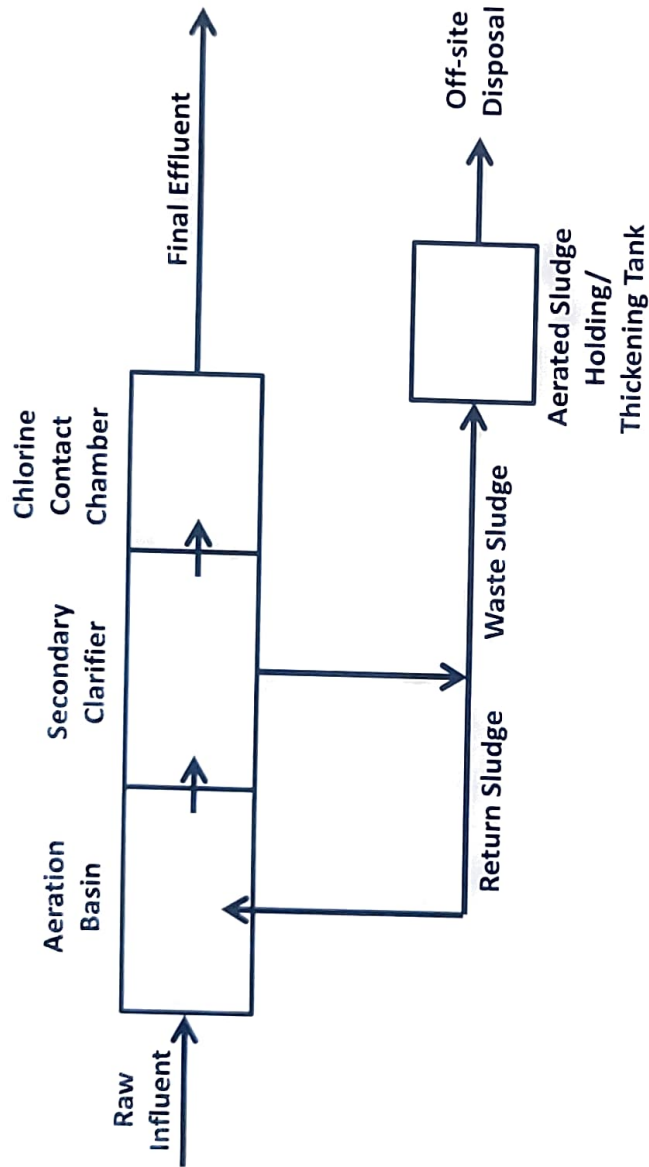
Treatment Unit Type	Number of Units	Dimensions (L x W x D)
Aeration Basin	1	45' x 12' x 10.5' SWD
Secondary Clarifier	1	20' dia., 11' SWD
Chlorine Basin	1	18' x 7' x 5' SWD
Sludge Holding Tank	1	22.5' x 12' x 10.5'

Additions for Final Phase (0.200 MGD)

Treatment Unit Type	Number of Units	Dimensions (L x W x D)
Aeration Basin	2	36' x 12' x 10.5' SWD
Secondary Clarifier	1	24' dia., 11' SWD
Chlorine Basin	1	24' x 8' x 5' SWD
Sludge Holding Tank	1	22.5' x 12' x 10.5'

Attachment G
Process Flow Diagram
Tech Report 1.0, Section 2.C

ACTIVATED SLUDGE – EXTENDED AERATION PROCESS



ATTACHMENT G

**R040062 LP- INDIGO WATER RESOURCE RECOVERY FACILITY
NEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT APPLICATION
PROCESS FLOW DIAGRAM**

Note: Interim I Phase Shown; Final Phase is expected to be Similar and Parallel to Interim Phase

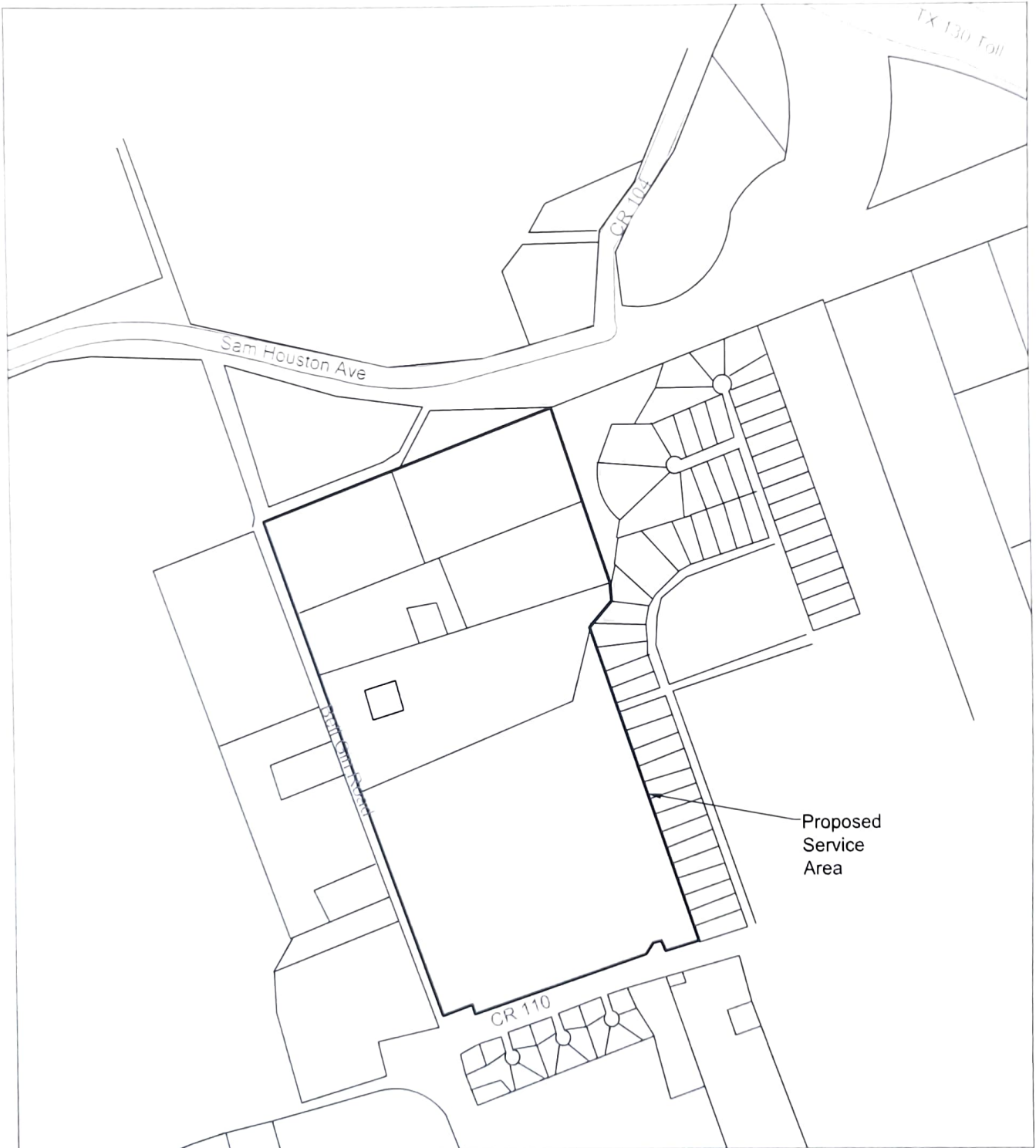
**Attachment H
Site Drawing
Tech Report 1.0, Section 3**



PERKINS
ENGINEERING
CONSULTANTS, INC.

Exhibit A

0 N 1000 ft.
SCALE
1 inch = 1,000 feet



ATTACHMENT H
R040062, LP - INDIGO WATER RESOURCE RECOVERY FACILITY
NEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT APPLICATION
SITE DRAWING

Attachment I
Sludge Acceptance Agreement
Tech Report 1.0, Section 9.A



Exhibit A
Austin Wastewater Processing Facility
826 Linger Ln
Austin, Texas 78721
(512) 973-8484

Waste Stream Acceptance

05/18/2021

Wastewater Residuals Management, LLC, an affiliate of Wastewater Transport Services, LLC, owns and operates the Austin Wastewater Processing Facility. This facility has been permitted by the TCEQ and assigned permit number MSW 2384. The disposal facility is expected to be open for at least the next 5 years.

The facility has been permitted as a Centralized Waste Treatment Facility able to receive the following categorical and non-categorical waste streams:

- Wastewater Treatment Plant Sludge
- Water Treatment Plant Sludge
- Leachate
- Septic
- Sanitary Sewer
- Storm Water
- Food Service Grease
- Car Wash Grit Trap
- Other Class II Non-Hazardous Liquid Waste

***Please note that analytical may be required before the waste stream will be accepted.

Wastewater Residuals Management, LLC agrees to accept any of the above waste streams from the below listed generator.

Generator: R040062 LP

Identifying Info: Indigo Water Resource Recovery Facility - Wastewater Treatment Plant Sludge

A handwritten signature in black ink, appearing to read "Cory R. Juby". The signature is written in a cursive style with a large, stylized "J".

Cory R. Juby
Environmental Compliance

Wastewater Residuals Management reserves the right to discontinue acceptance of the below mentioned waste at any time.

Attachment J
Justification for Permit
Tech Report 1.1, Section 1.A

ATTACHMENT J
R040062, LP – INDIGO WATER RESOURCE RECOVERY FACILITY
NEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT APPLICATION
JUSTIFICATION FOR PERMIT

Central Texas is a fast-growing area. The proposed subdivision is in Williamson County TX, outside the corporate limits of the City of Georgetown (City). The site currently does not have wastewater treatment service. In addition, the proposed subdivision is not in the area identified as the “future service area” that was evaluated in the City’s 2018 wastewater master plan.

The construction of approximately 600 manufactured housing units will be completed within the next five years. The first phase of construction is for approximately 300 units to be completed within two years after receipt of the requested permit for the proposed Indigo WRRF.

The proposed WRRF that will be constructed in two phases is designed to provide services to the residential population that is expected to average 3 persons per unit. The wastewater generated by the residents is expected to be approximately 75 to 100 gallons per person per day. Therefore, the first phase of the requested permit is for 75,000 gallons per day. A Final phase is requested for 200,000 gallons per day to provide wastewater service to the remaining residents in the proposed service area.

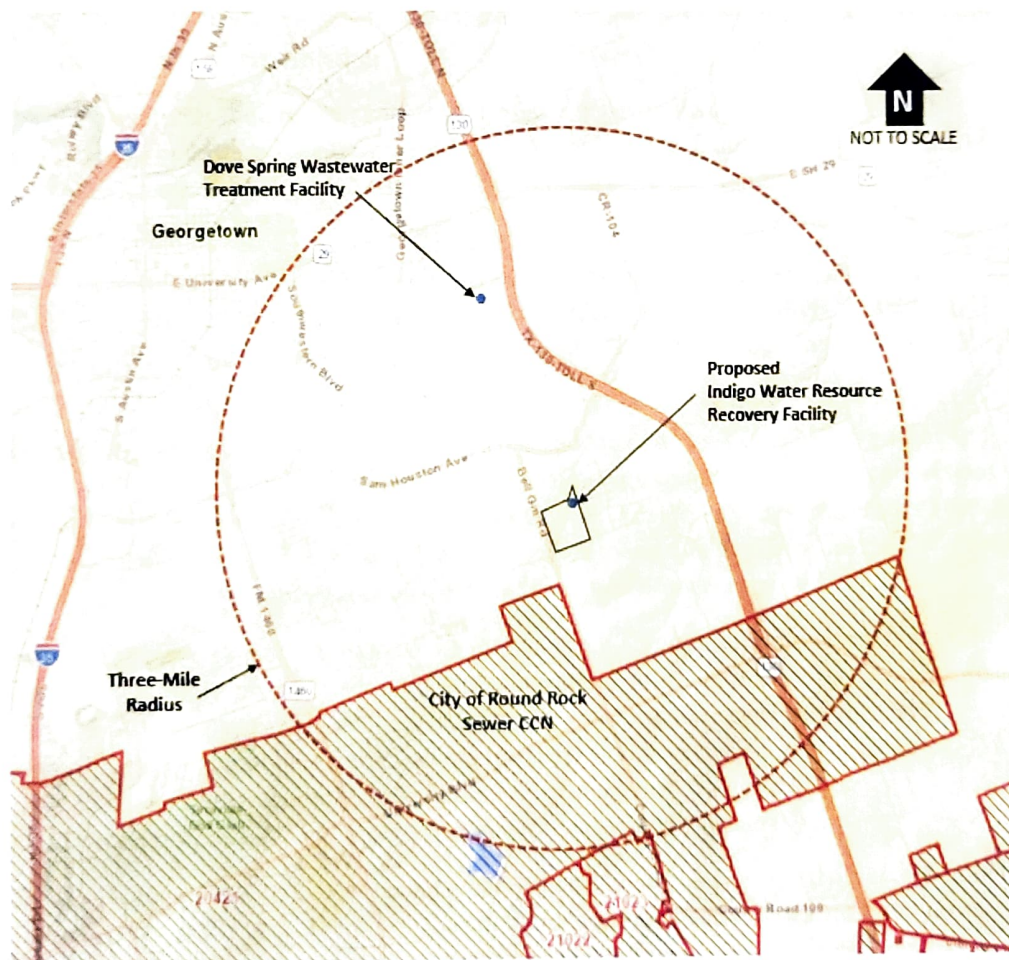
**Attachment K
Nearby Collection System and
Analysis of Expenditures
Tech Report 1.1, Section 1.B.3**

ATTACHMENT K.1
R040062, LP – INDIGO WATER RESOURCE RECOVERY FACILITY
NEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT APPLICATION
NEARBY TREATMENT SYSTEMS

The proposed Indigo Water Resource Recovery Facility (WRRF) for the R040062, LP subdivision lies within Williamson County. The subdivision will have approximately 600 manufactured homes. It is located outside the corporate boundaries of the City of Georgetown (City), but within the City's Extraterritorial Jurisdiction.

The proposed WRRF is located within three miles of the City of Round Rock sewer CCN and the City's Dove Springs Wastewater Treatment Plant (TPDES permit number WQ0010489003). The City of Round Rock does not have any nearby collection system pipes. Figure 1 is a map that presents the location of the proposed WRRF, the nearby Round Rock CCN boundary and the location of the Dove Springs Wastewater Treatment Facility.

Figure 1. Nearby Treatment Facilities Map



Beginning in December 2020, R040062, LP contacted the City concerning connection with their system. A certified letter requesting service, the City's response to the request, and various emails related to acquiring wastewater services are presented as Attachment K.2.

As described in the City's December 23, 2020 response to R040062 LP's Manager, Mr. Mertz, the City indicated that it would provide service for the proposed subdivision but the development must comply with various City requirements. In the preceding email communication between R040062, LP and the City, it also indicated that the proposed subdivision is not within the boundaries of the City's current wastewater master plan. According to the City, R040062 LP will be required to design the infrastructure extension, in accordance with City requirements, and pay for all construction necessary to extend the City's collection system to the proposed site. The City estimated R040062, LP's responsibility for collection system improvements to connect to the City alone would likely approach \$10 million and categorized these costs as "relatively expensive up front."

In a pre-application meeting of May 20, 2021, the City further indicated that annexation would be required if the development must use City wastewater and stated that the submittal of an annexation application was among the development applications required for the proposed project. During this May 2021 meeting, the City also stated that R040062, LP's type of residential development – manufactured homes – was only permitted within the Manufactured Housing District which does not presently include Applicant's proposed site.

The analysis of expenditures required to connect to the City's collection system to the site and the comparative option to build an on-site treatment plant were developed. Potential time to complete each option and to have wastewater treatment services in place were also estimated. These cost and time estimates are presented in Attachment K.3.

Based on the cost comparison of the wastewater service options, obtaining service from the City could cost R040062, LP approximately \$10 million more than constructing an on-site WRRF. If R040062, LP only constructs the first phase of the project the cost difference between the options could be \$13 million.

The evaluation of the two options predicted that the construction of an on-site WRRF also takes less time than connecting to the City's system. The time associated with completing the City connections could be three years longer than constructing an on-site WRRF. Additionally, it is conceivable that City connection could take even longer as the site is not contiguous to the City's system and the City would have to obtain easements which may entail lengthy condemnation proceedings.

Attachment K.3 is a baseline conservative estimate that does not account for professional fees or the lost value of the R040062, LP project associated with annexation. Annexation costs based on lost value when the property is sold, payment of additional City taxes, and costs to comply with the City's numerous other zoning requirements further add to the cost to obtain service from the City. Attachment K.3 also does not consider the significant loss of value the City's prohibition on manufactured homes outside its Manufactured Housing District would have on the project.

In summary, it will require R040062, LP to spend greater than \$10 million and wait five years to obtain wastewater services from the City. Therefore, the construction of an on-site treatment facility is an economically better alternative for providing wastewater services to the proposed subdivision.

Attachment K.2

Scipio Capital, LLC
550 Post Oak Blvd., Suite 490
Houston, TX 77024

December 23, 2020

Mr. David Monk
300 Industrial Avenue
Georgetown, TX 78626

Re: Wastewater Service

Mr. Monk,

We are writing to request wastewater service for a parcel of land located in Williamson County, within the Georgetown ETJ. We respectfully request your feedback and return of this letter in the return envelope provided.

Site Boundary

The land is approximately 64.345 acres located on the northeast side of the intersection of Bell Gin Road and County Road 105 within Williamson County. A legal description of the land is the 64.345 acre tract of land situated in the J McQueen Survey, Abstract No. 426, in Williamson County, Texas, said land being the remainder of those 67.07 acre and 1.16 acre tracts more particularly described in Deed recorded as Document No. 2007004401 of the Official Public Records of Williamson County, Texas. Save and except therefrom that certain 3.885 acre tract described in Document No. 2018082244, Official Public Records, Williamson County, Texas.

Requirement

We estimate needing 85,000 to 90,000 gallons per day of wastewater service with a delivery date of 18 months.

Questions

1. Will the City be able to service the above specified site with wastewater? Please circle one of the below:

☒ Yes

☐ No

Exhibit A

2. If the answer to Question #1 is "Yes", what would be the cost and how soon could the City service the site? Please provide a response in the below space, or feel free to attach a handwritten or typed response on a separate piece of paper and include in the return envelope.

Service can be provided as soon as the required developer infrastructure extensions are constructed and accepted by the City and Developer complies with City Requirements and regulations related to wastewater service. We do not provide ~~ext~~Cost detailed estimates for developer required line extensions.

Thank you for your feedback.

Kind regards,



Louis Mertz

Janet Sims

From: Wesley Wright <Wesley.Wright@georgetown.org>
Sent: Wednesday, December 9, 2020 6:03 PM
To: Eli Dragon
Cc: Louis Mertz; David Munk; Lua Saluone; Wayne Reed; Andreina Davila; Sofia Nelson
Subject: FW: [EXTERNAL] Residential Development - City of Georgetown ETJ - Wastewater Discussion

Eli,

Thanks for reaching out and for your interest in Georgetown. We look forward to helping you move forward with your deal.

I understand you're working on setting up a preapp meeting where you'll go over all/most aspects of development. I know there will be some major transportation issues to sort out with two relatively large roads adjacent and through your property, but I think your primary issue will be wastewater. We can certainly talk more at your preapp, but I want to give you our position in advance, so you can properly prepare and work on proformas.

A couple images are pasted below. The first image is our current wastewater master plan. Areas in white are NOT currently included in our master plan line, pumping, or treatment calculations. We are in the middle of efforting a mid-term, informal update as there is a lot of interest for wastewater in the white areas. The second image details what we envision your path for wastewater to be and what is expected to be the city's desired solution. We've generally assumed dense (3.6u/ac) single family detached for this area, but are anxious to know more about what you envision for the area.

As you are no doubt aware, your site is at the peak of a drainage basin. Thus, one would expect the collection system improvements necessary to serve you to be relatively expensive up front. The construction of MB-5, MKN-1, and the associated lift station/force main to serve your site is likely to approach \$10MM (perhaps less with private development contracts). However, there are also multiple other properties in play in these drainage basins and they need much of the same infrastructure. Cost sharing/subsequent user fees might be available for whoever installs certain infrastructure first.

Below there is mention of a private package plant option. For multiple reasons, that's not an option the city is interested in supporting – especially with multiple properties actively seeking entitlement. Our master plan and our priorities are to find regional solutions that work for everyone. Additionally, we are part of a long-standing multi-agency agreement stating that we unilaterally will oppose non-regional, privately owned treatment plants and work towards regionalization. With a clear path to organized wastewater collection via our looming master plan update, we're confident that we can find a better, more regional solution to serve your site (and others).

We look forward to your initial feedback – either here on this thread or at your preapp.

Best,

Current Master Plan:

Exhibit A



Proposed Future Master Plan:

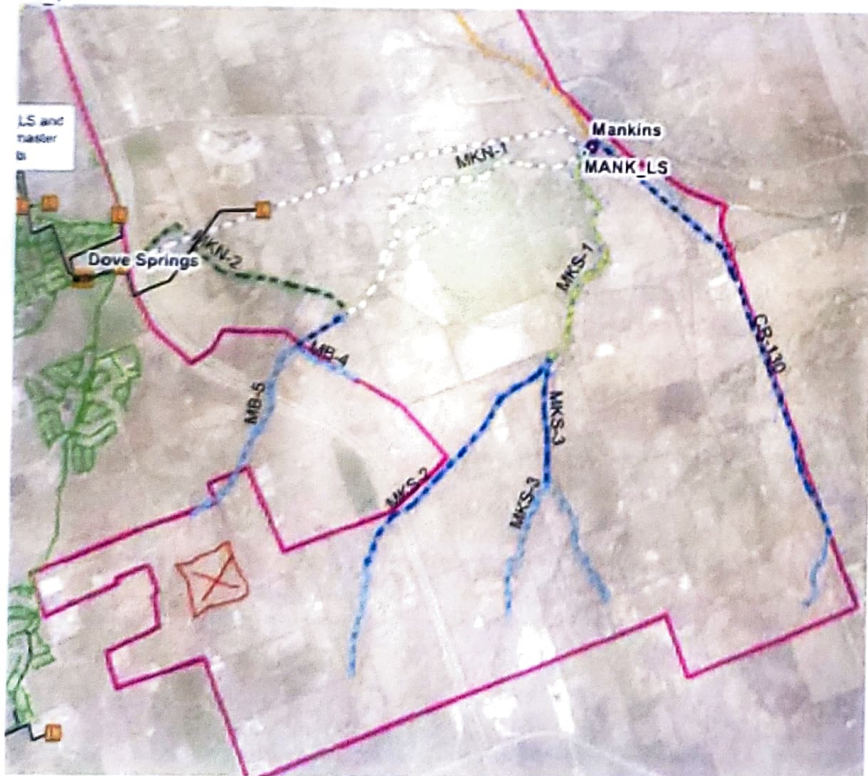


Exhibit A

Wesley Wright, PE
Systems Engineering Director
City of Georgetown Municipal Complex
300-1 Industrial Ave.
Georgetown, TX 78627
Phone: 512-931-7672
Email: wesley.wright@georgetown.org



Trust : Professionalism : Teamwork : Communication : Work/Life Balance

The Systems Engineering Department's mission is to facilitate system maintenance and growth for our stakeholders through ownership and exceptional engineering services.

From: Lua Saluone <Lua.Saluone@georgetown.org>
Sent: Monday, December 7, 2020 8:59 AM
To: David Munk <david.munk@georgetown.org>
Cc: Wesley Wright <Wesley.Wright@georgetown.org>
Subject: FW: [EXTERNAL] Residential Development - City of Georgetown ETJ - Wastewater Discussion

David,

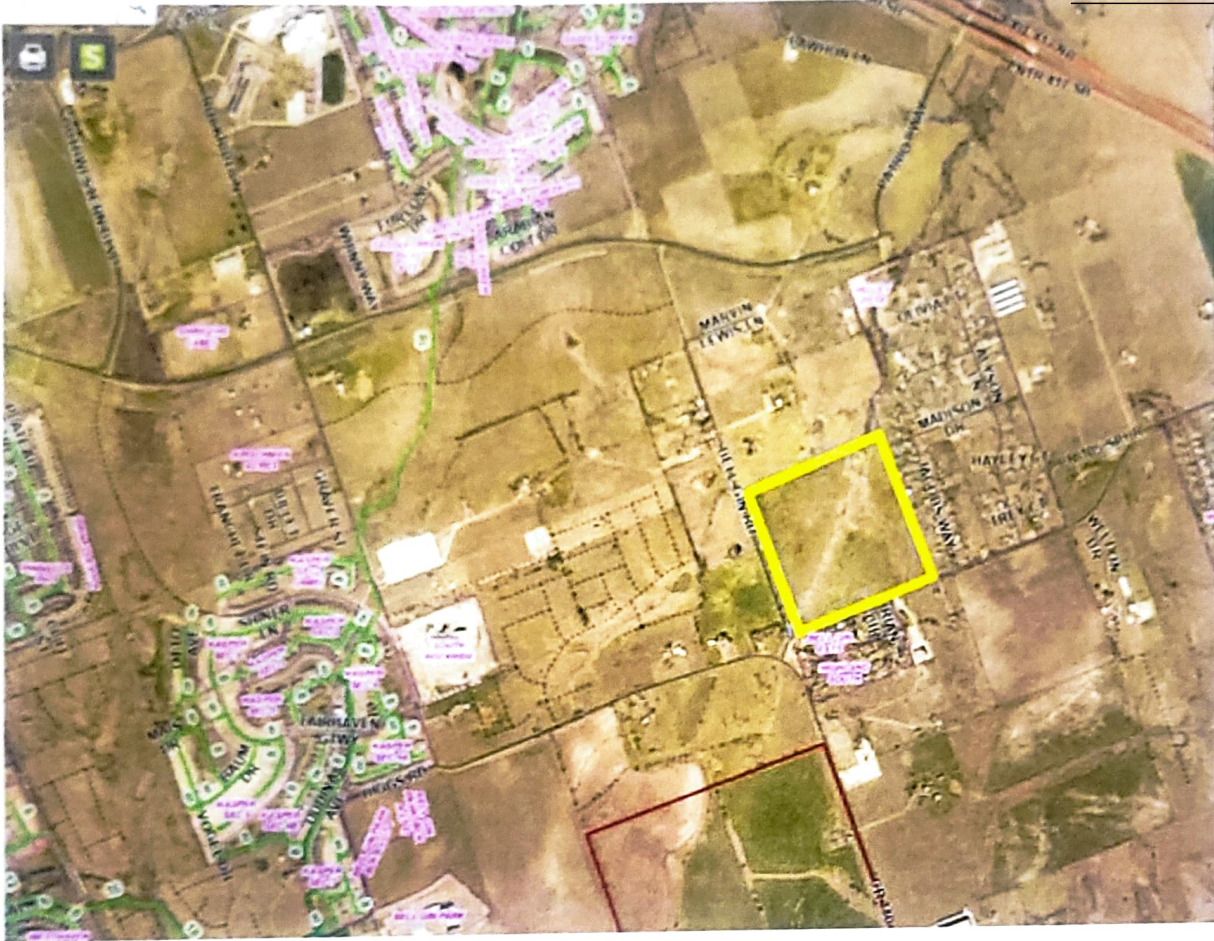
Eli with Scipio Ventures would like to develop a 64 acre tract (in yellow) at the corner of Bell Gin and CR 105; this tract is just east of Patterson Ranch. This tract isn't on our wastewater master plan but would be served by the MB-5 interceptor and lift station.

From their emails below and the one in blue, they want to install a package plant and in the future when the City or other developer constructs MB-5, they would then tie over to this line.

We are evaluating all opportunities for wastewater.

Our intent is to develop the site in the immediate future. Given the information provided above, it seems that any municipal wastewater solutions will not be available in the immediate future. We are experienced wastewater owners and operators, with systems in a number of areas across Texas. Therefore based on the above, our base case would be pursuing a package plant to service the site until at a later date municipal services may be available.

Can you please begin these discussions internally? We would like to see what the City thinks.



From: Eli Dragon <edragon@scipioventures.com>
Sent: Friday, December 4, 2020 5:19 PM
To: Lua Saluone <Lua.Saluone@georgetown.org>
Cc: David Munk <david.munk@georgetown.org>; Louis Mertz <lmertz@scipioventures.com>
Subject: RE: [EXTERNAL] Residential Development - City of Georgetown ETJ - Wastewater Discussion

[EXTERNAL EMAIL]

Lua –

We would like to connect to discuss this further.

1. What are the plans and what is the timing on this service area, MB-5?
2. Our intent is to proceed with development site in the immediate future. What are our options for wastewater service? A TPDES permit with the plans to later switch to the City's service, years down the line?
3. Other considerations we should think through on wastewater service for this area.

What is your availability on Monday?

Eli Dragon
Scipio Ventures
550 Post Oak Blvd., Suite 490

Exhibit A

Houston, TX 77027

Office: +1 (832) 487-0576

~~XXXXXXXXXXXXXXXXXXXX~~

edragon@scipioventures.com

From: Eli Dragon

Sent: Wednesday, December 2, 2020 3:13 PM

To: Lua Saluone <Lua.Saluone@georgetown.org>

Cc: David Munk <david.munk@georgetown.org>

Subject: RE: [EXTERNAL] Residential Development - City of Georgetown ETJ - Wastewater Discussion

Lua –

Noted. Can we schedule a time to connect to discuss in further detail? Do you have availability to connect tomorrow for 45 minutes so I can better understand the current plan in more detail?

Eli Dragon

Scipio Ventures

550 Post Oak Blvd., Suite 490

Houston, TX 77027

Office: +1 (832) 487-0576

~~XXXXXXXXXXXXXXXXXXXX~~

edragon@scipioventures.com

From: Lua Saluone <Lua.Saluone@georgetown.org>

Sent: Wednesday, December 2, 2020 3:12 PM

To: Eli Dragon <edragon@scipioventures.com>

Cc: David Munk <david.munk@georgetown.org>

Subject: RE: [EXTERNAL] Residential Development - City of Georgetown ETJ - Wastewater Discussion

Eli,

Yes, on the current WW master plan, that tract of land wasn't included but with the update to the master plan, it would fall within the MB-5 service area.

From: Eli Dragon <edragon@scipioventures.com>

Sent: Wednesday, December 2, 2020 11:25 AM

To: Lua Saluone <Lua.Saluone@georgetown.org>

Cc: David Munk <david.munk@georgetown.org>

Subject: RE: [EXTERNAL] Residential Development - City of Georgetown ETJ - Wastewater Discussion

[EXTERNAL EMAIL]

Lua –

Apologies, I thought I shared the site. Please see below. It is the Property at Bell Gin Rd & FM 105 / FM 110. It looks like right now we would be landing outside of your master wastewater plan?

Exhibit A



Eli Dragon
Scipio Ventures
550 Post Oak Blvd., Suite 490
Houston, TX 77027
Office: +1 (832) 487-0576
~~XXXXXXXXXXXXXXXXXXXX~~
edragon@scipioventures.com

From: Eli Dragon
Sent: Wednesday, December 2, 2020 11:20 AM
To: Lua Saluone <Lua.Saluone@georgetown.org>
Cc: David Munk <david.munk@georgetown.org>
Subject: RE: [EXTERNAL] Residential Development - City of Georgetown ETJ - Wastewater Discussion

Lua –

Thank you. I will review the attached and get back to you.

Exhibit A

We are still in the early stages of feasibility, but right now we estimate 350 – 400 LUEs.

Eli Dragon

Scipio Ventures
550 Post Oak Blvd., Suite 490
Houston, TX 77027
Office: +1 (832) 487-0576
~~XXXXXXXXXXXX~~
edragon@scipioventures.com

From: Lua Saluone <Lua.Saluone@georgetown.org>
Sent: Wednesday, December 2, 2020 9:31 AM
To: Eli Dragon <edragon@scipioventures.com>
Cc: David Munk <david.munk@georgetown.org>
Subject: RE: [EXTERNAL] Residential Development - City of Georgetown ETJ - Wastewater Discussion

Eli,
See attached document for our current wastewater master plan. We are in the process of updating the master plan but I don't think the updates will change according to the area you are referencing. The tract of land from your description falls within the MB-5 proposed service area which would require the lift station also.
If you are wanting to send your wastewater to the west, that is something we would need to talk internally about.
How much capacity are you looking for in terms of flow or LUE's?

From: Eli Dragon <edragon@scipioventures.com>
Sent: Wednesday, December 2, 2020 9:05 AM
To: GRP_Engineering <Engineering@georgetown.org>
Subject: [EXTERNAL] Residential Development - City of Georgetown ETJ - Wastewater Discussion

[EXTERNAL EMAIL]

Good Morning –

I am hoping to connect with someone in engineering to discuss prospective wastewater solutions for a residential project we are working on in the City of Georgetown ETJ. This is in southeast Georgetown, about a mile east of Fairhaven Gateway and a mile south of Saddleback. I know the City currently has the WWTP on the west side of SH-130 called Dove Springs WWTP. I am looking to understand the City's plans as far as does that system have capacity, is the City willing to allow new projects to hook up to this system, or what are the current plans for the City?

Is there someone I can quickly connect with to better understand the current position?

Eli Dragon

Scipio Ventures
550 Post Oak Blvd., Suite 490
Houston, TX 77027
Office: +1 (832) 487-0576
~~XXXXXXXXXXXX~~
edragon@scipioventures.com



Pre-Application Meeting – Planning Notes

Project Name: Kimbro Prop-Manufactured Housing Community Meeting Date: 5/20/2021

Property Information: Address: NE corner of CR 105 (Westinghouse) & Bell Gin Rd ☐ City / ☒ ETJ

Platted: ☐ Yes / ☒ No Legal Description: 64.345 acres out of the John McQueen Survey

Zoning: N/A Overlay: N/A Future Land Use: Neighborhood and CC

Historic Resource Survey: ☐ High ☐ Medium ☐ Low ☒ N/A

MEETING COMMENTS:

Zoning:

Annexation can be required by use of:

1. Wastewater – If this development must use City wastewater annexation will be required. But, this property is not currently contiguous and eligible to be annexed. If annexation is not possible there may be a path forward through a development agreement option.

Described product is only permitted within the Manufactured Housing District as it cannot be certified to meet the requirements of the IRC and it is built to HUD Standards. This district has specific design guidelines in UDC 6.02.100.

Zoning requirements like building design, parking minimums, landscaping, lighting, etc. only apply in the city limits.

Signage requires a permit per UDC Chapter 10 in both the city limits and the ETJ.

Subdivision:

A legal lot letter has been issued. But, if any public utilities are extended to this site a plat would be required.

- Preliminary Final Plat Combo is four lots or less.
- Preliminary and Final Plats if five or more lots.

If platting is triggered, then ROW dedication is required along permitter roadways. ROW dedication and construction of the the Patriot Way extension is required, too.

Parkland Dedication and Development Fees are required regardless of in the City or the ETJ. Depends on if the property is classified as single-family or multi-family per UDC definitions.

Parkland Dedication

One or two dwelling units on a lot or parcel	\$650 per unit
Three or more dwelling units on a lot or parcel	\$475 per unit

Parkland Development

One or two dwelling units on a lot or parcel	\$1000 per unit
Three or more dwelling units on a lot or parcel	\$750 per unit

Applicable Development and Zoning Standards:

The zoning standards applicable to the property will be determined by the zoning district. Standards for residential zoning districts are outlined in Chapter 6. Standards for non-residential zoning districts are outlined in Chapter 7.

Overall development standards are outlined in the UDC sections listed below. However, please note this is not an all-inclusive list and that other sections of the UDC may apply to your project:

- Permitted Use Tables – [Chapter 5](#)
 - Residential Uses – [Sec. 5.02](#)
 - Civic Uses – [Sec. 5.03](#)
 - Commercial Uses – [Sec. 5.04](#)
 - Transportation and Utility Uses – [Sec. 5.05](#)
 - Industrial Uses – [Sec. 5.06](#)
 - Agricultural Uses – [Sec. 5.07](#)
 - Temporary Uses – [Sec. 5.08](#)
 - Outdoor Display and Storage – [Sec. 5.09](#)
 - Wireless Transmission Facilities – [Sec. 5.10](#)
- Residential Development Standards – [Sec. 6.02](#)
 - Please note that all buildings, structures and other site improvements and features must be located outside of required setbacks. For a list of features allowed within required setbacks, please refer to [Sec. 6.04.020.C](#)
 - Dimensional interpretations and exceptions are outlined in [UDC Sec. 6.04](#)
 - Additional standards for accessory structures, garages and carports are outlined in UDC Sec. 6.05
 - Please note that front loaded garages must be set back 25 feet.
- Common Amenity Area requirements – Sec. 6.06
- Non-Residential Development Standards – [Sec. 7.02](#)
 - Please note that all buildings, structures and site improvements and features must be located outside required setbacks. For a list of features allowed within required setbacks, please refer to [Sec. 7.02.030.C](#)
- Building Design requirements (elements, architectural features, articulation, etc.) – [Sec. 7.03](#)
- Lighting requirements – [Sec. 7.04](#)
- Tree Preservation requirements – [Sec. 8.02](#)
- Landscape, bufferyard and screening requirements – [Sec. 8.03](#) (Residential) and [Sec. 8.04](#) (Non-Residential)
- Residential Fences – Sec. 8.07.040
 - Within the front yard and street side setback, fences are limited to 4 feet in height and 50% transparency.
- Apartment Fences – Sec. 8.07.050
- Residential Boundary Wall requirements – Sec. 8.07.060
- Non-residential Fences – [Sec. 8.07.070](#)
- Parking Requirements – [Sec. 9.02](#)
 - Parking spaces in excess of the minimum number required, require additional landscaping as outlined in the UDC.
- Vehicle Stacking – [Sec. 9.04](#)
- Off-Street Loading – [Sec. 9.05](#)
- Signage – [Ch 10](#)
- Impervious Cover – [Sec 11.02](#)
- Stormwater Management – [Sec 11.04](#)
- Water Quality – [Sec 11.07](#)
- Special Development Types



Pre-Application Meeting – Planning Notes

- Housing Diversity Development – Sec. 4.05.010 and Sec. 6.07.010
- Conservation Subdivision – Sec. 4.05.020, Sec. 6.07.010 and Sec. 11.06
- Multi-Lot Unified Development – Sec. 4.05.030, Sec. 6.07.030 (Residential) and 7.02.030.E (Non-Residential)
- Workforce Housing Development – Sec. 6.07.040

Required Applications:

For the proposed project, the following development applications are required and thus must be submitted for review and approval (in the order identified below – bold applications are only required if annexing; italicized items are only required if subdivided):

- **Annexation – Sec. 3.25**
 - **Approval Criteria – Sec. 3.25.030**
- **Rezoning – Sec. 3.06**
 - **Approval Criteria (Base Zoning) – Sec. 3.06.030**
- *Subdivision Plat: Preliminary and Final – Sec. 3.08*
 - *Preliminary Plats – Sec. 3.08.070*
 - *Recording Plats – Sec. 3.08.080*
- *Subdivision Construction Plans – Sec. 3.08.100*
 - *Subdivision Construction Plans must be submitted prior to or concurrent with the submission of the Final Plat.*
- **Site Development Plan – Sec. 3.09**
 - **Site Development Plan may not be approved until the Final Plat is recorded.**

NOTES COMPLETED BY:

<input checked="" type="checkbox"/>	Ethan Harwell	Senior Planner	(512) 930-3692	ethan.harwell@georgetown.org
<input type="checkbox"/>	Michael Patroski	Planner	(512) 930-3580	michael.patroski@georgetown.org
<input type="checkbox"/>	Ryan Clark	Planner	(512) 931-7746	ryan.clark@georgetown.org
<input type="checkbox"/>	Britin Bostick	Historic Planner	(512) 930-3581	Britin.bostick@georgetown.org

**ATTACHMENT K.3
R040062, LP – INDIGO WATER RESOURCE RECOVERY FACILITY
NEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT APPLICATION
COMPARISON OF COST AND TIMING OF SERVICE**

Wastewater service was requested from the City of Georgetown (City) prior to submittal of this permit application. It was determined that wastewater service options available from the City were neither timely nor economically viable.

The City did not provide definitive costs or a list of specific facilities necessary for connection to their system. Maps were provided showing conceptual routes for gravity sewers and a new lift station and force main preliminarily planned to serve the general area. The cost of the facilities needed was estimated as potentially being greater than \$10 million in one email from the City. With exact routes, line sizes, depths and developer agreements not being available, it is very difficult to develop potential costs for connection to the City's system. However, based on maps provided by the City and on pipeline costs consistent with those used in the City's 2018 Wastewater Master Plan for similar pipelines, a potential cost for connection of \$15.8 million was developed. Either cost estimate would be substantially higher than the \$2.1 million cost estimated for the first phase of the treatment facility that is proposed in this permit application.

In addition, since the pipelines needed for connection to the City's system would require route investigations, geotechnical testing, surveying, land ownership research, easement acquisition (possibly including condemnation), multiple road crossing permits, design, and competitive bidding, it is estimated that City-provided wastewater service through the routes proposed by the City would be unlikely to be available in less than five years from the date route and sizing investigations could begin. Service through the treatment facility proposed in this permit application, conversely, could be active in approximately two years from the date a permit application is submitted to TCEQ.

Figure 1 is a map that illustrates the pipelines proposed by the City of Georgetown as being necessary for connection to their system. It is acknowledged that exact line lengths, depths, slopes and sizes are not known. However, it appears that approximately 20,600 linear feet of gravity sewer would need to be constructed, not counting the applicant's connection to Georgetown's future system, and that a new lift station and approximately 17,300 linear feet of force main would be needed to deliver flows from the gravity system to the City's treatment plant. The size, depth and the capacity of the new lift station are not known and would need planning to determine.

Figure 1 – Routes for Potential Connection to City System

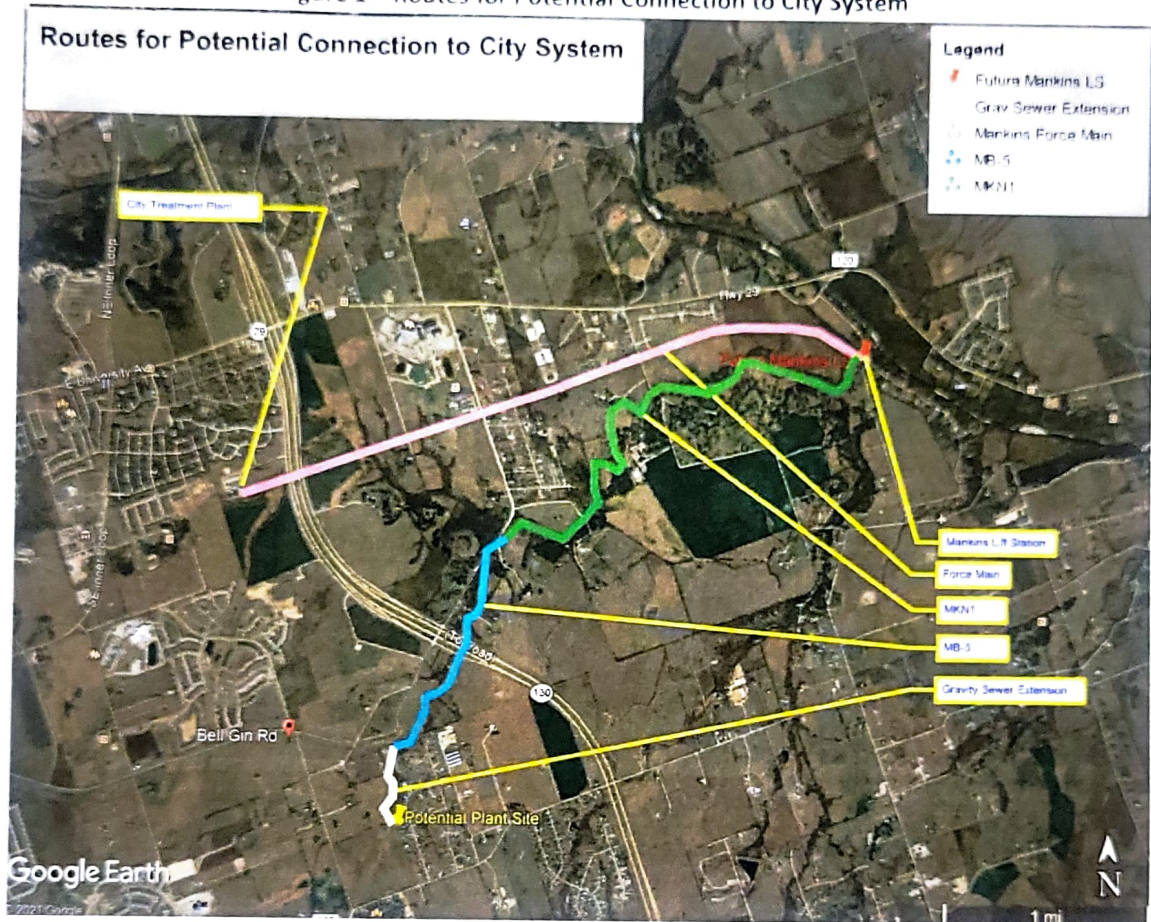


Figure 2 is a bar graph that illustrates the potential timing for obtaining wastewater service from the City as opposed to obtaining service through an independently constructed on-site treatment system. Due to the time required to plan pipeline routes and obtain necessary permits and land rights, development of the piping necessary for a connection to the City is projected to take three years longer than building the proposed treatment plant.

Figure 2 – Potential Timing for Obtaining Wastewater Service

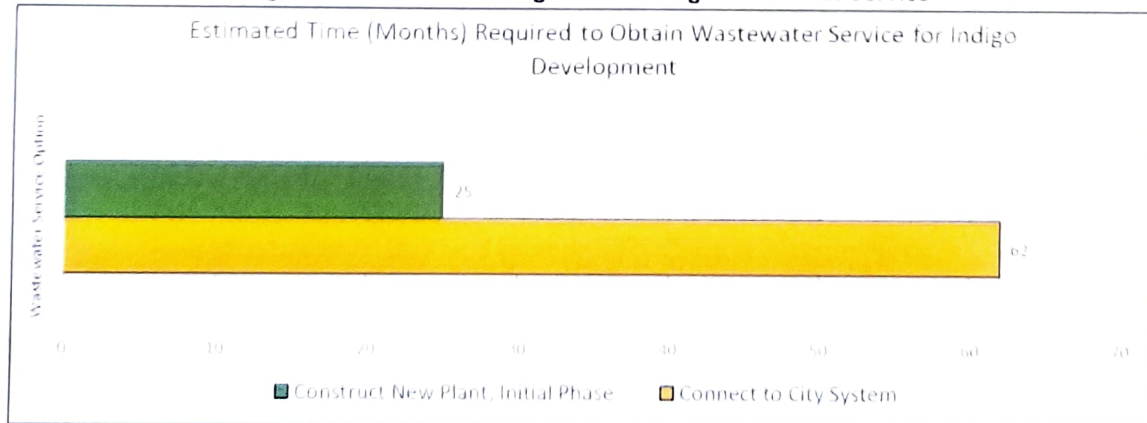


Exhibit A

The cost comparison table below illustrates the cost advantage of constructing the initial phase of the proposed treatment plant as opposed to connecting to the City's system. It is acknowledged that because detailed planning has not yet been performed, insufficient information exists to accurately project the costs of all lines needed to connect to the City's system. Using unit costs consistent with those used in the City's 2018 Wastewater Master Plan, however (for size *ranges* anticipated rather than for specific pipe sizes or depths) and assigning assumed costs to a potential first phase lift station, it is clear that the cost of developing wastewater service in the immediate future is substantially less if a new treatment plant is built at the site proposed in the permit application as opposed to connecting to the City's system. The cost advantage is still clear even at the \$10 million plus figure initially cited in City email correspondence. The cost comparison below does not account for potential cost recovery through developer's agreements, nor does it account for potentially significant lost value opportunities potentially attributable to land use controls and property taxes if annexation is required as a condition of service from the City.

Table 1 – Cost Comparisons of Treatment Options

Independent Water Resource Recovery Plant	
Initial Phase Only - Probable Cost	\$ 2,156,250
Second Phase - Probable Cost	\$ 3,593,750
Total Potential Cost for Treatment Plant, Two Phases	\$ 5,750,000

Connection to City of Georgetown System	
Impact Fees ²	\$ 716,450
Potential Cost, Connector to MB-5 ³ (White)	\$ 910,000
Potential Cost, Initial City Lift Station ⁴	\$ 3,000,000
Cost to install MB-5 ³ (Blue)	\$ 2,880,000
Cost to install MKN-1 ³ (Green)	\$ 7,360,000
Mankins Force Main ³ (Pink)	\$ 1,630,000
Total Potential Cost of Connection to City Wastewater System	\$ 15,780,000

This narrative was prepared by Mark A. Perkins, Texas PE 60329, Perkins Engineering Consultants, Inc., TBPELS Firm F 8699, June 8th, 2021

Attachment L

**Design Calculations and Plant Features
Tech Report 1.1, Section 4**

Exhibit A

ATTACHMENT L R040062 LP - INDIGO WATER RESOURCE RECOVERY FACILITY NEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT APPLICATION DESIGN CALCULATIONS AND PLANT FEATURES - INTERIM I PHASE

Flow and Loading

Design Flow	0.075 MGD
BOD5 Design Concentration	300 mg/L
Design Organic Loading	188 lb BOD5/day
Peak Flow	0.3000 MGD
Peaking Factor	4.0

Activated Sludge Treatment

No. of Basins	1
Volume at Normal WSE	5,670 cf
Nominal Basin Dimensions 45' L 12' W 10.5' SWD	42,417 gal
Detention Time at Design Flow	13.6 hrs
Detention Time at Peak Flow	3.4 hrs
Organic Loading at Design Flow	33.1 lb BOD/d/1000 cf
TCEQ Design Max. Allowable Organic Loading	35.0 lb BOD/d/1000 cf

Secondary Clarification

No. of Basins	1
SWD	11.0 ft
Diameter	20.0 ft
Surface Area, Total	314 sf
Volume, Total	3,456 cf
	25,850 gal
Surface Loading Rate at Design Flow	239 gpd/sf
Surface Loading Rate at Peak Flow	955 gpd/sf
TCEQ Max. Surface Loading Rate at Peak Flow	1,200.0 gpd/sf
Detention Time at Design Flow	8.3 hrs
Detention Time at Peak Flow	2.1 hrs
TCEQ Min. Detention Time at Peak Flow	1.8 hrs
Allowable Peak Flow = Volume/120mins=	310,200.0 gpd
Peak Flow =	300,000.0 gpd
2 Hour Peak Flow Capacity of Clarifier based on TCEQ Max Surface Loading	376,991.1 gpd
2 Hour Peak Flow Capacity of Clarifier Based on TCEQ Min. Detention Time Criteria	344,666.7 gpd

Chlorine Contact

No. of Chlorine Contact Basins	1
Volume, Total	630 cf
Nominal Basin Dimensions 18' L 5' W 7' SWD	4,713 gal
Detention Time at Peak Flow	22.6 min
TCEQ Min Detention Time at Peak Flow	20.0 min
Peak Flow =	208.3 gpm

Note: Exact basin dimensions will vary by equipment manufacturer selected

ATTACHMENT L
R040062 LP - INDIGO WATER RESOURCE RECOVERY FACILITY
NEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT APPLICATION
DESIGN CALCULATIONS AND PLANT FEATURES - FINAL PHASE (Parallel to Interim Phase)

Flow and Loading

Design Flow	0.125 MGD
BOD5 Design Concentration	300 mg/L
Design Organic Loading	313 lb BOD5/day
Peak Flow	0.5000 MGD
Peaking Factor	4.0

Activated Sludge Treatment

No. of Basins	1
Volume at Normal WSE	9,072 cf 67,868 gal
Nominal Basin Dimensions 72'L 12'W 10.5' SWD (This may be two basins at 36' nominal length each)	
Detention Time at Design Flow	13.0 hrs
Detention Time at Peak Flow	3.3 hrs
Organic Loading at Design Flow	34.5 lb BOD/d/1000 cf
TCEQ Design Max. Allowable Organic Loading	35.0 lb BOD/d/1000 cf

Secondary Clarification

No. of Basins	1
SWD	11.0 ft
Diameter	24.0 ft
Surface Area, Total	452 sf
Volume, Total	4,976 cf 37,230 gal
Surface Loading Rate at Design Flow	276 gpd/sf
Surface Loading Rate at Peak Flow	1,105 gpd/sf
TCEQ Max. Surface Loading Rate at Peak Flow	1,200.0 gpd/sf
Detention Time at Design Flow	7.1 hrs
Detention Time at Peak Flow	1.8 hrs
TCEQ Min. Detention Time at Peak Flow	1.8 hrs
Allowable Peak Flow = Volume/120mins=	446,760.0 gpd
Peak Flow =	500,000.0 gpd
2 Hour Peak Flow Capacity of Clarifier based on TCEQ Max Surface Loading	542,867.2 gpd
2 Hour Peak Flow Capacity of Clarifier Based on TCEQ Min. Detention Time Criteria	496,400.0 gpd

Chlorine Contact

No. of Chlorine Contact Basins	1
Volume, Total	960 cf
Nominal Basin Dimensions 24'L 5'W 8' SWD	7,182 gal
Detention Time at Peak Flow	20.7 min
TCEQ Min Detention Time at Peak Flow	20.0 min
Peak Flow =	278.0 gpm

Note: Exact basin dimensions will vary by equipment manufacturer selected

ATTACHMENT L

**R040062 LP
INDIGO WATER RESOURCE RECOVERY FACILITY
APPLICATION FOR NEW
TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
DESIGN CALCULATIONS AND PLANT FEATURES**

Facility Design Features

a. Design Features for Reliability and Operating Flexibility

The WWTP will be designed with galvanized, stainless steel, and protective coatings to prevent corrosion and provide a long- lasting system. Air diffusers will be constructed to allow removal, replacement, and inspection without drain the basins. With the small size of this system, temporary pumping and hauling of wastewater can be done for short periods of time if necessary. When ultimately expanded to satisfy capacities needed for the Final phase, dual treatment trains are expected to be present.

b. Excessive inflow or infiltration

All treatment units will have the freeboard needed to satisfy TCEQ Design Criteria. The Water Resource Reclamation Facility will initially serve the proposed residential subdivision in its initial phase, followed by an expansion to serve a second phase when developed. The collection system is relatively short and will not cross waterways that are continually flowing. The residential development will have new sewer collection lines, constructed with gasketed joints and non-porous pipe materials. Because the collection system will be new construction, minimal infiltration and inflow is expected.

c. Power Failure

A generator is recommended for backup power.

d. Equipment Malfunction

Each major piece of mechanical equipment (pumps, blowers, and RAS pumps) is being provided in duplicate. The plant is expected to be designed such that its capacity is met with the largest of each of these pieces of equipment out of service.

e. Facility unit Maintenance & Repair

To the extent practical, all major equipment will be accessible and retrievable from the working surface above the plant or from ground level beside the plant.

Attachment M
Wind Rose
Tech Report 1.1, Section 5.B

NEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT APPLICATION

WIND ROSE



Attachment N
Sewage Sludge Solids Management Plan
Tech Report 1.1, Section 7

**ATTACHMENT N
R040062 LP - INDIGO WATER RESOURCE RECOVERY FACILITY
NEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT APPLICATION
SEWAGE SLUDGE SOLIDS MANAGEMENT PLAN**

- **TREATMENT UNITS AND PROCESS DIMENSIONS**

See Treatment Units presented in Section 3.B of the Technical Report, (form TCEQ-10054) page 2 of 80.

- **PROJECTED SOLIDS GENERATION:**

The table below shows the amount of solids generated at design flow, and at 75%, 50%, and 25% design flow. The proposed Final Phase Design Flow is 0.2 MGD.

Interim I Phase:

Percent of Design Flow	Dry Pounds Per Day
25%	38
50%	75
75%	113
100%	150

Final Phase:

Percent of Design Flow	Dry Pounds Per Day
25%	100
50%	200
75%	300
100%	400

It is expected that sludge can be thickened by decanting to 1.5-percent solids in the plant's solids holding tank. Hauling frequency will vary based on flows, wasteloads, and thickening efficiency. Quantities shown above are based on an assumed production of 1.0 dry tons of solids per million gallons treated.

- **MLSS RANGE:**

MLSS in the aeration basin is expected to be in the 2,000 to 5,000 mg/l range.

- **OWNERSHIP OF ULTIMATE SLUDGE DISPOSAL SITE:**

Liquid sludge is transported by registered hauler, WasteWater Transportation Services, Registration No. 24343, to a sludge processing facility in Travis County Texas (Austin Wastewater Processing Facility, MSW 2384).



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 7, 2022

TO: All interested persons.

RE: Ro40062, LP
TPDES Permit No. WQ0016008001

Decision of the Executive Director.

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

Enclosed with this letter is a copy of the Executive Director's Response to Public Comments. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central Office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at Georgetown Public Library, 402 West 8th Street, Georgetown, Texas.

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

How to Request a Contested Case Hearing.

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

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.

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

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

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

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

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

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

Deadline for Submitting Requests.

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

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

Processing of Requests.

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

How to Obtain Additional Information.

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

Sincerely,

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

Laurie Gharis
Chief Clerk

LG/erg

Enclosure

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENTS
for
Ro40062, LP
TPDES Permit No. WQ0016008001**

The Executive Director has made the Response to Public Comment (RTC) for the application by Ro40062, LP for TPDES Permit No. WQ0016008001 available for viewing on the Internet. You may view and print the document by visiting the TCEQ Commissioners' Integrated Database at the following link:

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

In order to view the RTC at the link above, enter the TCEQ ID Number for this application (WQ0016008001) and click the "Search" button. The search results will display a link to the RTC.

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

Additional Information

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

You may also view a copy of the RTC, the complete application, the draft permit, and related documents, including comments, at the TCEQ Central Office in Austin, Texas.

Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at Georgetown Public Library, 402 West 8th Street, Georgetown, Texas.

MAILING LIST
for
R040062, LP
TPDES Permit No. WQ0016008001

FOR THE APPLICANT:

Eli Dragon, Principal
R040062, LP
5599 San Felipe Street, Suite 565
Houston, Texas 77056

Janet Sims, Senior Project Manager
Perkins Engineering Consulting, Inc.
13740 North Highway 183, Unit L-6
Austin, Texas 78750

INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

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

Aubrey Pawelka, Staff Attorney
Texas Commission on Environmental
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Environmental Law Division MC-173
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Austin, Texas 78711-3087

Sonia Bhuiya, Technical Staff
Texas Commission on Environmental
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Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL
via electronic mail:

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

FOR THE CHIEF CLERK
via electronic mail:

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

Exhibit B

BICHSEL , SHAWN D
211 JACOBS WAY
HUTTO TX 78634-3045

CARLS , PATRICIA ERLINGER
LAW OFFICES OF PATRICIA ERLINGER CARLS
3100 GLENVIEW AVE
AUSTIN TX 78703-1443

CARLTON , MR JOHN J
THE CARLTON LAW FIRM PLLC
STE B130
4301 WESTBANK DR
AUSTIN TX 78746-6568

ERLINGER , PATRICIA ERLINGER
LAW OFFICES OF PATRICIA ERLINGER CARLS
3100 GLENVIEW AVE
AUSTIN TX 78703-1443

FAULK III , WILLIAM A
SPENCER FANE LLP
STE 1-500
9442 N CAPITAL OF TEXAS HWY
AUSTIN TX 78759-7262

TCEQ PERMIT NO. WQ0016008001

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

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

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

If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.texas.gov.

BACKGROUND**(A) Description of Facility**

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

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

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

In accordance with 30 Texas Administrative Code Section 307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected Mankins Branch, which has been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

Outfall Location:

Outfall Number	Latitude	Longitude
001	30.60811 N	97.6196 W

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

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

(B) Procedural Background

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

This application was filed on or after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill (HB) 801, 76th Legislature (1999), and Senate Bill (SB) 709, 84th Legislature (2015), both implemented by the Commission in its rules in 30 TAC Chapter 39, 50, and 55. The Texas Legislature enacted Senate Bill 709, effective September 1, 2015, amending the requirements for comments and contested case hearings. This application is subject to those changes in the law.

(C) Access to rules, statutes, and records

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

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

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

COMMENTS AND RESPONSES**COMMENT 1**

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

RESPONSE 1

The Executive Director acknowledges these requests.

COMMENT 2

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

RESPONSE 2

The TCEQ does not have jurisdiction to regulate flooding in the context of a wastewater discharge permit. The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. However, to the extent that an issue related to flooding also involves water quality, the applicant is required to comply with all the numeric and narrative effluent limitations and other conditions in the proposed permit at all times, including during flooding conditions.

The TCEQ does not prohibit the location of a wastewater treatment facility in a floodplain, as long as the facility design adheres to TCEQ rules. The proposed Indigo Water Resource Recovery Facility WWTP shall be subject to

plans and specifications review prior to construction. Part of this review will include adherence to 30 TAC § 217.35, relating to the “One Hundred-Year Flood Plain Requirements.” The draft permit requires that the facility design must provide protection from inundation during a 100-Year flood event.

For flooding concerns, please contact the local floodplain administrator for the area where the proposed facility will be located.

COMMENT 3

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

RESPONSE 3

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

COMMENT 4

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

RESPONSE 4

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

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

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

COMMENT 5

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

RESPONSE 5

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

COMMENT 6

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

RESPONSE 6

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

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

COMMENT 7

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

REPONSE 7

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

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

Additionally, Operational Requirement No. 1 requires the Applicant to ensure that the proposed facility and all its systems of collection, treatment, and disposal are properly operated and maintained at all times. Operational Requirement No. 4 makes the Applicant “responsible for installing, prior to plant start-up, and subsequently maintaining, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.” As required by Operational Requirement No. 8(b), “the plans and specifications for domestic sewage collection and treatment works associated with [this facility] must be approved by the Commission and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and each day is an additional violation until approval has been secured.” Likewise, the proposed facility must be designed in accordance with 30 TAC

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

COMMENT 8

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

RESPONSE 8

The Texas Surface Water Quality Standards (TSWQS) in 30 TAC Chapter 307 require that discharges not degrade the receiving waters and not result in situations that impair existing, attainable or designated uses, and that surface waters not be toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals. The effluent limits in the draft permit are set to maintain and protect the existing instream uses.

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

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

(June 2010), for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed.

A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected for Mankins Branch, which has been identified as having high aquatic life use. Existing uses will be maintained and protected.

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

COMMENT 9

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

RESPONSE 9

The TCEQ has a legislative responsibility to protect water quality in the State of Texas and to authorize TPDES permits under Texas Water Code (TWC) Chapter 26, and 30 TAC Chapters 305, 307 and 309, including specific sections regarding wastewater treatment systems under 30 TAC Chapters 217 and 309. The proposed draft permit was developed in accordance with the Texas Surface Water Quality Standards to be protective of water quality, provided that the Applicant operates and maintains the proposed facility according to TCEQ rules and the proposed permit's requirements.

The ED has determined that the draft permit is protective of public health and safety within the authority the TCEQ has. This is evidenced in the implementation of applicable rules and laws, the development and enforcement of numerical and narrative limits and requirements in the permit, which also include the requirements for disinfection of effluent into water in the state.

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

COMMENT 10

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

RESPONSE 10

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

COMMENT 11

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

RESPONSE 11

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

COMMENT 12

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

RESPONSE 12

In accordance with 30 Texas Administrative Code Section 307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be

impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected Mankins Branch, which has been identified as having high aquatic life use. Existing uses will be maintained and protected.

Effluent limitations in the draft permit for the conventional effluent parameters (i.e. BOD₅, TSS, and minimum DO) are based on stream standards and waste load allocations for water quality-limited streams as established in the TSWQS and the State of Texas Water Quality Management Plan (WQMP).

COMMENT 13

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

RESPONSE 13

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

The permit goes on to state that this Category C facility must be operated by a chief operator or an operator holding a Class C license or higher. The facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher. The licensed chief operator or operator holding the required level of license or

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

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

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

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

Respectfully submitted,

Texas Commission on Environmental Quality

Toby Baker, Executive Director

Erin E. Chancellor, Director
Environmental Law Division

Charmaine Backens, Acting Deputy Director
Environmental Law Division



Aubrey Pawelka, Staff Attorney
Environmental Law Division
State Bar No. 24121770
P. O. Box 13087, MC 173
Austin, Texas 78711-3087
Phone: (512) 239 - 0622
Fax: (512) 239-0606
REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS COMMISSION
ON ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

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



Aubrey Pawelka, Staff Attorney
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**SOAH DOCKET NO. 582-23-10368
TCEQ DOCKET NO. 2022-1731-MWD**

APPLICATION BY R040062, LP	§	BEFORE THE
FOR TPDES PERMIT NO.	§	STATE OFFICE OF
WQ0016008001	§	ADMINISTRATIVE HEARINGS
	§	

DIRECT TESTIMONY AND ATTACHMENTS

OF

DAVID TUCKFIELD, ESQ.

ON BEHALF OF

R040062, LP

JULY 7, 2023

APPLICANT'S EXHIBIT 01

**DIRECT TESTIMONY AND ATTACHMENTS OF DAVID TUCKFIELD, ESQ.
ON BEHALF OF R040062, LP**

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**DIRECT TESTIMONY OF DAVID TUCKFIELD, ESQ.
ON BEHALF OF AIRW 2017-7, LP**

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS FOR THE RECORD.

A. My name is David J. Tuckfield, and my business address (for mailing) is 12400 West Highway 71, Suite 350-150, Bee Cave, Texas 78738.

Q. WHAT SUBJECTS WERE YOU ASKED TO EVALUATE FOR THIS PROCEEDING?

A. I was asked to review and comment upon the issues of regionalization and need for the Indigo Water Resource Recovery Facility. For purposes of this testimony, I am going to refer to the property or the development that that will be served by the Draft Permit in this case as the “Indigo Development.”

II. QUALIFICATIONS

Q. DESCRIBE YOUR EDUCATIONAL BACKGROUND?

A. I earned a Bachelor of Arts degree in International Relations from Brigham Young University in 1985 (*cum laude*). I graduated from the J. Reuben Clark Law School (Brigham Young University), J.D. *magna cum laude*, 1989 (Order of the Coif; lead articles editor, Brigham Young University Law Review; Board of Editors, International and Comparative Law Annual).

Q. WHAT PROFESSIONAL LICENCES DO YOU HAVE?

A. I have been admitted to the following Bar Associations: District of Columbia, 1989; the State of Texas, 1996; Southern District of Texas, 2018; United States Supreme Court, 2016; The US Fifth Circuit Court of Appeals, 2021.

Q. IS APP EX. 2 A TRUE AND CORRECT COPY OF YOUR RESUME?

A. Yes.

1
2 **Q. IS THE INFORMATION IN YOUR RÉSUMÉ AT APP EX 2 AN ACCURATE**
3 **REFLECTION OF YOUR EDUCATION, PROFESSIONAL HISTORY, AND**
4 **QUALIFICATIONS?**

5 **A.** Yes.
6

7 **Q. CAN YOU DESCRIBE YOUR EXPERIENCE AS IT RELATES TO**
8 **REGIONALIZATION?**

9 **A.** My resume can be found at **APP. EX. 2.**
10

11 I am the Owner and sole shareholder of the Law Offices of David J. Tuckfield, PC. I am
12 also a Partner with the AL Law Group, PLLC. I have been an attorney practicing in
13 environmental law since 1989. I started my career at Vinson & Elkins, LLP in 1989 straight
14 out of law school. I began practicing in Washington DC but moved to Texas in 1992 and
15 have been practicing here ever since that time.
16

17 In 2000 I was made a partner at Vinson & Elkins. In 2006, I left Vinson and Elkins to start
18 my own law firm. In 2009 I joined the AL Law Group, PLLC to practice with other
19 attorneys that had left large firms. I am now a Partner at the AL Law Group, PLLC.
20

21 For the last 33 years, I have practiced in all areas of environmental law. I have represented
22 developers, municipalities, other governmental entities, and even protestants in
23 environmental permitting cases.
24

25 Over the last decade my practice has been primarily focused on wastewater issues and
26 wastewater permitting (through TCEQ). I have represented the City of Dripping Springs
27 since 2010 as special counsel for water and wastewater. In that capacity I have worked
28 with the City through a time of significant growth. I represent the City of Dripping Springs
29 in negotiating wastewater agreements with developers and municipal utility districts who
30 either seek to build their own plant or who seek to connect with the City's system. Over

1 the last thirteen years there have been many such agreements (and negotiations for such
2 agreements). The City of Dripping Springs is committed to Regionalization and my
3 negotiations always implicate regionalization issues. At some point in every negotiation
4 there is a question about when and how the City can be the regional provider, or when it
5 makes more sense to at least temporarily allow a wastewater plant for a particular
6 development.

7
8 I have also represented and continue to represent the City of Dripping Springs in its efforts
9 to obtain a TPDES permit for its South Regional Plant. When this case was referred to
10 SOAH for a contested case hearing, one of the issues referred (issue “J”) was “Whether the
11 Commission should deny or alter the terms and conditions of the draft permit based on
12 consideration of need under Texas Water Code (TWC) § 26.0282, and the general policy
13 to promote regional or area-wide systems under TWC § 26.081.”

14
15 I have represented other municipalities and governmental entities on water and wastewater
16 issues, including the City of Fairfield, the City of Clyde, the City of Bastrop, the City of
17 Killeen, and Bell County Water Control and Improvement District No. 1.

18
19 As shown on my resume, I have also represented developers in seeking wastewater permits.
20 Every permit submitted to TCEQ, of course, implicates regionalization.

21
22 In sum, I have spent 33 years practicing environmental law. For the last 13 years I have
23 been heavily involved with wastewater contract negotiations and permitting, which has
24 required me to understand and implement the State’s Regionalization Policy.

25
26 **Q. WHAT HAVE YOU REVIEWED TO PREPARE YOUR TESTIMONY AND**
27 **RENDER YOUR OPINIONS?**

28 **A.** I based my opinions on my knowledge and experience, including my 33 years of experience
29 working in environmental law, the last 13 of which have been substantially devoted to
30 obtaining wastewater permits from TCEQ and negotiating wastewater contracts on behalf

1 of Texas municipalities and developers. More specifically for this case, I have reviewed
2 the materials admitted as part of the administrative record in this case, including the
3 Application at **Tab D of the Administrative Record** and the Draft Permit at **Tab C of the**
4 **Administrative Record**, and the Executive Director's Response to Comments at **Tab A**
5 **of the Administrative Record**. I have also reviewed the TCEQ Commissioners'
6 Integrated Database and documents found therein for the following: AIRW 2017-7 Permit
7 No. WQ0015878001, Limmer Loop JV, LLC WQ0016260001, and New Horizons Utility
8 LLC WQ0016257001. I have also reviewed the documents referenced in my testimony,
9 the prefiled testimony of the witnesses presented by Jonah Water Special Utility District
10 ("Jonah"). I have also reviewed the administrative records and testimonies in other
11 contested cases that are referred to in my testimony that relate to the issue of
12 regionalization.
13

14 **III. SUBSTANTIVE ISSUES**

15 **Q. DESCRIBE YOUR UNDERSTANDING OF THE "STATE'S REGIONALIZATION**
16 **POLICY" AS IT MIGHT APPLY TO THIS CASE.**

17 **A.** Texas Water Code § 26.003 is the earliest expression of the State's Regionalization Policy
18 that would apply to this case. It, along with several other policy directives, was adopted in
19 1977 by the 65th Legislature. Section 26.003 provides as follows:
20

21 POLICY OF THIS SUBCHAPTER. It is the policy of this state and the
22 purpose of this subchapter to maintain the quality of water in the state
23 consistent with the public health and enjoyment, the propagation and
24 protection of terrestrial and aquatic life, and the operation of existing
25 industries, taking into consideration the economic development of the state;
26 to encourage and promote the development and use of regional and
27 areawide waste collection, treatment, and disposal systems to serve the
28 waste disposal needs of the citizens of the state; and to require the use of all
29 reasonable methods to implement this policy.

1 This language was largely repeated by rule at 30 Tex. Admin. Code (“TAC”) § 307.1. Section
2 26.003 is not exclusively a regionalization statute. There are numerous other policies expressed,
3 such as the policy to “maintain the quality of water in the state consistent with the public health
4 and enjoyment.”

5
6 In 1989, twelve years after the Legislature enacted Section 26.003, the 71st Legislature followed-
7 up enacting by Texas Water Code § 26.0282, which provides as follows:

8
9 “CONSIDERATION OF NEED AND REGIONAL TREATMENT
10 OPTIONS. In considering the issuance, amendment, or renewal of a permit
11 to discharge waste, the commission may deny or alter the terms and
12 conditions of the proposed permit, amendment, or renewal based on
13 consideration of need, including the expected volume and quality of the
14 influent and the availability of existing or proposed areawide or regional
15 waste collection, treatment, and disposal systems not designated as such by
16 commission order pursuant to provisions of this subchapter. This section is
17 expressly directed to the control and treatment of conventional pollutants
18 normally found in domestic wastewater.”

19
20 **Q. DOES TEXAS WATER CODE § 26.081 APPLY TO THIS CASE?**

21 **A.** No. Texas Water Code § 26.081 (also adopted in 1977 by the 65th Legislature) is part of
22 the State’s Regionalization Policy, but it does not apply to this case. Tex. Water Code §
23 26.081 authorized the Commission to designate area-wide waste collections systems. To
24 carry-out the provisions of Tex. Water Code §§ 26.003 and 26.081 the predecessor of the
25 TCEQ designated eight regional areas and entities in 30 TAC Chapter 351. Service in
26 those regional areas must be provided by the designated regional entity.

27
28 Texas Water Code § 26.081 does not apply in this case because the facility proposed to be
29 built in this case does not serve any regional area designated by the Commission in Chapter
30 351 and there is no regional provider designated for the area where the Indigo Development

1 is located. Jonah has not been designated a regional provider under 30 TAC Chapter 351.
2 I have confirmed this fact by reviewing the regional providers that have been identified in
3 30 TAC Chapter 351. “Absent a designated regional provider, the State’s regionalization
4 policy encourages, but does not compel, connection to a facility.”¹
5

6 **Q. IS REGIONALIZATION IMPORTANT?**

7 **A.** Yes. The Legislature has made it clear that regionalization should be encouraged and
8 promoted. Reasonable methods to implement this policy are required. There are good
9 reasons to encourage regionalization. Regionalization, however, should not be used as a
10 tool for a utility to hold developers or applicants hostage – requiring the developer or
11 applicant to connect at any cost, await the day when the utility actually has facilities as
12 opposed to mere aspirations, and be subjected to additional non-wastewater requirements.
13 In fact, the Commission recently adopted a Proposal for Decision (“PFD”) where the
14 Administrative Law Judge (“ALJ”) made clear that “. . .[t]he purpose of regionalization
15 review is to encourage Applicants to explore and give serious consideration to connection
16 to such utilities – not to provide neighboring utilities leverage and means to require such
17 connection.” *Crystal Clear Special Utility District and MCLB Land, LLC*, SOAH Docket
18 No. 582-20-4141; TCEQ Docket No.2020-0411-MWD, 2021 TX SOAH LEXIS 26, *49
19 (Tex. St. Off. of Admin. Hearings March 22, 2021) (**APP EX. 03**) (this case is hereinafter
20 referred to as “*Crystal Clear*”).
21

22 **Q. HAS THE TCEQ ADOPTED ANY RULES TO IMPLEMENT THE STATE’S**
23 **POLICY ON REGIONALIZATION?**

24 **A.** No.
25

¹ *Crystal Clear Special Utility District and MCLB Land, LLC*, SOAH Docket No. 582-20-4141; TCEQ Docket No.2020-0411-MWD, 2021 TX SOAH LEXIS 26, *68 (Tex. St. Off. of Admin. Hearings March 22, 2021) (Finding of Fact 48). *See also Id.* at *67 (Finding of Fact 41 noted that “[n]o regional provider has been designated for the area where the Subdivision is located); An *Order Granting The Application By DMS Real Tree, LLC For TPDES Permit No. WQ0015293001*; TCEQ DOCKET NO. 2015-1264-MWD; SOAH DOCKET NO. 582-16-1442, 2017 TX Commn on Env’tl Quality LEXIS 232, *16-17 (Conclusion of Law 7 stating that “[t]he City is not one of the listed authorized regional entities under 30 Texas Administrative Code Chapter 351.”).

1 **Q. HAS THE TCEQ ISSUED ANY GUIDANCE DOCUMENTS TO IMPLEMENT**
2 **THE STATE’S POLICY ON REGIONALIZATION?**

3 **A.** As a result of the *Crystal Clear* case I mentioned above (where the permit for a stand-alone
4 water resource recovery facility (“WRRF”) located in a city’s extraterritorial jurisdiction
5 (“ETJ”) was issued over the objection of the nearby city), Chairman Nierman tasked the
6 Executive Director’s staff to meet with him and develop new guidance on the State’s
7 regionalization and need policy. This resulted in TCEQ posting a page on its website
8 entitled “TCEQ Regionalization Policy for Wastewater Treatment” (hereafter referred to
9 as “TCEQ Regionalization Web Page”) (attached as **APP EX. 04**). TCEQ’s
10 Regionalization Web Page appeared online for the first time on July 30, 2021. It is
11 informative, but this is not a formal articulation of Commission policy set forth in
12 rulemaking, consistent with the Administrative Procedure Act affording notice and
13 opportunity for comment. That is, the web page is not a rule and not legally enforceable,
14 but it does show what the Executive Director looks at when considering the issues of
15 regionalization and need.

16
17 I will note that the application in this case was submitted in June 2021, prior to the
18 appearance of TCEQ’s Regionalization Web Page. *See Tab D of the Administrative*
19 **Record.**

20
21 **Q. WHERE SHOULD ONE LOOK TO DETERMINE HOW TCEQ INTERPRETS**
22 **AND APPLIES THE STATE’S POLICY ON REGIONALIZATION?**

23 **A.** TCEQ’s Regionalization Web Page is probably the best source. **APP EX. 04.** Also, in
24 addition to the *Crystal Clear* case I cited above, there have been other recent SOAH cases
25 involving regionalization. To fully understand how TCEQ implements the policy, it would
26 be important to look at recent PFDs and Commission-issued Orders that discuss
27 regionalization.

28
29 **Q. WHAT CAN BE GLEANED FROM RECENT PFDS AND COMMISSION-ISSUED**
30 **ORDERS?**

1 **A.** *Crystal Clear Special Utility District and MCLB Land, LLC*, SOAH Docket No. 582-20-
2 4141; TCEQ Docket No.2020-0411-MWD, 2021 TX SOAH LEXIS 26 (Tex. St. Off. of
3 Admin. Hearings March 22, 2021) (Hereafter *Crystal Clear*”) (**APP EX. 03**) is very
4 instructive. In that case, the following statements were made by the ALJ in his PFD
5 (which the Commission accepted):

6
7 “Section 26.0282 gives the TCEQ broad and permissive discretion in
8 implementing the State’s regionalization policy.”²

9
10 “The ALJ gives deference to the ED's interpretation that, with respect to
11 utilities within three miles of the proposed facility, the purpose of the
12 regionalization review is to encourage Applicants to explore and give
13 serious consideration to connection to such utilities--not to provide
14 neighboring utilities leverage and means to require such connection.”³

15
16 TCEQ “may exercise discretion to encourage and promote regionalization
17 based on the evidence presented on a case-by-case basis.”⁴

18
19 As a result of the *Crystal Clear* PFD, the Commission made the following
20 Conclusion of Law:

21
22 13. Texas Water Code § 26.0282 does not require the Commission to reach
23 specific conclusions before issuing a permit. Nor does it require the
24 Commission to deny a permit even if the Commission concludes that an
25 alternative system is available in the region. Instead, section 26.0282 gives
26 the Commission several options that it may exercise in a permit case to
27 encourage and promote regionalization based on the evidence presented

² *Crystal Clear*, 2021 TX SOAH LEXIS 26 at *47 (**APP EX. 03**).

³ *Id.* at *48-49 (**APP EX. 03**).

⁴ *Id.* at *50 (**APP EX. 03**).

1 concerning the need for the permit and other systems, existing and
2 proposed, in the geographical area.⁵
3

4 These statements provide guidance on how the State Regionalization Policy should be
5 applied.
6

7 **Q. HOW HAS TCEQ IMPLEMENTED THE STATE'S REGIONALIZATION**
8 **POLICY?**

9 **A.** It has taken two different and complementary approaches. First, as I mentioned, Chapter
10 351 of its rules designates specific regional areas and, in some cases, requires that any
11 applicant for a wastewater permit be in the name of the designated regional entity. This is
12 the only policy implemented by rule that could apply in a wastewater permitting case.
13 Because there is not a designated Regional provider for the area in which this Draft Permit
14 has been issued, these Chapter 351 requirements do not apply to this case.
15

16 The second approach I mentioned is the TCEQ's Regionalization Web Page. Again, while
17 it is entitled "policy," there is no indication that this Web Page has been formally adopted
18 TCEQ "policy," there has been no formal rulemaking nor formal adoption of the document
19 as a "policy." It is, however, the most recent and instructive material TCEQ has issued
20 with regard to any policy it might have regarding regionalization of wastewater permitting.
21 Regardless of its status, deference should be given to the ED's interpretation of TCEQ's
22 Regionalization Web Page and how TCEQ interprets the State's Regionalization Policy.⁶
23

24 The TCEQ's Regionalization Web Page points out that "TCEQ requires that an applicant
25 include justification of permit need in all wastewater permit applications for new facilities

⁵ *Crystal Clear*, 2021 TX SOAH LEXIS 26 at *72 (**APP EX. 03**) (Conclusion of Law 13). This statement was repeated in Conclusion of Law 17 in *Application by Regal, LLC for issuance of New TPDES Permit No. WQ0015817001*, SOAH Docket No. 582-21-0576; TCEQ Docket No. 2020-0973-MWD, 2021 TX SOAH LEXIS 154 (Tex. St. Off. of Admin. Hearings August 4, 2021).

⁶ *Crystal Clear*, 2021 TX SOAH LEXIS 26 at *48 (**APP EX. 03**) ("The ALJ gives deference to the ED's interpretation . . .").

1 and all applications to amend an existing permit.” **APP EX. 04.** It then cites Section 1.1
2 of the Domestic Technical Report for wastewater permit applications. The web page does
3 not say that the application form or its instructions constitute TCEQ “policy,” but because
4 the web page mentions the questions asked on the application (at Domestic Technical
5 Report 1.1), such questions are instructive. The primary question to be addressed is
6 whether “there are any domestic permitted wastewater treatment facilities or collection
7 systems located within a three-mile radius of the proposed Facility.” **APP EX. 04 (page**
8 **2).** If so, then the Applicant is to contact the “existing” facility and determine whether that
9 facility has the capacity or is willing to accept the wastewater from the proposed
10 development. **APP EX. 04 (page 3).** If the “existing” facility can and will accept the
11 additional wastewater for treatment, the applicant still need not connect to that facility if
12 an analysis of expenditures required to connect to the existing facility or collection system
13 versus the cost of constructing and operating the proposed new facility or expansion.

14
15 Deference should be given to the Executive Director in interpreting the response to these
16 questions.⁷

17
18 Other questions asked in the Domestic Technical Report 1.1 are: (1) “Is any portion of the
19 proposed service area located in an incorporated city?”; and (2) “Is any portion of the
20 proposed service area located inside another utility’s CCN area?”⁸ **Tab D of the**
21 **Administrative Record** (bates 046-047). In this case, both questions were appropriately
22 answered in the negative. *Id.* Any analysis regarding those two questions, therefore, is
23 irrelevant.

24
25 Taken together, the questions posited on the TCEQ Web Page and Domestic Technical
26 Report 1.1 demonstrates that TCEQ encourages and promotes regionalization by asking
27 certain questions seeking information about the location of the proposed facility and any

⁷ *Id.*

⁸ It is clear that the question is about a wastewater CCN, not a water CCN. The questions are aimed at determine whether there are regional wastewater facilities to which the development should connect, not regional water facilities.

1 facilities or systems to which connection would be reasonable. TCEQ seeks some
2 justification for why the Indigo Development doesn't connect to an existing facility or
3 system.

4
5 **Q. ARE THERE SPECIFIC REQUIREMENTS THAT APPLY TO ENSURE**
6 **COMPLIANCE WITH THE STATE'S REGIONALIZATION POLICY?**

7 **A.** No. In fact, unless the facility is an area designated by Chapter 351 as a regional area, the
8 policy by its very terms is permissive not mandatory (by using the term "may deny" instead
9 of "must deny" in the statutory language). As Judge Ross Henderson decided in his
10 proposal for decision in *Crystal Clear* "Section 26.0282 gives the TCEQ broad and
11 permissive discretion in implementing the State's regionalization policy."⁹ TCEQ's
12 Regionalization Web Page states that "[t]he presence of a wastewater treatment facility or
13 wastewater collection system within three miles of a proposed new wastewater treatment
14 facility or the expansion of an existing facility is not an automatic basis to deny an
15 application or to compel an applicant to connect to an existing facility." **APP EX. 04** (page
16 1) (emphasis in original).

17
18 **Q. WHEN SHOULD APPLICATIONS FOR DISCHARGES OF WASTEWATER BE**
19 **APPROVED ON THE BASIS OF REGIONALIZATION?**

20 **A.** According to TCEQ's Regionalization Web Page the proposed permit should be granted
21 in any one of the following four situations:

22
23 "[(1)] There is no wastewater treatment facility or collection system within
24 three miles of the proposed facility.

25
26 "[(2)] The applicant requested service from wastewater treatment facilities
27 within the 3 miles, and the request was denied.

28

⁹ *Crystal Clear*, 2021 TX SOAH LEXIS 26 at *47 (**APP EX. 03**).

1 [(3)] The applicant can successfully demonstrate that an exception to
2 regionalization should be granted based on costs, affordable rates, and/or
3 other relevant factors.

4
5 [(4)] The applicant has obtained a Certificate of Convenience and Necessity
6 (CCN) for the service area of the proposed new facility or the proposed
7 expansion of the existing facility.”

8
9 **APP EX. 04** (page 2). Throughout the remainder of my testimony, I shall refer to these
10 four situations as “Approval Basis 1, 2, 3, or 4.” Because “any” of the Approval Bases
11 justifies the granting of the Permit, just one of the Approval Bases must be satisfied for the
12 permit to issue.

13
14 **Q. DO ANY OF THESE APPROVAL BASES APPLY IN THIS CASE?**

15 **A.** Yes. Approval Bases 1, 2, and 3 all apply in this case and any one of them demonstrates
16 that the Draft Permit is consistent with the State’s Regionalization Policy. In this case,
17 Applicant satisfies not only one of the Approval Bases, but three (any one of which would
18 have been sufficient). Approval Basis 4, (that the applicant has obtained a CCN) does not
19 apply. Therefore, based on TCEQ’s Regionalization Web Page, there are three
20 independent grounds upon which the application should be granted.

21
22 **Q. BASED ON THE TCEQ WEB PAGE WHAT FACILTIES WARRANT ANY**
23 **ANALYSIS FOR PURPOSES OF EVALUATING REGIONALIZATION FOR THE**
24 **INDIGO WRRF?**

25 **A.** The City of Georgetown. Georgetown has a WRRF (called the “Dove Springs” facility)
26 within 3 miles of the Indigo WRRF. **Tab D of the Administrative Record** (bates 086).

27
28 **Q. BESIDES THE DOVE SPRINGS WRRF, ARE THERE ANY OTHER FACILITIES**
29 **THAT SHOULD BE ANALYZED BASED ON THE TCEQ WEB PAGE?**

1 **A.** No. The question to be addressed is whether there is a wastewater treatment facility or
2 collection system within three miles of the proposed facility. As can be seen in the
3 Administrative record, the only such facility that existed when the application was
4 submitted is the Dove Springs Facility. **Tab D of the Administrative Record** (bates 086).

5
6 **Q.** **HAVE YOU REVIEWED THE PREFILED TESTIMONY OF WILLIAM BROWN**
7 **IN THIS CASE (EX JWSUD-1)?**

8 **A.** Yes.
9

10 **Q.** **HAVE YOU REVIEWED THE PREFILED TESTIMONY OF MILES WHITNEY**
11 **IN THIS CASE (EX JWSUD-2)?**

12 **A.** Yes.
13

14 **Q.** **DO MESSERS. BROWN OR WHITNEY IDENTIFY FACILTIES OR ENTITIES**
15 **TO WHICH THE INDIGO DEVELOPMENT SHOULD CONNECT?**

16 **A.** Yes. Neither make mention of the only relevant facility (the Dove Springs facility), but
17 both Messrs. Brown and Whitney suggest (without identifying a specific facility) that
18 Applicant should connect to Jonah, and Mr. Whitney suggests that the following permits
19 are somehow relevant to a Regionalization inquiry: AIRW-2017-7 Permit No.
20 WQ0015878001, Limmer Loop JV, LLC Permit No. WQ0016260001, and New Horizons
21 Utility LLC Permit No. WQ0016257001.
22

23 **Q.** **HOW SHOULD THE QUESTION OF WHETHER THE INDIGO**
24 **DEVELOPMENT SHOULD CONNECT TO JONAH BE EVALUATED?**

25 **A.** The TCEQ Web Page is clear. The question is whether Jonah has a facility or a system
26 within 3 miles of the proposed facility. **APP EX. 04** (page 2). If it does, then Applicant
27 should have made an inquiry. **APP EX. 04** (page 2). There is no evidence that Jonah has
28 a facility or system within three miles of the proposed facility. Neither Messrs. Brown or
29 Whitney identifies a facility owned or operated by Jonah that that qualifies for further
30 inquiry or analysis. Absent such a facility, Approval Basis 1 dictates that “the proposed

1 permit should be granted” because “[t]here is no [Jonah] wastewater treatment facility or
2 collection system within three miles of the proposed facility.” **APP EX. 04** (page 2). With
3 respect to Jonah, therefore, Approval Basis 1 dictates that the draft permit be issued.
4

5 **Q. WITH RESPECT TO JONAH, IS ADDITIONAL ANALYSIS NEEDED?**

6 **A.** No. There is no Jonah wastewater treatment facility or collection system within three miles
7 of the proposed facility, so pursuant to Approval Basis 1 the analysis is complete.
8

9 **Q. HOW DOES APPLICANT SATISFY THE REGIONALIZATION INQUIRY WITH**
10 **REGARD TO AIRW-2017-7 Permit No. WQ0015878001?**

11 **A.** AIRW-2017-7 (Permit No. WQ0015878001) (hereafter “AIR-W”) is not an existing
12 facility. The TCEQ Web Page does not require an evaluation of permits, but an analysis
13 regarding a wastewater treatment facility or wastewater collection system that is
14 “presen[t].” **APP EX. 04** (page 1). Moreover, Approval Basis 1 doesn’t address the
15 existence of a permit, but requires the proposed permit be granted when “[t]here is no
16 wastewater treatment facility or collection system within three miles of the proposed
17 facility.” **APP EX. 04** (page 2). Throughout the document, TCEQ uses the term “existing
18 facility” **APP EX. 04** (pages 1, 2, and 3).¹⁰ It makes sense that for regionalization purposes
19 an applicant need only evaluate existing facilities rather than permits because just because
20 a permit exists doesn’t mean that a facility for that permit will ever be built. Moreover, if
21 an applicant has to revisit regionalization every time a permit is applied for or is issued,
22 the applicant would be constantly having to stop and reevaluate regionalization –

¹⁰ “The presence of a wastewater treatment facility or wastewater collection system within three miles of a proposed new wastewater treatment facility or the expansion of an existing facility is not an automatic basis to deny an application or to compel an applicant to connect to an existing facility.” **APP EX. 04** (page 1) (emphasis added). “The applicant has obtained a Certificate of Convenience and Necessity (CCN) for the service area of the proposed new facility or the proposed expansion of the existing facility.” **APP EX. 04** (page 2) (emphasis added). “[T]he agency supports new applicants and existing facilities productively working together” **APP EX. 04** (page 2) (emphasis added). “[L]ack of thorough communication with existing facilities within a three-mile radius.” **APP EX. 04** (page 2) (emphasis added). “If an existing facility does have the capacity to accept the proposed wastewater, submit an analysis of expenditures required to connect to the existing facility or collection system versus the cost of constructing and operating the proposed new facility or expansion.” **APP EX. 04** (page 3) (emphasis added). Provide copies of all correspondence with the owners and/or operators of any existing permitted domestic wastewater treatment facilities and collection systems within a three-mile radius of the proposed facility.” **APP EX. 04** (page 3) (emphasis added).

1 potentially causing the administrative process to grind to a halt in fast growing areas. The
2 TCEQ Web Page makes clear that the inquiry is regarding existing facilities and not
3 permits.
4

5 The AIR-W permit is not an existing facility. That permit was issued on November 28,
6 2022. **APP EX. 06.** Despite its issuance, the AIR-W facility has not yet been built. The
7 issuance of the permit has been appealed, and it is the subject of district court litigation
8 (Travis County District Court Docket No. D-1-GN-23-001004) (filed on February 21,
9 2023). I know these facts about the AIR-W permit because I testified as an expert witness
10 in that case so I have personal knowledge of the AIR-W permit, and I continue to follow
11 the progress of the AIR-W project.
12

13 As there is no existing AIR-W facility, Approval Basis 1 dictates that the Indigo permit be
14 granted because “[t]here is no [AIR-W] wastewater treatment facility or collection system
15 within three miles of the proposed facility.” **APP EX. 04** (page 2).
16

17 Even if only the existence of a permit (as opposed to a facility) is relevant (a contention
18 with which I could not more strongly disagree), at the time the Indigo WRRF application
19 was submitted (June 2021), the AIR-W Permit had not yet been issued (it was issued on
20 November 28, 2022). Therefore, when submitting the application, there would have been
21 no reason to evaluate the AIR-W permit. Approval Basis 1 once again dictates that that
22 the Indigo permit be granted because “[t]here is no [AIR-W] wastewater treatment facility
23 or collection system within three miles of the proposed facility.” **APP EX. 04** (page 2).
24

25 Therefore, with respect to the AIR-W permit, Approval Basis 1 dictates that this permit
26 should be issued under the State’s Regionalization Policy.
27

28 **Q. HOW DOES APPLICANT SATISFY THE REGIONALIZATION INQUIRY WITH**
29 **REGARD TO LIMMER LOOP JV, LLC (PERMIT NO. WQ0016260001)?**
30

1 **A.** According to Mr. Whitney’s testimony, the Limmer Loop JV, LLC Permit (Permit No.
2 WQ0016260001) (hereafter “Limmer Loop”) is 3.37 miles away from the subject
3 application. **EX. JWSUD-2 at page 6.** Because it is more than 3 miles away, Limmer
4 Loop is irrelevant.

5
6 Approval Basis 1 dictates that “the proposed permit should be granted” because “[t]here is
7 no [Limmer Loop] wastewater treatment facility or collection system within three miles of
8 the proposed facility.” **APP EX. 04 (page 2).**

9
10 Moreover, there is no Limmer Loop permit. Although a draft permit has been issued, the
11 Notice of Application and Preliminary Decision was issued by TCEQ on May 5, 2023.
12 **APP EX. 07.** I reviewed the TCEQ Commissioner’s Integrated Database, there have been
13 more than 700 comments submitted and numerous hearing requests. Before the permit is
14 actually issued, it will likely be subjected to the contested case process at the State Office
15 of Administrative Hearings.

16
17 Even if only the existence of a permit application (as opposed to a facility) is relevant (a
18 contention with which I could not more strongly disagree), at the time the Indigo WRRF
19 application was submitted (June 2021), the Limmer Loop application had not yet been
20 submitted. TCEQ received the Limmer Loop application on November 29, 2022. **APP**
21 **EX. 07.** Therefore, when submitting the Indigo application, there would have been no
22 reason to evaluate the Limmer Loop application. Approval Basis 1 once again dictates that
23 that the Indigo permit be granted because “[t]here is no [Limmer Loop] wastewater
24 treatment facility or collection system within three miles of the proposed facility.” **APP**
25 **EX. 04 (page 2).**

26
27 Therefore, with respect to the Limmer Loop application, Approval Basis 1 dictates that this
28 permit should be issued under the State’s Regionalization Policy.
29

1 **Q. HOW DOES APPLICANT SATISFY THE REGIONALIZATION INQUIRY WITH**
2 **REGARD TO NEW HORIZONS UTILITY LLC (PERMIT NO. WQ0016257001)?**

3 **A.** The New Horizons Utility LLC (Permit No. WQ0016257001) (hereafter “New Horizons”)
4 is not an existing facility. More importantly, like Limmer Loop, a permit does not even
5 exist for the New Horizons facility.
6

7 A draft permit has not even been issued for the New Horizons facility. The Notice of
8 Receipt of Application and Intent to Obtain a Water Quality Permit was issued by TCEQ
9 on February 14, 2023. **APP EX. 08.** I reviewed the TCEQ Commissioner’s Integrated
10 Database and confirmed these facts. Before the permit is actually issued, a draft permit
11 must be issued, additional notice must be given, and there will be an opportunity for a
12 contested case hearing at the State Office of Administrative Hearings.
13

14 Even if only the existence of a permit application (as opposed to a facility) is relevant (a
15 contention with which I could not more strongly disagree), at the time the Indigo WRRF
16 application was submitted (June 2021), the New Horizons application had not yet been
17 submitted. TCEQ received the New Horizons application on November 22, 2022.
18 Therefore, when submitting the Indigo application, there would have been no reason to
19 evaluate the New Horizons application. Approval Basis 1 once again dictates that that the
20 Indigo permit be granted because “[t]here is no [New Horizons] wastewater treatment
21 facility or collection system within three miles of the proposed facility.” **APP EX. 04**
22 (page 2).
23

24 Therefore, with respect to the New Horizons application, Approval Basis 1 dictates that
25 this permit should be issued under the State’s Regionalization Policy.
26

27 **Q. HOW DOES APPLICANT SATISFY THE REGIONALIZATION INQUIRY WITH**
28 **REGARD TO GEORGETOWN’S DOVE SPRINGS PLANT.**

29 **A.** The Georgetown Dove Springs facility is an existing facility within three miles of the
30 proposed facility. Therefore, Approval Basis 1 does not apply.

1
2 The Applicant appropriately reported in its application that there was a City of Georgetown
3 facility within 3 miles of the proposed facility. **Tab D of the Administrative Record**
4 **(bates 047 and 086-087)**. Consistent with the TCEQ Web Page, Applicant inquired of
5 Georgetown whether it had the capacity and willingness to serve. **Tab D of the**
6 **Administrative Record (bates 088-099)**. Georgetown responded that it would provide
7 service for the proposed subdivision but the development must comply with various City
8 requirements. **Tab D of the Administrative Record (bates 087-089)**. An argument could
9 be made that because Georgetown conditioned service on additional non-wastewater
10 requirements, that it effectively “denied” service. Notwithstanding, because Approval
11 Basis 3 (which I will discuss shortly), has been satisfied, we need not analyze that
12 argument. Therefore, for purposes of streamlining this analysis, we can assume that
13 Approval Basis 2 does not apply.
14

15 Having made appropriate inquiry, the Applicant undertook a cost analysis to determine the
16 cost of connecting to the Dove Springs facility. This thorough cost analysis is in the record
17 at **Tab D of the Administrative Record (bates 100-102)**. According to the cost-analysis,
18 “it is clear that the cost of developing wastewater service in the immediate future is
19 substantially less if a new treatment plant is built at the site proposed in the permit
20 application as opposed to connecting to the City’s system.” **Tab D of the Administrative**
21 **Record (bates 102)**.
22

23 According to TCEQ’s Regionalization Web Page the proposed permit should be granted
24 pursuant to Approval Basis 3 if “[t]he applicant can successfully demonstrate that an
25 exception to regionalization should be granted based on costs, affordable rates, and/or other
26 relevant factors.” The applicant demonstrated through the cost analysis that “it will require
27 R040062, LP to spend greater than \$10 million and wait five years to obtain wastewater
28 services from the City.” **Tab D of the Administrative Record (bates 087 and 100-102)**.
29 Therefore, “the construction of an on-site treatment facility is an economically better
30 alternative for providing wastewater services to the proposed subdivision.” **Tab D of the**

1 **Administrative Record (bates 087 and 100-102).** There is no prefiled testimony that
2 disputes this analysis. In fact, there is no prefiled testimony in this case that suggests that
3 Applicant should connect to the Dove Springs Facility.

4
5 Tellingly, the City of Georgetown was a protestant in this case, but has withdrawn its
6 protest. If the Dove Springs facility were a viable alternative, it is unlikely that Georgetown
7 would have withdrawn from this proceeding.

8
9 Based on the undisputed financial analysis undertaken by the Applicant, the proposed
10 permit should be granted pursuant to Approval Basis 3 because “[t]he applicant [has]
11 successfully demonstrate[d] that an exception to regionalization should be granted based
12 on costs, affordable rates, and/or other relevant factors.”

13
14 **Q. MR. BROWN TESTIFIED ABOUT THE NUMBER OF CUSTOMERS AND**
15 **PEOPLE FOR WHICH IT PROVIDES SERVICE (SEE EXHIBIT JWSUD-1 at 4).**
16 **IS THAT RELEVANT FOR REGIONALIZATION?**

17 **A.** No.

18
19 Mr. Brown’s statement is misleading. I believe that all of those customers and people are
20 water customers. It is my understanding that Jonah does not have a single wastewater
21 customer. The regionalization inquiry deals with wastewater, not water.

22
23 The Proposal for Decision that was sent to TCEQ in the AIR-W case contained the
24 following proposed finding of fact:

25
26 53. Jonah is an established political subdivision that provides water service
27 to approximately 9,000 customers, and 30,000 people are in its
28 approximately 275-mile service area.

29
30 **APP EX. 06 at page 44.**

1 When considering the PFD and issuing the AIR-W permit, the Commissioners deleted this
2 finding of fact, saying: “The Commission determined to delete Finding[] of Fact #53 . . .
3 as unnecessary to the Commission’s regionalization policy consideration in this case.” It
4 is simply irrelevant to the question of wastewater regionalization that Jonah has water
5 customers.
6

7 **Q. WHAT IS A CCN?**

8 **A.** A Certificate of Convenience and Necessity (“CCN”) grants a CCN holder the exclusive
9 right to provide retail water and/or sewer utility service to an identified geographic area.
10 Chapter 13 of the Texas Water Code requires a CCN holder to provide continuous and
11 adequate service to the area within its CCN boundary. A CCN is exclusive and someone
12 other than the CCN holder cannot provide retail service inside the CCN area of another
13 without the CCN holder’s consent.
14

15 **Q. IS THE INDIGO DEVELOPMENT THAT IS THE SUBJECT OF THIS**
16 **PROCEEDING IN ANY JONAH CCN AREA?**

17 **A.** Yes, according to **Exhibit MW-1**, attached to the prefiled testimony of Miles Whitney, the
18 Indigo WRRF is located in Jonah’s water CCN. It is not located within any wastewater
19 CCN. **Tab D of the Administrative Record at 046-047.** I reviewed the Texas Public
20 Utility Commission CCN Viewer to confirm that the Indigo Development is not in any
21 wastewater CCN. It is not in any wastewater CCN and is not in any Jonah wastewater
22 CCN. Being in a water CCN but not a wastewater CCN is an important distinction. A
23 water CCN creates an exclusive service area for water, not for wastewater. For a utility to
24 be the exclusive provider for wastewater in an area, it must apply for and obtain a
25 wastewater CCN. Jonah has not done that for the area where the Indigo Development is
26 located. Whether a development is in a water CCN of a utility is irrelevant for wastewater
27 regionalization evaluation when that utility has no existing wastewater facilities or
28 wastewater systems. A water plant and water facilities cannot provide wastewater
29 treatment.
30

1 Interestingly, I researched the question of whether Jonah even has a sewer CCN. Although
2 Jonah technically had a sewer CCN (Number 21053), the Indigo WRRF was never in that
3 area. In addition, on November 22, 2022, the Texas Public Utilities Commission approved
4 an agreement whereby Jonah transferred all of its sewer customers and all of its certificated
5 area under that CCN number to the City of Hutto. **APP EX. 09.** Although Jonah had a
6 sewer CCN number, it divested itself of all its customers and service area.

7
8 **Q. MR. BROWN TESTIFIED THAT JONAH HAS AN INTEREST IN MAINTAINING**
9 **ITS CCN AREA. SEE EXHIBIT JWSUD-1 at 4). IS THAT RELEVANT FOR**
10 **REGIONALIZATION?**

11 **A.** Without any wastewater plant, wastewater facilities, or agreements to serve the specified
12 area, there is no wastewater significance that a development is within another utilities'
13 water CCN.

14
15 Jonah's witnesses provided no testimony that there was a Jonah facility or a Jonah system
16 within 3 miles of the Indigo WRRF.

17
18 In fact, The Proposal for Decision that was sent to TCEQ in the AIR-W case contained
19 the following proposed finding of fact:

20
21 54. Jonah is negotiating to provide wastewater to other nearby
22 developments and plans to expand its wastewater services within its
23 certificated water service area.

24
25 **APP EX. 06 at page 44 (emphasis added).**

26
27 When considering the PFD and issuing the AIR-W permit, the Commissioners deleted this
28 finding of fact, saying: "The Commission determined to delete Finding[] of Fact . . . #54
29 as unnecessary to the Commission's regionalization policy consideration in this case." It

1 is simply irrelevant to the question of wastewater regionalization that Jonah desires to
2 expand its wastewater services within its certificated water service area.

3
4 **Q. SHOULD APPLICANT HAVE SOUGHT JONAH'S CONSENT TO PROVIDE**
5 **WASTEWATER SERVICE IN JONAH'S WATER CCN SERVICE AREA?**

6 **A.** No. The TCEQ Web Page requires inquiries to be sent for facilities or systems within three
7 miles of the proposed facility. **APP EX. 04.** Jonah has not identified any such facility or
8 system.

9
10 **Q. DOES JONAH HAVE TO PROVIDED CONSENT FOR APPLICANT TO**
11 **PROVIDE WASTEWATER SERVICE IN JONAH'S WATER CCN SERVICE**
12 **AREA?**

13 **A.** No. There is no requirement that such consent is required. **APP EX. 04.** Nor would it
14 make any sense. If there is no facility, there can be no connection.

15
16 **Q. DOES IT MATTER THAT JONAH MIGHT AGREE TO CONSTRUCT,**
17 **OPERATE, AND MAINTAIN A WASTEWATER TREATMENT PLANT TO**
18 **SERVE THE APPLICANT?**

19 **A.** No. Regionalization questions address existing facilities and systems, not whether some
20 utility might enter into an agreement to build a facility. **APP EX. 04.**

21
22 **Q. DOES IT MATTER THAT THE PROPOSED FACILITY MIGHT BE IN JONAH'S**
23 **DISTRICT BOUNDARIES?**

24 **A.** No. The TCEQ Web Page makes no mention of any questions concerning the location of
25 a facility vis-à-vis a district boundary. **APP EX. 04.** Unlike a CCN, a district boundary
26 does not guaranty or require service. It is simply irrelevant. The question is whether there
27 is an existing facility or system within 3 miles of the proposed facility. **APP EX. 04.**

1 **Q. IS THE APPLICATION INSUFFICIENT BECAUSE JONAH AND THE**
2 **APPLICANT ENTERED INTO DISCUSSIONS REGARDING WASTEWATER**
3 **SERVICE, AND NO AGREEMENT WAS REACHED?**

4 **A.** No. The TCEQ Web Page makes no mention of any questions concerning whether there
5 had been attempts to negotiate an agreement with a local utility – much less when that that
6 utility does not have a facility or system within three miles of the proposed facility. **APP**
7 **EX. 04.**
8

9 **Q. DOES JONAH OWN OR OPERATE ANY WASTEWATER TREATMENT**
10 **PLANTS?**

11 **A.** I don't know of any wastewater treatment plants that are currently owned or operated by
12 Jonah. I did not see any reference to any wastewater treatment plants that are currently
13 owned or operated by Jonah in **Exhibit JWSUD-1 or JWSUD-2.**
14

15 Specifically, there is no evidence that Jonah has a wastewater treatment facility or
16 collection system within three miles of the proposed facility. In fact, the prefiled testimony
17 of Mr. William Brown only says that Jonah “desires to construct, operate, and maintain [a]
18 wastewater treatment” system. **EXHIBIT JWSUD-1 at 7:15.** A “desire” does not qualify
19 as a facility or system that should be analyzed under the Regionalization Policy. Currently,
20 although the Indigo WRRF is within Jonah's water CCN, it is outside Jonah's sewer CCN.
21 Therefore, there can be no argument that the permit should be denied based on any existing
22 Jonah facility or system.
23

24 **Q. HAS THE APPLICANT PROVIDED SUFFICIENT INFORMATION TO JUSTIFY**
25 **A NEED FOR THE INDIGO WRRF?**

26 **A.** Yes. Attachment J of the Application provides a justification for need. **Tab D of the**
27 **Administrative Record (bates 084).** Central Texas is a fast-growing area. *Id.* The
28 proposed subdivision is in Williamson County TX, outside the corporate limits of
29 Georgetown. The site currently does not have wastewater treatment service. *Id.* In
30 addition, the proposed subdivision is not in the area identified as the “future service area”

1 that was evaluated in the City's 2018 wastewater master plan. *Id.* The construction of
2 approximately 600 manufactured housing units will be completed within the next five
3 years. *Id.* The first phase of construction is for approximately 300 units to be completed
4 within two years after receipt of the requested permit for the proposed Indigo WRRF. *Id.*
5 These planned construction activities justify a need for the facility.
6

7 **Q. MR. TUCKFIELD, BASED ON YOUR EXPERIENCE, DO YOU HAVE ANY**
8 **OPINIONS REGARDING WHETHER THE APPLICATION SHOULD BE**
9 **GRANTED AND THE DRAFT PERMIT ISSUED?**

10 **A.** Based on my review of documents cited above, my experience working with both
11 developers and municipalities, my opinion is that the Draft Permit is consistent with the
12 State's Regionalization Policy and demonstrates need and it should be issued.
13

14 **IV. CONCLUSION**
15

16 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

17 **A.** Yes, but I reserve the right to amend my testimony if additional information becomes
18 available.

FILED
582-23-10368
6/9/2023 4:17 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

ACCEPTED
582-23-10368
6/9/2023 4:19:10 pm
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

**SOAH DOCKET NO. 582-23-10368
TCEQ DOCKET NO. 2022-1731-MWD**

APPLICATION BY R040062, LP	§	BEFORE THE STATE OFFICE
FOR	§	OF
TPDES PERMIT NO. WQ0016008001	§	ADMINISTRATIVE HEARINGS

DIRECT TESTIMONY

OF

WILLIAM BROWN

ON BEHALF OF JONAH WATER SPECIAL UTILITY DISTRICT

EXHIBIT JWSUD-1

JUNE 9, 2023

*Direct Testimony of William Brown
Jonah Water Special Utility District*

Exhibit D

SOAH DOCKET NO. 582-23-10368
TCEQ DOCKET NO. 2022-1731-MWD

DIRECT TESTIMONY OF WILLIAM BROWN,
WITNESS FOR JONAH WATER SPECIAL UTILITY DISTRICT

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EXHIBITS:

Exhibit BB-1.....Wastewater Treatment Operator A License

**SOAH DOCKET NO. 582-23-10368
TCEQ DOCKET NO. 2022-1731-MWD**

**DIRECT TESTIMONY OF WILLIAM BROWN,
WITNESS FOR JONAH WATER SPECIAL UTILITY DISTRICT**

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND OCCUPATION.

A. My name is William “Bill” Brown. I am the General Manager for Jonah Water Special Utility District (“Jonah”).

Q. DESCRIBE YOUR BACKGROUND AND PROFESSIONAL EXPERIENCE.

A. As it relates to this application for a Texas Pollutant Discharge Elimination System (“TPDES”) permit for the proposed wastewater treatment plant for R040062, LP’s subdivision (the “Application”), I have more than 30 years of experience operating and managing water and wastewater systems, ranging from both large and small. I have several current licenses from the TCEQ, including a Wastewater Treatment Operator A License, and have taken numerous courses, all of which are listed in Exhibit BB-1.

Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?

A. I am filing direct testimony on behalf of Jonah, Protestant in the above-referenced proceeding.

II. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to provide information to the Executive Director of the Texas Commission on Environmental Quality (“TCEQ”), Office of Public Interest Council (“OPIC”), and the other parties regarding the bases for Jonah’s protest of the Application

1 and the reasons why Jonah is the superior choice of utility providers to construct and
2 operate the Facility (defined below). Jonah is a political subdivision of the State of Texas
3 operating under Texas Water Code (“TWC”) Chapter 65 and the holder of Certificate of
4 Convenience and Necessity (“CCN”) for water number 10970, in Williamson County,
5 Texas. Jonah’s Engineer, Miles Whitney, has provided a map of Jonah’s service area,
6 which is attached to Exhibit JWSUD-2. Jonah provides water service for approximately
7 9,000 customers and 30,000 people in its service area. However, as I will explain in more
8 detail below, that number is growing significantly and thus Jonah has an interest in
9 maintaining its CCN areas, protecting the quality of the surface water in the service areas
10 from pollutants, and protecting investments in its infrastructure that may be adversely
11 affected by the outcome of this Application.

12 **Q. DID R040062, LP (THE “APPLICANT”) SEEK JONAH’S CONSENT TO**
13 **PROVIDE WASTEWATER SERVICE IN JONAH’S CCN SERVICE AREA**
14 **PRIOR TO FILING THE APPLICATION?**

15 A. No.

16 **Q. DOES JONAH CONSENT TO APPLICANT PROVIDING WASTEWATER**
17 **SERVICE IN JONAH’S CCN SERVICE AREA?**

18 A. No.

19 **Q. WOULD JONAH AGREE TO CONSTRUCT, OPERATE, AND MAINTAIN A**
20 **WASTEWATER TREATMENT PLANT TO SERVE THE APPLICANT?**

21 A. Yes.

1 **III. DEVELOPMENT BACKGROUND**

2 **Q. PLEASE DESCRIBE JONAH’S DISTRICT BOUNDARY AND WATER SERVICE**
3 **AREA IN RELATION TO THE PROPOSED FACILITY.**

4 A. Jonah’s district boundary extends along the boundaries of the cities of Round Rock and
5 Georgetown on the west, from Hutto on the south, to Jarrell on the north, and between
6 Granger and Taylor on the east. The district covers over 169 square miles. Jonah’s water
7 CCN area is not contiguous with the district boundary and is a little larger, covering over
8 175 square miles. The proposed project is located in the southwest portion of Jonah’s
9 service area and within Jonah’s district boundary and water CCN territory, as shown on
10 the map attached to Exhibit JWSUD-2.

11 **Q. PLEASE DESCRIBE THE DEVELOPMENT PROJECT FOR WHICH**
12 **APPLICANT IS SEEKING TPDES PERMIT NO. WQ0016008001 (THE**
13 **“PERMIT”).**

14 A. The Permit is being sought for the Indigo Water Resource Recovery Facility (the
15 “Facility”) that is being planned to serve the Applicant’s subdivision, which will consist of
16 approximately 600 manufactured housing units. The Facility’s construction and operation
17 is meant to provide wastewater treatment and disposal for the Applicant’s subdivision.

18 **Q. ARE YOU FAMILIAR WITH THE DRAFT PERMIT FOR THE PROPOSED**
19 **WASTEWATER DISCHARGE PERMIT?**

20 A. Yes.

21 **Q. ARE YOU FAMILIAR WITH THE OTHER EXHIBITS THAT COMPRISE THE**
22 **ADMINISTRATIVE RECORD?**

23 A. I have reviewed some, but not all, of the administrative record.

1 **Q. WHAT IS YOUR OPINION ABOUT THE APPLICATION BASED ON THE**
2 **EVIDENCE IN THE ADMINISTRATIVE RECORD?**

3 A. Jonah is the best utility choice to construct, own, and operate the proposed Facility and is
4 ready and willing to provide wastewater service within the proposed area, pursuant to
5 Jonah's rate order. Nothing in the Application indicates that Jonah is unable or unwilling
6 to provide such service. Although Jonah and the Applicant entered into discussions
7 regarding wastewater service, no agreement has been reached as of the date of this
8 testimony. Jonah believes the Application is insufficient for that reason. Additionally, the
9 Application pays insufficient attention to Texas regionalization policy, under which
10 Jonah—the holder of water CCN No. 10970 in Williamson County, and provider of service
11 to the area under that CCN—is the best choice to construct and maintain the Facility to
12 operate at the highest standards, which will allow Jonah to preserve and maintain surface-
13 water quality in the area.

14 **IV. JONAH'S CONCERNS**

15 **Q. PLEASE DESCRIBE YOUR CONCERNS REGARDING THE DRAFT PERMIT'S**
16 **COMPLIANCE WITH TEXAS REGIONALIZATION POLICY AND**
17 **DEMONSTRATION OF NEED FOR THE VOLUME REQUESTED IN THE**
18 **APPLICATION FOR A NEW DISCHARGE PERMIT PURSUANT TO TWC §**
19 **26.0282.**

20 A. The TCEQ has adopted and advanced its regionalization policy as a means to safeguard
21 water quality in the state. Regionalization refers to the consolidation of the operations,
22 physical systems, or both, of two or more existing or proposed water or domestic
23 wastewater systems. The TCEQ favors regionalization unless it is not feasible—for

1 example, if no other systems are reasonably close to a planned system, or if a utility or
2 retail public utility, or other type of provider, can prove that there should be an exception
3 based on costs, affordable rates, and financial, managerial, and technical capabilities of the
4 existing system.

5 As I previously mentioned, the population within Williamson County and in particular
6 Jonah's service area is growing exponentially. Jonah has seen applications for new
7 developments within the district that have the potential to increase the number of service
8 connections by nearly 30,000. This means significant increases in both water and
9 wastewater capacity demands and the need for long-term planning, including regional
10 wastewater treatment to comply with the State's regionalization policy. With regard to the
11 Application, Jonah believes that there has been insufficient attention paid to
12 regionalization, and that the TCEQ regionalization policy, as well as the interests of the
13 public and of the environment, favors consolidation of wastewater treatment in this area
14 with water supply, which Jonah does at the highest standard of quality.

15 Jonah's Board of Directors desires to construct, operate, and maintain wastewater treatment
16 within Jonah's CCN area in order to establish and maintain the highest quality standards
17 and in order to protect surface water from pollutants or poorly managed discharge that
18 could pollute, contaminate, create algal blooms, and otherwise damage the quality of the
19 potable water Jonah provides its customers. The Applicant has not explained why the area
20 would not be best served by the regionalization of wastewater treatment with Jonah, the
21 existing water utility.

1 **Q. PLEASE DESCRIBE YOUR CONCERNS ABOUT THE FACILITY’S PROPOSED**
2 **OPERATIONS.**

3 A. As someone who has operated utilities for many years, it is concerning that Applicant has
4 little to no experience constructing or operating a utility, particularly a wastewater-
5 treatment facility that has the potential, if mismanaged, to pollute and damage the areas of
6 Jonah’s water CCN. Jonah is also concerned with the Applicant’s technical, managerial,
7 and financial capabilities to own and operate this facility. The entity appears to have been
8 created for the sole purpose of being a retail sewer service provider for a new development
9 and, unlike Jonah, does not have the experience and background necessary to meet the
10 standards required by any permit the TCEQ issues.

11 **Q. PLEASE DESCRIBE YOUR CONCERNS REGARDING THE POTENTIAL**
12 **ENVIRONMENTAL IMPACT OF THE FACILITY.**

13 A. Jonah disputes that the Applicant’s proposed discharge will not impact other bodies of
14 water and drainage-ways in the service area of Jonah’s water CCN, which is of great
15 concern to Jonah. Applicant intends to discharge its wastewater to an unnamed tributary of
16 Mankins Branch, to Mankins Branch, then ultimately to the San Gabriel/North Fork San
17 Gabriel River. Jonah provides to its customers water obtained from both surface water and
18 wells, including water from Lake Granger, which is on the San Gabriel River. Jonah is
19 concerned about degradation of water quality conditions in these creek beds, tributaries,
20 Mankins Branch, the San Gabriel River and ultimately Lake Granger if the proposed
21 facility is poorly constructed or operated.

1 **Q. PLEASE DESCRIBE WHY JONAH WOULD BE A SAFER AND MORE**
2 **QUALIFIED OPERATOR FOR THE FACILITY.**

3 A. Jonah has 41 full time positions and 25 field staff to monitor and address operational
4 conditions within Jonah's utility systems. In addition to me, Jonah's field staff hold
5 operator licenses for both water and wastewater systems that will ensure that a regional
6 facility owned and operated by Jonah will be operated at the highest standard.

7 **V. CONCLUSION**

8 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

9 A. Yes, but I reserve the right to supplement my testimony as additional information becomes
10 available.

EXHIBIT BB-1



TCEQ Search Licensing or Registration Information

License Detail

To report a change of address, phone number, or email address, please fill out the form located at <http://www.tceq.texas.gov/licensing/forms/contactupdate>.

CN: CN602159147

Name: BROWN, WILLIAM LEE

Address: 707 COUNTY ROAD 134

City: HUTTO

State: TX

ZIP: 78634-5211

County: WILLIAMSON

Work Phone: 512-759-1286

License(s)

There were 8 licenses found.

Program ?	License Type and Level ?	License Number ?	Last Issued Date ?	Exp. Date ?	License Status ?	BPAT Practical Skills ?	CE Hours ?
CSIOR	CUSTOMER SERVICE INSPECTOR	CI0007658	04/02/2021	04/10/2024	CURRENT	N/A	20
WATEROL	WATER OPERATOR A	WO0004085	01/19/2021	03/26/2024	CURRENT	N/A	206
WWOL	WASTEWATER TREATMENT OPERATOR A	WW0052904	11/12/2021	01/25/2025	CURRENT	N/A	40
BPATOL	BACKFLOW PREVENTION ASSEMBLY TESTER	BP0002986	03/12/2003	03/12/2006	EXPIRED	NO	N/A
CSIOR	CUSTOMER SERVICE INSPECTOR	CI0001084	02/20/2002	02/20/2005	EXPIRED	N/A	N/A
WWOL	WASTEWATER TREATMENT OPERATOR B	WW0001766	11/18/2014	01/25/2016	EXPIRED	N/A	N/A
WWOL	WASTEWATER TREATMENT OPERATOR A	N/A	N/A	N/A	VOID	N/A	N/A
WWOL	WASTEWATER TREATMENT OPERATOR A	N/A	N/A	N/A	VOID	N/A	N/A

Note: The number of CE hours needed in order to renew a license is based on the term (length) of each license. Please go to the program page for the license you hold to determine the number of CE hours needed and to view the latest information and renewal requirements for your license.

Application(s) within the Last 2 Years

There were 1 applications found.

Program ?	Type and Level ?	App. Type ?	App. Status ?	App. Review Date ?	App. Expiration Date ?	Deficiency Letter Date ?	Total Hours ?
WWOL	WASTEWATER TREATMENT OPERATOR A	RENEWAL	LICISSUED	11/12/2021	02/24/2022	No Deficiency	973.5

Course(s)

There were 211 courses found. **Note:** You may see the same course listed multiple times. This occurs because the course counted towards multiple license programs.

Program ?	Course Title	Course Code ?	Hours ?	Date ?	Provider
BPATOL	CROSS-CONNECTION CONTROL	43	10.0	08/05/2021	CWTEX RS
BPATOL	CUSTOMER SERVICE INSPECTIONS	173	10.0	08/05/2021	CWTEX RS
BPATOL	(ONLINE) 10-HR CROSS-CONNECTION CONTROL (TWUA)	1343	10.0	01/21/2021	TWUA
BPATOL	ONLINE CUSTOMER SERVICE INSPECTION	1336	10.0	01/21/2021	TWUA
BPATOL	ONLINE CUSTOMER SERVICE INSPECTION	1336	10.0	11/19/2020	TWUA
BPATOL	(ONLINE) 10-HR CROSS-CONNECTION CONTROL (TWUA)	1343	10.0	11/19/2020	TWUA
BPATOL	CROSS-CONNECTION CONTROL	43	10.0	05/09/2019	CWTEX RS
BPATOL	CUSTOMER SERVICE INSPECTIONS	173	10.0	05/09/2019	CWTEX RS
BPATOL	CROSS-CONNECTION CONTROL	43	10.0	05/10/2018	CWTEX RS
BPATOL	CUSTOMER SERVICE INSPECTIONS	173	10.0	05/10/2018	CWTEX RS
BPATOL	CUSTOMER SERVICE INSPECTIONS	173	10.0	05/11/2017	CWTEX RS
BPATOL	CROSS-CONNECTION CONTROL	43	10.0	05/11/2017	CWTEX RS
BPATOL	CUSTOMER SERVICE INSPECTIONS	173	10.0	11/14/2003	TWUA
BPATOL	CROSS-CONNECTION CONTROL	43	10.0	11/14/2003	TWUA
BPATOL	(DEACT 6/04)BPAT DEVICE TEST & MAINT(USE CC 1200) - INCL. PRAC. SKILLS	50	40.0	01/31/2003	TEEX

BPATOL	CUSTOMER SERVICE INSPECTIONS	173	10.0	07/07/1999	TEEX ITS1
CSOL	CROSS-CONNECTION CONTROL	43	10.0	08/05/2021	CWTEX RS
CSOL	CUSTOMER SERVICE INSPECTIONS	173	10.0	08/05/2021	CWTEX RS
CSOL	(ONLINE) 10-HR CROSS-CONNECTION CONTROL (TWUA)	1343	10.0	01/21/2021	TWUA
CSOL	ONLINE CUSTOMER SERVICE INSPECTION	1336	10.0	01/21/2021	TWUA
CSOL	ONLINE CUSTOMER SERVICE INSPECTION	1336	10.0	11/19/2020	TWUA
CSOL	(ONLINE) 10-HR CROSS-CONNECTION CONTROL (TWUA)	1343	10.0	11/19/2020	TWUA
CSOL	CROSS-CONNECTION CONTROL	43	10.0	05/09/2019	CWTEX RS
CSOL	CUSTOMER SERVICE INSPECTIONS	173	10.0	05/09/2019	CWTEX RS
CSOL	CROSS-CONNECTION CONTROL	43	10.0	05/10/2018	CWTEX RS
CSOL	CUSTOMER SERVICE INSPECTIONS	173	10.0	05/10/2018	CWTEX RS
CSOL	CUSTOMER SERVICE INSPECTIONS	173	10.0	05/11/2017	CWTEX RS
CSOL	CROSS-CONNECTION CONTROL	43	10.0	05/11/2017	CWTEX RS
CSOL	CUSTOMER SERVICE INSPECTIONS	173	10.0	11/14/2003	TWUA
CSOL	CROSS-CONNECTION CONTROL	43	10.0	11/14/2003	TWUA
CSOL	(DEACT 6/04)BPAT DEVICE TEST & MAINT(USE CC 1200) - INCL. PRAC. SKILLS	50	40.0	01/31/2003	TEEX
CSOL	CUSTOMER SERVICE INSPECTIONS	173	10.0	07/07/1999	TEEX ITS1
LIOL	CROSS-CONNECTION CONTROL	43	10.0	08/05/2021	CWTEX RS
LIOL	(ONLINE) 10-HR CROSS-CONNECTION CONTROL (TWUA)	1343	10.0	01/21/2021	TWUA
LIOL	(ONLINE) 10-HR CROSS-CONNECTION CONTROL (TWUA)	1343	10.0	11/19/2020	TWUA
LIOL	CROSS-CONNECTION CONTROL	43	10.0	05/09/2019	CWTEX RS
LIOL	CROSS-CONNECTION CONTROL	43	10.0	05/10/2018	CWTEX RS
LIOL	CROSS-CONNECTION CONTROL	43	10.0	05/11/2017	CWTEX RS
LIOL	METHODS=EFFEC INSTR TECH (DEACT 6/06)	934	40.0	09/26/2003	TWUA
LIOL	(DEACT 6/04)BPAT DEVICE TEST & MAINT(USE CC 1200) - INCL. PRAC. SKILLS	50	20.0	01/31/2003	TEEX
OSSFOL	(CORE) WATER UTILITY SAFETY - LIVE ONLINE	1307	8.0	10/15/2020	TWUA
OSSFOL	WATER UTILITY SAFETY	426	8.0	08/31/2017	E TEX RS
OSSFOL	WATER UTILITY SAFETY	426	8.0	08/25/2016	E TEX RS
WATEROL	WATER UTILITY MANAGEMENT	550	20.0	06/09/2022	CEN TEX RS
WATEROL	WATER UTILITY MANAGEMENT	550	20.0	04/28/2022	S/E TEX RS
WATEROL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	10/12/2021	TWUA DIST
WATEROL	WATER UTILITY MANAGEMENT	550	20.0	08/26/2021	E TEX RS
WATEROL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	08/19/2021	TWUA DIST
WATEROL	CROSS-CONNECTION CONTROL	43	10.0	08/05/2021	CWTEX RS
WATEROL	CUSTOMER SERVICE INSPECTIONS	173	10.0	08/05/2021	CWTEX RS
WATEROL	20-HR ONLINE WATER UTILITLY MANAGEMENT	1275	20.0	07/29/2021	TWUA
WATEROL	(CORE) WATER DISTRIBUTION	605	20.0	07/22/2021	PERM B RS
WATEROL	20-HR ONLINE WATER UTILITLY MANAGEMENT	1275	20.0	07/01/2021	TWUA
WATEROL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	05/18/2021	TWUA DIST
WATEROL	20-HR ONLINE WATER UTILITLY MANAGEMENT	1275	20.0	05/06/2021	TWUA
WATEROL	20-HR ONLINE WATER UTILITLY MANAGEMENT	1275	20.0	01/28/2021	TWUA
WATEROL	(ONLINE) 10-HR CROSS-CONNECTION CONTROL (TWUA)	1343	10.0	01/21/2021	TWUA
WATEROL	ONLINE CUSTOMER SERVICE INSPECTION	1336	10.0	01/21/2021	TWUA
WATEROL	20-HR ONLINE WATER UTILITLY MANAGEMENT	1275	20.0	12/03/2020	TWUA
WATEROL	ONLINE CUSTOMER SERVICE INSPECTION	1336	10.0	11/19/2020	TWUA
WATEROL	(ONLINE) 10-HR CROSS-CONNECTION CONTROL (TWUA)	1343	10.0	11/19/2020	TWUA
WATEROL	(CORE) WATER UTILITY SAFETY - LIVE ONLINE	1307	20.0	10/15/2020	TWUA
WATEROL	WATER UTILITY MANAGEMENT	550	20.0	10/24/2019	FW TEX RS
WATEROL	CROSS-CONNECTION CONTROL	43	10.0	05/09/2019	CWTEX RS
WATEROL	CUSTOMER SERVICE INSPECTIONS	173	10.0	05/09/2019	CWTEX RS
WATEROL	WATER UTILITY MANAGEMENT	550	20.0	05/02/2019	S/E TEX RS
WATEROL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	03/16/2019	TWUA DIST
WATEROL	TWUA ALL DAY SCHOOL	609	2.0	10/23/2018	TWUA
WATEROL	CROSS-CONNECTION CONTROL	43	10.0	05/10/2018	CWTEX RS
WATEROL	CUSTOMER SERVICE INSPECTIONS	173	10.0	05/10/2018	CWTEX RS
WATEROL	WATER UTILITY MANAGEMENT	550	20.0	03/07/2018	ANNUAL SCH
WATEROL	WATER UTILITY SAFETY	426	20.0	08/31/2017	E TEX RS
WATEROL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	07/18/2017	TWUA DIST
WATEROL	GROUNDWATER PRODUCTION	223	20.0	06/15/2017	CEN TEX RS
WATEROL	CUSTOMER SERVICE INSPECTIONS	173	10.0	05/11/2017	CWTEX RS
WATEROL	CROSS-CONNECTION CONTROL	43	10.0	05/11/2017	CWTEX RS
WATEROL	CHLORINATOR MAINTENANCE(O&M CHLOR SYSTEMS)	124	20.0	04/27/2017	S/E TEX RS
WATEROL	WATER UTILITY MANAGEMENT	550	20.0	03/01/2017	ANNUAL SCH
WATEROL	WATER UTILITY SAFETY	426	20.0	08/25/2016	E TEX RS

WATEROL	WATER UTILITY MANAGEMENT	550	20.0	03/02/2016	ANNUAL SCH
WATEROL	WATER UTILITY MANAGEMENT	550	20.0	08/13/2015	PERM B RS
WATEROL	WATER UTILITY MANAGEMENT	550	20.0	06/18/2015	CEN TEX RS
WATEROL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	03/17/2015	TWUA DIST
WATEROL	GROUNDWATER PRODUCTION	223	20.0	03/04/2015	ANNUAL SCH
WATEROL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	04/15/2014	TWUA DIST
WATEROL	GROUNDWATER PRODUCTION	223	20.0	03/05/2014	ANNUAL SCH
WATEROL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	11/19/2013	TWUA DIST
WATEROL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	10/15/2013	TWUA DIST
WATEROL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	08/20/2013	TWUA DIST
WATEROL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	07/16/2013	TWUA DIST
WATEROL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	06/18/2013	TWUA DIST
WATEROL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	04/16/2013	TWUA DIST
WATEROL	GROUNDWATER PRODUCTION	223	20.0	02/27/2013	ANNUAL SCH
WATEROL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	04/10/2012	TWUA DIST
WATEROL	WATER UTILITY MANAGEMENT	550	20.0	03/07/2012	ANNUAL SCH
WATEROL	MONTHLY MEETING TRAINING (W/WW)	33	1.5	05/10/2011	TWUA DIST
WATEROL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	04/12/2011	TWUA DIST
WATEROL	WATER UTILITY MANAGEMENT	550	16.0	03/02/2011	ANNUAL SCH
WATEROL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	03/09/2010	TWUA DIST
WATEROL	TRWA CONFERENCE-WATER ONLY	249	2.0	07/16/2009	TRWA
WATEROL	VALVE AND HYDRANT MAINTENANCE	961	20.0	05/07/2009	TWUA
WATEROL	SEMINAR (WATER ONLY)	1135	6.0	08/20/2008	TCEQ
WATEROL	CHLOR SYS & CHEM HANDL (TRWA)(= 124)	972	20.0	07/09/2008	TRWA
WATEROL	WATER UTILITY CALCULATIONS	108	20.0	06/19/2008	CEN TEX RS
WATEROL	TRWA CONFERENCE-WATER ONLY	249	3.0	08/31/2007	TRWA
WATEROL	EPA WATER WORKSHOP	315	4.0	09/08/2006	TRWA
WATEROL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	09/14/2005	CAPITOL
WATEROL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	08/09/2005	CAPITOL
WATEROL	CUSTOMER SERVICE INSPECTIONS	173	10.0	11/14/2003	TWUA
WATEROL	CROSS-CONNECTION CONTROL	43	10.0	11/14/2003	TWUA
WATEROL	SMALLL WATER SYS VULN ASSMNT & ERP	1117	6.0	11/06/2003	TRWA
WATEROL	METHODS=EFFEC INSTR TECH (DEACT 6/06)	934	40.0	09/26/2003	TWUA
WATEROL	INSTRUCTIONAL DESIGN & EVAL (DEACT 6/06)	947	40.0	06/20/2003	TWUA
WATEROL	(CORE) WATER DISTRIBUTION	605	20.0	04/10/2003	TEEX ITS
WATEROL	(DEACT 6/04)BPAT DEVICE TEST & MAINT(USE CC 1200) - INCL. PRAC. SKILLS	50	40.0	01/31/2003	TEEX
WATEROL	WATER TECHNOLOGY	613	40.0	10/12/2001	TEEX ITS
WATEROL	GROUNDWATER PRODUCTION	223	20.0	03/22/2001	TRWA
WATEROL	(CRSPD) CSUS 8-HR UTILITY MANAGEMENT	957	20.0	05/01/2000	CAL STATE
WATEROL	WATER LABORATORY	285	20.0	02/10/2000	TEEX ITS
WATEROL	CUSTOMER SERVICE INSPECTIONS	173	10.0	07/07/1999	TEEX ITS
WATEROL	WATER UTILITY CALCULATIONS	108	20.0	06/10/1999	CEN TEX RS
WATEROL	EXCAVATION SAFETY	203	8.0	01/09/1999	TEEX
WATEROL	GROUNDWATER PRODUCTION	223	20.0	06/27/1996	TEEX ITS
WATEROL	MONTHLY MEETING TRAINING (W/WW)	33	4.0	12/31/1995	CAPITOL
WATEROL	AIDS AND WASTEWATER	32	8.0	10/26/1995	TWUA
WATEROL	SEMINAR (W/WW)	34	7.0	05/01/1995	TRWA
WATEROL	APPLIED CONFINED SPACE SAFETY(8 HR)	42	8.0	04/01/1995	TEEX ITS
WATEROL	WATER UTILITY SAFETY	426	20.0	09/01/1993	TEEX ITS
WATEROL	FLUORIDATION PROCEDURES FOR W OPERATORS (TX DSHS)	214	8.0	02/01/1993	TSTI
WATEROL	SURFACE WATER PRODUCTION (DEACT 8/03)	474	20.0	01/01/1992	TEEX ITS
WATEROL	(CORE) WATER DISTRIBUTION	605	20.0	03/01/1991	TEEX ITS
WATEROL	SURFACE WATER PRODUCTION (DEACT 8/03)	474	20.0	02/01/1991	TEEX ITS
WATEROL	(CORE) BASIC WATERWORKS OPERATION	92	20.0	06/01/1990	CEN TEX RS
WTSOL	CROSS-CONNECTION CONTROL	43	10.0	08/05/2021	CWTEX RS
WTSOL	(ONLINE) 10-HR CROSS-CONNECTION CONTROL (TWUA)	1343	10.0	01/21/2021	TWUA
WTSOL	(ONLINE) 10-HR CROSS-CONNECTION CONTROL (TWUA)	1343	10.0	11/19/2020	TWUA
WTSOL	CROSS-CONNECTION CONTROL	43	10.0	05/09/2019	CWTEX RS
WTSOL	CROSS-CONNECTION CONTROL	43	10.0	05/10/2018	CWTEX RS
WTSOL	CROSS-CONNECTION CONTROL	43	10.0	05/11/2017	CWTEX RS
WWOL	WATER UTILITY MANAGEMENT	550	20.0	06/09/2022	CEN TEX RS
WWOL	WATER UTILITY MANAGEMENT	550	20.0	04/28/2022	S/E TEX RS
WWOL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	10/12/2021	TWUA DIST
WWOL	WATER UTILITY MANAGEMENT	550	20.0	08/26/2021	E TEX RS

WWOL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	08/19/2021	TWUA DIST
WWOL	CROSS-CONNECTION CONTROL	43	10.0	08/05/2021	CWTEX RS
WWOL	20-HR ONLINE WATER UTILITLY MANAGEMENT	1275	20.0	07/29/2021	TWUA
WWOL	20-HR ONLINE WATER UTILITLY MANAGEMENT	1275	20.0	07/01/2021	TWUA
WWOL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	05/18/2021	TWUA DIST
WWOL	20-HR ONLINE WATER UTILITLY MANAGEMENT	1275	20.0	05/06/2021	TWUA
WWOL	20-HR ONLINE WATER UTILITLY MANAGEMENT	1275	20.0	01/28/2021	TWUA
WWOL	(ONLINE) 10-HR CROSS-CONNECTION CONTROL (TWUA)	1343	10.0	01/21/2021	TWUA
WWOL	(ONLINE CORE) WASTEWATER COLLECTION (TWUA)	1318	20.0	12/10/2020	TWUA
WWOL	20-HR ONLINE WATER UTILITLY MANAGEMENT	1275	20.0	12/03/2020	TWUA
WWOL	(ONLINE) 10-HR CROSS-CONNECTION CONTROL (TWUA)	1343	10.0	11/19/2020	TWUA
WWOL	(CORE) WATER UTILITY SAFETY - LIVE ONLINE	1307	20.0	10/15/2020	TWUA
WWOL	WATER UTILITY MANAGEMENT	550	20.0	10/24/2019	FW TEX RS
WWOL	CROSS-CONNECTION CONTROL	43	10.0	05/09/2019	CWTEX RS
WWOL	WATER UTILITY MANAGEMENT	550	20.0	05/02/2019	S/E TEX RS
WWOL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	03/16/2019	TWUA DIST
WWOL	TWUA ALL DAY SCHOOL	609	2.0	10/23/2018	TWUA
WWOL	CROSS-CONNECTION CONTROL	43	10.0	05/10/2018	CWTEX RS
WWOL	WATER UTILITY MANAGEMENT	550	20.0	03/07/2018	ANNUAL SCH
WWOL	WATER UTILITY SAFETY	426	20.0	08/31/2017	E TEX RS
WWOL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	07/18/2017	TWUA DIST
WWOL	CROSS-CONNECTION CONTROL	43	10.0	05/11/2017	CWTEX RS
WWOL	CHLORINATOR MAINTENANCE(O&M CHLOR SYSTEMS)	124	20.0	04/27/2017	S/E TEX RS
WWOL	WATER UTILITY MANAGEMENT	550	20.0	03/01/2017	ANNUAL SCH
WWOL	WASTEWATER COLLECTION	80	20.0	11/10/2016	TWUA
WWOL	WATER UTILITY SAFETY	426	20.0	08/25/2016	E TEX RS
WWOL	WATER UTILITY MANAGEMENT	550	20.0	03/02/2016	ANNUAL SCH
WWOL	WATER UTILITY MANAGEMENT	550	20.0	08/13/2015	PERM B RS
WWOL	WATER UTILITY MANAGEMENT	550	20.0	06/18/2015	CEN TEX RS
WWOL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	03/17/2015	TWUA DIST
WWOL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	04/15/2014	TWUA DIST
WWOL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	11/19/2013	TWUA DIST
WWOL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	10/15/2013	TWUA DIST
WWOL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	08/20/2013	TWUA DIST
WWOL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	07/16/2013	TWUA DIST
WWOL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	06/18/2013	TWUA DIST
WWOL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	04/16/2013	TWUA DIST
WWOL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	04/10/2012	TWUA DIST
WWOL	WATER UTILITY MANAGEMENT	550	20.0	03/07/2012	ANNUAL SCH
WWOL	MONTHLY MEETING TRAINING (W/WW)	33	1.5	05/10/2011	TWUA DIST
WWOL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	04/12/2011	TWUA DIST
WWOL	WATER UTILITY MANAGEMENT	550	16.0	03/02/2011	ANNUAL SCH
WWOL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	03/09/2010	TWUA DIST
WWOL	VALVE AND HYDRANT MAINTENANCE	961	20.0	05/07/2009	TWUA
WWOL	CHLOR SYS & CHEM HANDL (TRWA)(= 124)	972	20.0	07/09/2008	TRWA
WWOL	WATER UTILITY CALCULATIONS	108	20.0	06/19/2008	CEN TEX RS
WWOL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	09/14/2005	CAPITOL
WWOL	MONTHLY MEETING TRAINING (W/WW)	33	2.0	08/09/2005	CAPITOL
WWOL	WASTEWATER COLLECTION	80	20.0	03/10/2004	ANNUAL SCH
WWOL	CROSS-CONNECTION CONTROL	43	10.0	11/14/2003	TWUA
WWOL	METHODS=EFFEC INSTR TECH (DEACT 6/06)	934	40.0	09/26/2003	TWUA
WWOL	INSTRUCTIONAL DESIGN & EVAL (DEACT 6/06)	947	40.0	06/20/2003	TWUA
WWOL	(DEACT 6/04)BPAT DEVICE TEST & MAINT(USE CC 1200) - INCL. PRAC. SKILLS	50	40.0	01/31/2003	TEEX
WWOL	(CRSPD) CSUS 8-HR UTILITY MANAGEMENT	957	20.0	05/01/2000	CAL STATE
WWOL	WATER UTILITY CALCULATIONS	108	20.0	06/10/1999	CEN TEX RS
WWOL	EXCAVATION SAFETY	203	8.0	01/09/1999	TEEX
WWOL	WASTEWATER TREATMENT	437	20.0	07/15/1998	S/W TEX RS
WWOL	WASTEWATER TREATMENT	437	20.0	02/13/1997	TEEX ITS
WWOL	MONTHLY MEETING TRAINING (W/WW)	33	4.0	12/31/1995	CAPITOL
WWOL	AIDS AND WASTEWATER	32	8.0	10/26/1995	TWUA
WWOL	WASTEWATER LABORATORY	81	20.0	08/24/1995	TEEX ITS
WWOL	APPLIED CONFINED SPACE SAFETY(8 HR)	42	8.0	04/05/1995	TEEX ITS
WWOL	ANAEROBIC DIGESTION	36	20.0	10/27/1994	TEEX ITS
WWOL	WATER UTILITY SAFETY	426	20.0	09/02/1993	TEEX ITS
WWOL	(CORE) BASIC WASTEWATER OPERATIONS	59	20.0	08/15/1991	TEEX ITS

WWOL	WASTEWATER COLLECTION	80	20.0	12/13/1990	TEEX ITSI
WWOL	WASTEWATER TREATMENT	437	20.0	07/20/1990	ACC
WWOL	(CORE) BASIC WASTEWATER OPERATIONS	59	20.0	06/07/1990	ACC

Note: Approved training providers are responsible for submitting approved training to TCEQ. Please allow 30 days from the last date of the training session for a record to appear in the search results. If a course does not appear in your training record after that time, please contact the training provider of the missing course. You may find contact information for approved training providers at <https://www.tceq.texas.gov/licensing/training/AllTrainingProviders>.

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Exhibit E

**SOAH DOCKET NO. 582-23-10368
TCEQ DOCKET NO. 2022-1731-MWD**

APPLICATION BY R040062, LP	§	BEFORE THE STATE OFFICE
FOR	§	OF
TPDES PERMIT NO. WQ0016008001	§	ADMINISTRATIVE HEARINGS

FILED
582-23-10368
6/9/2023 4:22 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Pegah Nasrollahzadeh, CLERK

DIRECT TESTIMONY

OF

MILES WHITNEY

ACCEPTED
582-23-10368
6/9/2023 4:27:20 pm
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Pegah Nasrollahzadeh, CLERK

ON BEHALF OF JONAH WATER SPECIAL UTILITY DISTRICT

EXHIBIT JWSUD-2

JUNE 9, 2023

**SOAH DOCKET NO. 582-23-10368
TCEQ DOCKET NO. 2022-1731-MWD**

**DIRECT TESTIMONY OF MILES WHITNEY,
WITNESS FOR JONAH WATER SPECIAL UTILITY DISTRICT**

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EXHIBITS:

Exhibit MW-1	District/Water CCN Map
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**SOAH DOCKET NO. 582-22-1016
TCEQ DOCKET NO. 2021-1214-MWD**

**DIRECT TESTIMONY OF MILES WHITNEY,
WITNESS FOR JONAH WATER SPECIAL UTILITY DISTRICT**

I. INTRODUCTION, POSITION, AND QUALIFICATIONS

Q. PLEASE STATE YOUR NAME AND CURRENT EMPLOYMENT POSITION.

A. My name is Miles Whitney. I am a licensed civil engineer, License No. 116154, and the President of Cayote Consulting, LLC.

Q. HOW LONG HAVE YOU BEEN EMPLOYED IN YOUR CURRENT POSITION?

A. I have held the position of President for more than eight years.

Q. WHAT ARE YOUR RESPONSIBILITIES IN YOUR CURRENT POSITION?

A. As the professional civil engineer for Jonah Water Special Utility District, I work on planning, design, permitting, and management. I am responsible for the design and management of the water and wastewater projects for Jonah, that would include Texas Commission on Environmental Quality ("TCEQ") discharge permit applications and renewals. I also assist with future planning efforts, including master planning, capital improvement plans, certificate of convenience and necessity ("CCN") applications, review of proposed subdivisions, easement acquisition assistance, and funding assistance.

Q. WHAT ATTACHMENTS HAVE YOU PREPARED IN SUPPORT OF YOUR TESTIMONY?

A. My direct testimony and supporting attachment, identified as Exhibit MW-1, which were prepared by me or under my direction, supervision or control, are to the best of my knowledge true and correct and are the types of documents kept in the normal course of

business. Exhibit MW-1 is a map of Jonah's service areas and systems, and pending wastewater treatment plant permit applications, located in proximity to the district.

Q. WHAT HAVE YOU REVIEWED TO PREPARE YOUR TESTIMONY AND RENDER YOUR OPINIONS?

A. My opinions are based on my personal knowledge of the proposed development project that the proposed permit will serve, including the documents submitted by R040062, LP (the "Applicant") to Jonah and the draft permit effluent limitations, my understanding of Jonah's ability to construct and operate the Facility, defined below, as well as the direct testimony of Jonah's other witness, William Brown.

Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?

A. I am filing direct testimony on behalf of Jonah Water Special Utility District ("Jonah"), a Protestant in this proceeding.

II. PURPOSE OF DIRECT TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. Since the Applicant requested direct referral of this application to the State Office of Administrative Hearings ("SOAH"), this hearing is to address whether the application complies with all applicable statutory and regulatory requirements. The purpose of my testimony is to provide additional information for the record regarding some of the applicable requirements. Specifically, whether the draft permit is consistent with the state's regionalization policy and demonstration of need for the volume requested in the application for a new discharge permit pursuant to Texas Water Code ("TWC") § 26.0282. I will also provide testimony concerning wastewater system design and permitting, generally.

1 **Q. PLEASE DESCRIBE THE DEVELOPMENT PROJECT FOR WHICH**
2 **APPLICANT IS SEEKING THE TEXAS POLLUTANT DISCHARGE**
3 **ELIMINATION SYSTEM (“TPDES”) PERMIT NO. WQ0016008001?**

4 A. I understand that the Indigo Water Resource Recovery Facility (the “Facility”) is proposed
5 to serve Applicant’s subdivision, consisting of approximately 600 manufactured homes.
6 The property lies within Jonah’s district boundary and existing water CCN area.

7 **Q. ARE YOU FAMILIAR WITH THE EXHIBITS AND DOCUMENTS THAT**
8 **COMPRISE THE ADMINISTRATIVE RECORD?**

9 A. I am familiar with some of the other exhibits and documents.

10 **Q. WHAT IS YOUR OPINION ABOUT THE APPLICATION BASED ON THE**
11 **EVIDENCE IN THE ADMINISTRATIVE RECORD?**

12 A. Jonah is willing and able to provide wastewater service to Applicant for future residential
13 customers within the proposed service area and that Jonah would be the best regional
14 service provider in this area.

15 **III. JONAH’S CONCERNS**

16 **Q. PLEASE DESCRIBE THE AREA WHERE THE PROPOSED DEVELOPMENT**
17 **AND WASTEWATER TREATMENT FACILITY WILL BE LOCATED.**

18 A. Due to the construction of SH 130, the area on both sides of the highway in Jonah’s service
19 area is experiencing significant growth. New developments along the SH 130 corridor are
20 requesting water and wastewater service at record pace. As you can see on Exhibit MW-1
21 the R040062 LP application is just one of ten pending wastewater applications within or
22 near Jonah’s district boundary and water CCN area. There are three other pending
23 wastewater treatment plant permits within 3.3 miles of the subject application: AIRW-

2017-7 Permit No. WQ0015878001 (0.84 miles), Limmer Loop JV, LLC WQ0016260001 (3.37 miles), and New Horizons Utility LLC WQ0016257001 (1.30 miles). Additionally, the subject application is within 1.6 miles of three active and one inactive Jonah water wells: Plant No. 1, Well No. 1, and Well No. 10 (1.28 miles); and Plant No. 7, Well No. 3 (1.58 miles) are in service; and Plant No. 11, Well No. 6 (0.57 miles) that is currently out of service.

Q. PLEASE DESCRIBE YOUR CONCERNS REGARDING THE DRAFT PERMIT'S COMPLIANCE WITH TEXAS REGIONALIZATION POLICY AND DEMONSTRATION OF NEED FOR THE VOLUME REQUESTED IN THE APPLICATION FOR A NEW DISCHARGE PERMIT PURSUANT TO TWC § 26.0282.

A. Texas has a regionalization policy for wastewater treatment that is meant to encourage consistency and quality in wastewater treatment by providing for the administrative or physical combination of two or more community wastewater systems for improved planning operation or management. For example, expanding or combining treatment facilities to operate under one operator that has a strong background in good management is encouraged over multiple smaller wastewater-treatment facilities in a region that may have operators that vary in operation quality, pollution management, and other types of expertise that can potentially have a profound impact on the regional environment and public health and safety. My understanding is that the Applicant for the draft permit is a single-purpose entity that, to Jonah's knowledge, does not own or operate any other wastewater-treatment plants.

1 Jonah is in the business of utilities and of constructing and operating facilities at the highest
2 standards. Selecting Jonah as the provider of wastewater treatment for Applicant's
3 development has the added benefit of facilitating the Texas regionalization policy because
4 Jonah desires to pursue the construction and operation of wastewater-treatment plants
5 within its boundaries to ensure that surface-water quality is preserved. Construction and
6 operation of high-quality wastewater-treatment plants is necessary to maintain the surface-
7 water quality for all discharges above Lake Granger, as Lake Granger serves as a major
8 water supply source for Jonah through its wholesale contracts with the Brazos River
9 Authority.

10 **Q. PLEASE DESCRIBE YOUR CONCERNS REGARDING THE POTENTIAL**
11 **ENVIRONMENTAL IMPACT OF THE FACILITY.**

12 A. Based on the information in documents reviewed, the treated wastewater will be discharged
13 to an unnamed tributary of Mankins Branch, to Mankins Branch, then ultimately to the San
14 Gabriel/North Fork San Gabriel River in Segment No. 1248 of the Brazos River Basin.
15 Jonah has concerns that the treated wastewater, if not properly managed, will contaminate
16 the water in the San Gabriel/North Fork San Gabriel River, and eventually Lake Granger.
17 Jonah provides to its customers water obtained from both surface water and wells,
18 including water coming from the San Gabriel River. Jonah is concerned about degradation
19 of water quality conditions in these creek beds, tributaries, Mankins Branch, the San
20 Gabriel River and ultimately Lake Granger from the discharge that will emanate from this
21 facility should the proper maintenance and operation of the facility not be sustained. Due
22 to the proximity of the proposed facility to Jonah's water wells and the northern segment
23 of the Edwards (Balcones Fault Zone) Aquifer, Jonah is also concerned about the potential

1 contamination of ground water in the area if the facility is not properly maintained or
2 discharge is not in compliance with the required water quality standards.

3 **Q. PLEASE DESCRIBE WHY JONAH WOULD BE A SAFER AND MORE**
4 **QUALIFIED OPERATOR FOR THE FACILITY.**

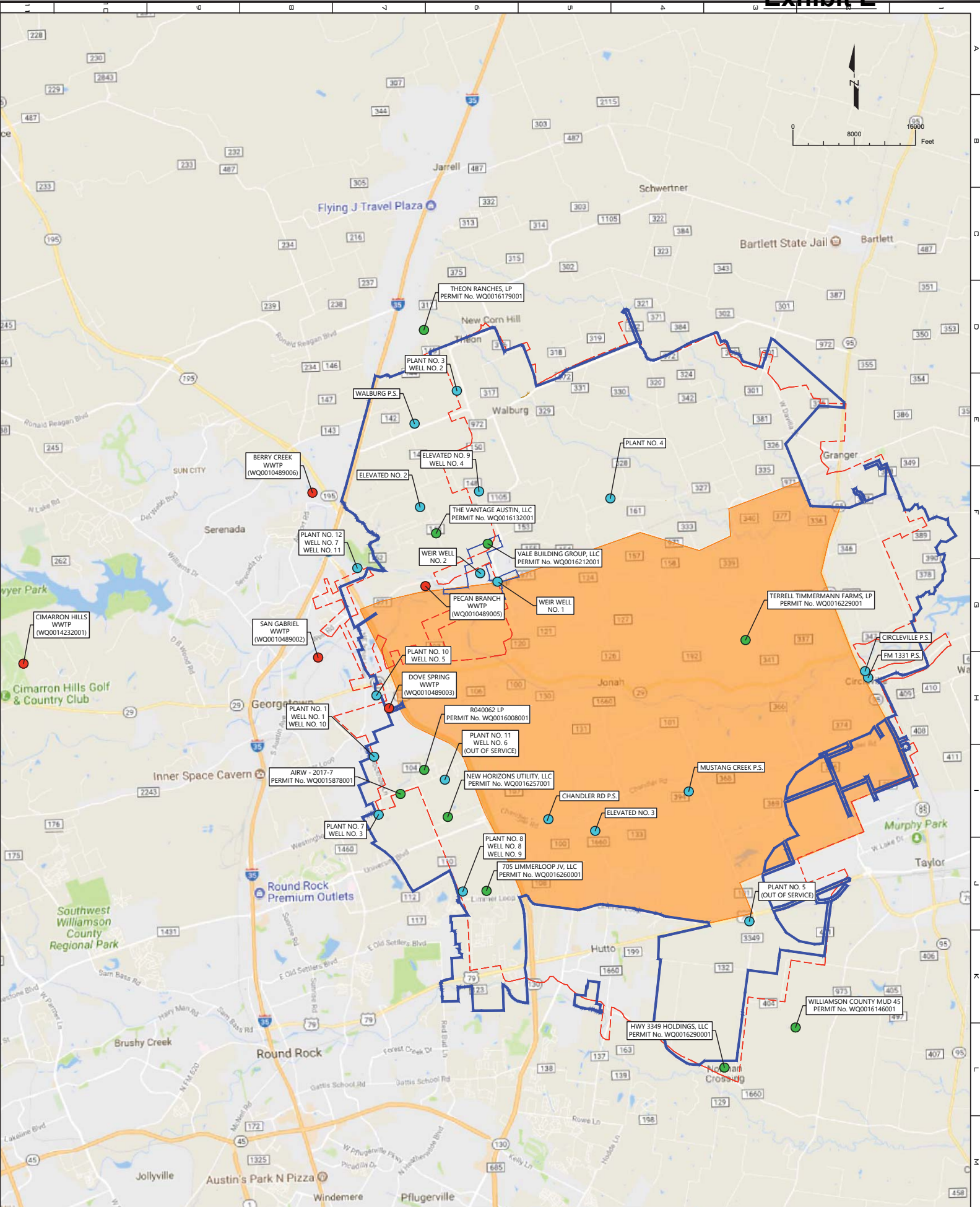
5 A. Jonah is the superior choice to construct and operate the Facility because Jonah will ensure
6 that the Facility is built and maintained to operate at the highest quality standards to
7 safeguard surface-water quality in the region; Jonah's construction and operation of the
8 Facility will comply with Texas' regionalization policy by combining water and
9 wastewater service in the area to a single provider with a history of exceptional operations;
10 additionally, Jonah will not impose requirements on potential customers, such as
11 annexation into a city or compliance with additional development standards, simply to have
12 wastewater treated at the Facility.

13 **IV. CONCLUSION**

14 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

15 A. Yes, but I reserve the right to supplement my testimony as additional information becomes
16 available.

EXHIBIT MW-1



NOTES:

- INFORMATION USED TO CREATE JONAH'S CCN BOUNDARY WAS ACQUIRED FROM THE PUBLIC UTILITY COMMISSION OF TEXAS' (P.U.C.) WEBSITE ON APRIL 6, 2022
- INFORMATION USED TO CREATE JONAH'S S.U.D. BOUNDARY WAS ACQUIRED FROM THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY'S (T.C.E.Q.) WEBSITE ON APRIL 7, 2022
- LINE LOCATIONS ARE FOR REPRESENTATION ONLY, CONTACT APPLICABLE UTILITY PROVIDER FOR FIELD LOCATIONS
- THIS PRODUCT IS FOR INFORMATIONAL PURPOSES ONLY. IT DOES NOT REPRESENT AN ON-THE-GROUND SURVEY AND REPRESENTS ONLY THE APPROXIMATE RELATIVE LOCATION OF THE INFRASTRUCTURE.
- JONAH WATER S.U.D. NOR ITS REPRESENTATIVES SHALL BE LIABLE TO ANY PERSON OR ENTITY WITH RESPECT TO ANY LIABILITY, LOSS, OR DAMAGE CAUSES OR ALLEGED TO BE CAUSED DIRECTLY OR INDIRECTLY BY USE OF THIS MAP.



JONAH CCN:
(AREA: 112,167 ACRES OR
175.26 SQUARE MILES)



JONAH S.U.D.:
(AREA: 108,363 ACRES OR
169.317 SQUARE MILES)



WWMP STUDY AREA
(APPROX AREA: 57,938 ACRES
OR 90.53 SQUARE MILES)



APPROXIMATE LOCATION
OF GEORGETOWN
WASTE WATER
TREATMENT PLANT



APPROXIMATE LOCATION
OF PROPOSED WASTE
WATER DISCHARGE



APPROXIMATE LOCATION
OF EXISTING JWSUD
PLANT

SHEET 1

AYOTE CONSULTING, LLC
T.B.P.E. F-16387
P.O. Box 24189
WACO, TX 76702 PH. 254-744-3439

DATE:
06/07/2023

APPROVED:

DESIGN: JWS
DRAWN: JWS
GEO: JWS
SEAL:

JONAH WATER S.U.D.
WILLAMSON COUNTY, TEXAS

WATER CCN & S.U.D. MAP

REVISION	DESCRIPTION	DATE	BY	CHK

Automated Certificate of eService

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Katy Hennings on behalf of John Joseph Carlton

Bar No. 3817600

katy@carltonlawaustin.com

Envelope ID: 77782160

Filing Code Description: Pleading

Filing Description: Jonah Water Special Utility District's Response to R040062, LP's Motion for Summary Disposition

Status as of 7/24/2023 8:40 AM CST

Associated Case Party: Executive Director

Name	BarNumber	Email	TimestampSubmitted	Status
Aubrey Pawelka		aubrey.pawelka@tceq.texas.gov	7/21/2023 5:26:59 PM	SENT

Associated Case Party: R040062, LP

Name	BarNumber	Email	TimestampSubmitted	Status
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Name	BarNumber	Email	TimestampSubmitted	Status
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Associated Case Party: Public Interest Counsel

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Associated Case Party: Jonah Water Special Utility District

Name	BarNumber	Email	TimestampSubmitted	Status
Katy Hennings		katy@carltonlawaustin.com	7/21/2023 5:26:59 PM	SENT

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Katy Hennings on behalf of John Joseph Carlton

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Associated Case Party: Jonah Water Special Utility District

John Carlton		john@carltonlawaustin.com	7/21/2023 5:26:59 PM	SENT
Erin Selvera		erin@carltonlawaustin.com	7/21/2023 5:26:59 PM	SENT