

Jon Niermann, *Chairman*
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Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 8, 2021

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

**Re: Application by City of Fort Worth for TPDES Permit No. WQ0015668001;
TCEQ Docket No. 2021-1211-MWD**

Dear Ms. Gharis:

I have enclosed for filing the Executive Director's Response to Hearing Requests in the above-entitled matter. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Bobby Salehi".

Bobby Salehi
Staff Attorney
Environmental Law Division

Enclosure

cc: Mailing List

TCEQ DOCKET NO. 2021-1211-MWD

APPLICATION BY	§	BEFORE THE
	§	
CITY OF FORT WORTH FOR	§	TEXAS COMMISSION ON
	§	
TCEQ PERMIT NO. WQ0015668001	§	ENVIRONMENTAL QUALITY
	§	

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

I. INTRODUCTION

The Executive Director (ED) of the Texas Commission on Environmental Quality (Commission or TCEQ) files this Response to Hearing Requests on an application by City of Fort Worth (Applicant) for a TPDES Permit No. WQ0015668001. The Office of the Chief Clerk received contested case hearing requests from:

Tarrant Regional Water District, Teresa Patterson, Fort Worth Fly Fishers, Martha V Leonard, Texas Rivers Protection Association, Michelle Kopp, George Gretser, Stephen M Woodcock, Jeremy Raines, Tristan Rodriguez, Julie Hencke, Kian Amos, Jacob A Posey, Katherine Taft, Kevin McConnell, Noah Collins, Emily Anne Craig, David R Hooper, Johnnye Panther Michael, Jonnye Michael, Karla Kate, Andrew Ryan Sparks, Meaghan Geary, Ryan Helm, Caroline Stephenson, Travis Catee, Gerry Schlegel, Brittani Hall, Jerry Cate, Sydney O'Connell, Betty Dillard, Matt Oliver, Skyler Stephenson, Matthew Blake Mancino, Shanna Cate Granger, Russel Husted, Jerry Hamon, Gregory Mark Mancino, John S Boid, Mikela Van Horn, Taylor Ellison, Landon Geary, Jodi Thomason, Allison Jo Hocking, William Jared Fuller, Autumn N Crawford, Megan W McMullen, Thomas William Ames, Kelly Shea Clem, Daniel Ivery, Gerard Joseph Schlegel, Gerry Schlegel, Valerie Ann Ramos, Bailey Templin, Charles Reid, Chandler S Davis, JD Granger, Richard H Grayson, Mary Margaret Richter, and Texas Council of Fly Fishers International.

Attached for Commission consideration are satellite maps of the area and an appendix showing the names of the requestors.

II. FACILITY DESCRIPTION

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit to authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 10 million gallons per day (MGD) in the Interim phase and an annual average flow not to exceed 15 MGD in the Final phase. The proposed wastewater treatment facility will serve the west side of the City of Fort Worth. The treated effluent will be discharged to Mary's Creek, thence to Clear Fork Trinity River Below Benbrook Lake in Segment No. 0829 of the Trinity River Basin. The unclassified receiving water use is high aquatic life use for Mary's Creek. The designated uses for Segment No. 0829 are primary contact recreation, public water supply, and high aquatic life use. In accordance with 30 Texas Administrative Code

§ 307.5 and the TCEQ implementation procedures (June 2010) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Mary's Creek, 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.

The Mary's Creek Wastewater Treatment Facility will be a membrane bioreactor plant utilizing an activated sludge process operated in the extended aeration mode. Treatment units in the Interim phase will include three coarse screens, two grit chambers, an equalization basin, a peak flow storage basin, three rotary drum fine screens, four anaerobic zones, four anoxic zones, four aerobic zones, eight membrane basins, four aerated storage tanks, two sludge thickeners, two sludge holding tanks, three sludge dewatering presses, and an Ultraviolet light (UV) disinfection system. Treatment units in the Final phase will include four coarse screens, three grit chambers, an equalization basin, a peak flow storage basin, four rotary drum fine screens, six anaerobic zones, six anoxic zones, six aerobic zones, twelve membrane basins, six aerated storage tanks, three sludge thickeners, two sludge holding tanks, four sludge dewatering presses, and an UV disinfection system. The facility has not been constructed. The facility will be located at 11091 Chapin Road, in the City of Fort Worth, Tarrant County, Texas 76108.

III. PROCEDURAL BACKGROUND

The permit application was received on March 23, 2018, and declared administratively complete on May 11, 2018. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in Fort Worth County, Texas in English on January 9, 2018, in the Star-Telegram, and in Spanish on June 15, 2018, in Star-Telegram. The Applicant published combined notice NORI and the Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD) in Fort Bend County, Texas in English on August 3, 2020, in the Star-Telegram and in Spanish on April 4, 2020, in La Estrella. A Public Meeting was held on October 5, 2020. The comment period for this application closed on October 5, 2020. This application was filed on or after June 1, 2018; 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. The ED's Response to Comments and Final Decision were mailed on July 23, 2021; the Hearing Request period ended August 23, 2021.

IV. THE EVALUATION PROCESS FOR HEARING REQUESTS

HB 801 established statutory procedures for public participation in certain environmental permitting proceedings, specifically regarding public notice and public comment and the Commission's consideration of hearing requests. SB 709 revised the

requirements for submitting public comment and the Commission's consideration of hearing requests. The evaluation process for hearing requests is as follows:

A. Response to Requests

The ED, the Public Interest Counsel, and the Applicant may each submit written responses to a hearing request.¹

Responses to hearing requests must specifically address:

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

B. Hearing Request Requirements

For the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements:

Affected persons may request a contested case hearing. The request must be made in writing and timely filed with the chief clerk. The request must be based only on the requestor's timely comments and may not be based on an issue that was raised solely in a public comment that was withdrawn by the requestor prior to the filing of the ED's Response to Comment.³

A hearing request must substantially comply with the following:

- (1) give the time, address, daytime telephone number, and where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;
- (2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected

¹ 30 Texas Administrative Code (TAC) Section (§) 55.209(d).

² 30 TAC § 55.209(e).

³ 30 TAC § 55.201(c).

- by the proposed facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
 - (4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the ED's responses to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law; and
 - (5) provide any other information specified in the public notice of application.⁴

C. Requirement that Requestor be an Affected Person/"Affected Person" Status

To grant a contested case hearing, the Commission must determine that a requestor is an "affected" person by conducting the following analysis:

- (a) For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.
- (b) Except as provided by § 55.103 of this title (relating to Definitions), governmental entities, including local governments and public agencies, with authority under state law over issues raised by the application may be considered affected persons.
- (c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
 - (1) whether the interest claimed is one protected by the law under which the application will be considered;
 - (2) distance restrictions or other limitations imposed by law on the affected interest;
 - (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
 - (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
 - (5) likely impact of the regulated activity on use of the impacted natural resource by the person;
 - (6) for a hearing request on an application filed on or after September 1, 2015, whether the requestor timely submitted comments on the application that were not withdrawn; and
 - (7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.
- (d) In determining whether a person is an affected person for the purpose of granting a hearing request for an application filed on or after September 1, 2015, the commission may also consider the following:

⁴ 30 TAC § 55.201(d).

- (1) the merits of the underlying application and supporting documentation in the commission's administrative record, including whether the application meets the requirements for permit issuance;
 - (2) the analysis and opinions of the ED; and
 - (3) any other expert reports, affidavits, opinions, or data submitted by the ED, the applicant, or hearing requestor.
- (e) In determining whether a person is an affected person for the purpose of granting a hearing request for an application filed before September 1, 2015, the commission may also consider the factors in subsection (d) of this section to the extent consistent with case law.

D. Referral to the State Office of Administrative Hearings

“When the commission grants a request for a contested case hearing, the commission shall issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing.”⁵ The Commission may not refer an issue to the State Office of Administrative Hearings (SOAH) for a contested case hearing unless the Commission determines that the issue:

- (1) involves a disputed question of fact or a mixed question of law and fact;
- (2) was raised during the public comment period by an affected person whose hearing request is granted; and
- (3) is relevant and material to the decision on the application.⁶

V. ANALYSIS OF THE REQUESTS

The ED has analyzed the hearing request to determine whether it complies with Commission rules, if the requestor qualifies as an affected person, what issues may be referred for a contested case hearing, and what is the appropriate length of the hearing.

A. Whether the Requestor Complied With 30 TAC §§ 55.201(c) and (d) and 55.203

1. Parties the Executive Director recommends the Commission find affected persons

Tarrant Regional Water District (TRWD):

TRWD submitted a timely comment and hearing request in which they articulated several concerns they had with the permit. 30 TAC § 55.203(b) provides that governmental authorities, including local governments and public agencies, with authority under state law over issues raised by the application may be considered affected persons. In their hearing request, TRWD stated that they supply water to the City of Fort Worth and that they rely on return flows along the discharge route. They raised water quality issues with the permit and are concerned that the water they rely on will have higher levels of chlorophyll and algae, thus compromising their current supply. TRWD illustrated how they have authority and interest over the issues raised in

⁵ 30 TAC § 50.115(b).

⁶ 30 TAC § 50.115(c).

the application, and their hearing request further complied with all requirements of 30 TAC § 55.203.

Because their interests are not common to the general public and was timely raised, the Executive Director recommends that the Commission find TRWD an affected person.

Martha V Leonard:

According to the information provided in her hearing request, Martha Leonard owns property adjacent to Mary's Creek within 1 mile of the proposed discharge point. She states that her family owns tracts 5 and 6 as identified in the adjacent landowner map included with the City's Application. Mrs. Leonard raised concerns about the impacts from the discharge on dams on her property, and impacts to water quality from water her family recreates in, and also serves as water for wildlife in the area. She is also concerned with oxygen levels in the water from the proposed discharge, and potential high concentration of chemicals in the dams on her property, as well as risks of accumulation of solids and accidental discharges. The Executive Director determined that Mrs. Leonard has demonstrated that she has a personal justiciable interest related to a legal right duty, privilege, power, or economic interest affected by the application that is not common the members of the general public, and therefore, is an affected person as set out in 30 TAC § 55.203.

The Executive Director recommends the Commission find that Martha Leonard is an affected person.

2. Parties the Executive Director recommends the Commission find are not affected persons

Fort Worth Fly Fishers:

David Hooper submitted a timely hearing request on behalf of Fort Worth Fly Fishers. In his hearing request, Mr. Hooper raised concerns about potential algal blooms, harm to the river, and potential interference with recreational activities. Mr. Hooper recommended alternative methods for the applicant to dispose of the discharge. The Executive Director examines the factors listed in 30 TAC § 55.205 for contested case hearings by a group or association. In their hearing request, Fort Worth Fly Fishers identified Mr. Hooper as their member of the group that is an affected person. However, they failed to identify how Mr. Hooper has standing as an affected person to request a hearing in his own right, as required by section 55.205(a)(1). Mr. Hooper has not shown that he or Fort Worth Fly Fishers have a personal justiciable interest relative to the proposed activity that is not common to members of the general public.

The Executive Director recommends the Commission find that David Hooper on behalf of Fort Worth Fly Fishers is not an affected person.

Texas Rivers Protection Association:

David Price submitted a timely hearing request on behalf of Texas Rivers Protection Association. In their hearing request, Mr. Price expressed opposition to the proposed permit and suggested that there are better alternatives available to dispose of the effluent. The Executive Director examines the factors listed in 30 TAC § 55.205

for contested case hearings by a group or association. In their hearing request, Texas Rivers Protection Association identified Mr. Price as their member of the group that is an affected person. However, they failed to identify how Mr. Price has standing as an affected person to request a hearing in his own right, as required by section 55.205(a)(1). Mr. Price has not shown that he or Texas Rivers Protection Association have a personal justiciable interest relative to the proposed activity that is not common to members of the general public.

The Executive Director recommends the Commission find that Texas Rivers Protection Association is not an affected person.

Teresa Patterson:

While Teresa Patterson submitted a timely hearing request, she did not comply with the procedures set forth in the TCEQ's rules when she submitted the request. 30 TAC § 55. 201 (d)(2) requires the requestor to, "identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public." In her Hearing Request, Ms. Patterson provided an address that is over 10 miles away from the proposed facility's outfall and failed to articulate any other property interests closer to the outfall location or discharge route. She identified the area in which she recreates some 15 miles downstream and raised several issues including algae and other environmental issues that could affect her and the general public's ability to recreate in this segment of the river.

Therefore, because Ms. Patterson failed to articulate any justiciable interest as defined under 30 TAC § 55. 201 (d)(2), the Executive Director recommends the Commission not find her an Affected Person.

Michelle Kopp:

While Ms. Kopp submitted a timely hearing request, she did not comply with the procedures set forth in the TCEQ's rules when she submitted the request. 30 TAC § 55. 201 (d)(2) requires the requestor to, "identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public." In her Hearing Request, Ms. Kopp stated only that the permit should be withdrawn and alternative should be sought. She provided no other comments regarding the permit.

As she did not raise any issue related to any articulable justiciable interest she may possess, the Executive Directors recommends the Commission find Ms. Kopp is not an affected person.

Stephen M Woodcock:

While Mr. Woodcock submitted a timely hearing request, he did not comply with the procedures set forth in the TCEQ's rules when he submitted the request. 30 TAC

§ 55. 201(d)(2) requires the requestor to, “identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public.” In his Hearing Request, Mr. Woodcock provided an address that is over 8 miles away from the proposed facility's outfall, failed to articulate any other property interests closer to the outfall location or discharge route, and stated that he has used the Mary's Creek and Trinity River to recreate as well as for his previous line of work.

Therefore, because Mr. Woodcock failed to articulate any justiciable interest as defined under 30 TAC § 55. 201(d)(2), the Executive Director recommends that the Commission find Mr. Woodcock is not an affected person.

Jeremy Raines:

While Mr. Raines submitted a timely hearing request, he did not comply with the procedures set forth in the TCEQ's rules when he submitted the request. 30 TAC § 55. 201(d)(2) requires the requestor to, “identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public.” In his Hearing Request, Mr. Raines provided an address that is over 8 miles away from the proposed facility's outfall and failed to articulate any other property interests closer to the outfall location or discharge route. He identified the area in which he recreates is 9 miles downstream and raised concerns about algae and other environmental issues that could affect his and the general public's ability to recreate.

Therefore, because Mr. Raines failed to articulate any justiciable interest as defined under 30 TAC § 55. 201 (d)(2), the Executive Director recommends the Commission find that Mr. Raines is not an affected person.

Julie Hencke:

While Ms. Hencke submitted a timely hearing request, she did not comply with the procedures set forth in the TCEQ's rules when she submitted the request. 30 TAC § 55. 201(d)(2) requires the requestor to, “identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public.” In her Hearing Request, Ms. Hencke provided an address that is over 3 miles away from the proposed facility's outfall and failed to articulate any other property interests closer to the outfall location or discharge route. She identified the area in which she recreates 14 miles downstream and raised concerns about odor, water quality that could affect her ability to fish.

Therefore, because Ms. Hencke failed to articulate any justiciable interest as defined under 30 TAC § 55.201(d)(2), the Executive Director recommends the Commission find that Ms. Hencke is not an affected person.

Kian Amos:

While Mr. Amos submitted a timely hearing request, he did not comply with the procedures set forth in the TCEQ's rules when he submitted the request. 30 TAC § 55.201(d)(2) requires the requestor to, "identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public." While Mr. Amos provided an address just over one mile from the facility, he failed to articulate how the facility would affect his property. He identified the area in which he works and recreates is 15 miles downstream and raised concerns about algae, health hazards, and other environmental issues that could affect his and the general public's ability to recreate.

Therefore, because Mr. Amos failed to articulate any justiciable interest as defined under 30 TAC § 55.201(d)(2), the Executive Director recommends the Commission find Mr. Amos is not an affected person.

Mary Margaret Richter:

While Ms. Richter submitted a timely hearing request, she did not comply with the procedures set forth in the TCEQ's rules when she submitted the request. 30 TAC § 55.201(d)(2) requires the requestor to, "identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public." In her Hearing Request, Ms. Richter provided an address that is over 5 miles away from the proposed facility's outfall. While she claimed she owned property on the discharge route and raised concerns about algae and health hazards, she stated that it was 10 miles downstream of the outfall.

Therefore, because Ms. Richter failed to articulate any justiciable interest as defined under 30 TAC § 55.201(d)(2), the Executive Director recommends the Commission find that Ms. Richter is not an affected person.

Richard H Grayson:

While Mr. Grayson submitted a timely hearing request, he did not comply with the procedures set forth in the TCEQ's rules when he submitted the request. 30 TAC § 55.201(d)(2) requires the requestor to, "identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public." In his Hearing

Request, Mr. Grayson provided an address that is over 10 miles away from the proposed facility's outfall and failed to articulate any other property interests closer to the outfall location or discharge route. He identified the area in which he recreates is 15 miles downstream and raised concerns his and the general public's ability to recreate.

Therefore, because Mr. Grayson failed to articulate any justiciable interest as defined under 30 TAC § 55.201(d)(2), the Executive Director recommends the Commission find Mr. Grayson is not an affected person.

Jacob A Posey:

While Mr. Posey submitted a timely hearing request, he did not comply with the procedures set forth in the TCEQ's rules when he submitted the request. 30 TAC § 55.201(d)(2) requires the requestor to, "identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public." In his Hearing Request, Mr. Posey provided an address that is over 5 miles away from the proposed facility's outfall and failed to articulate any other property interests closer to the outfall location or discharge route. He identified the area in which he recreates is 15 miles downstream and raised concerns about algae, health hazards and other environmental issues that could affect his and the general public's ability to recreate.

Therefore, because Mr. Posey failed to articulate any justiciable interest as defined under 30 TAC § 55.201(d)(2), the Executive Director recommends the Commission find Mr. Posey is not an affected person.

Katherine Taft:

While Ms. Taft submitted a timely hearing request, she did not comply with the procedures set forth in the TCEQ's rules when she submitted the request. 30 TAC § 55.201(d)(2) requires the requestor to, "identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public." In her Hearing Request, Ms. Taft provided an address that is over 10 miles away from the proposed facility's outfall and failed to articulate any other property interests closer to the outfall location or discharge route. She identified the area in which she recreates 14 miles downstream and raised concerns about algae, health hazards and other environmental issues that could affect her and the general public's ability to recreate.

Therefore, because Ms. Taft failed to articulate any justiciable interest as defined under 30 TAC § 55.201(d)(2), the Executive Director recommends the Commission find that she is not an affected person.

Kevin McConnell:

While Mr. McConnell submitted a timely hearing request, he did not comply with the procedures set forth in the TCEQ's rules when he submitted the request. 30 TAC § 55.201(d)(2) requires the requestor to, "identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public." In his Hearing Request, Mr. McConnell provided an address that is over 10 miles away from the proposed facility's outfall and failed to articulate any other property interests closer to the outfall location or discharge route. He identified the area in which he operates a business 15 miles downstream and raised concerns about odor, health hazards, and other environmental issues that could affect his and the general public's ability to recreate.

Therefore, because Mr. McConnell failed to articulate any justiciable interest as defined under 30 TAC § 55.201(d)(2), the Executive Director recommends the Commission find that Mr. McConnell is not an affected person.

Noah Collins:

While Mr. Collins submitted a timely hearing request, he did not comply with the procedures set forth in the TCEQ's rules when he submitted the request. 30 TAC § 55.201(d)(2) requires the requestor to, "identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public." In his Hearing Request, Mr. Collins provided an address that is over 9 miles away from the proposed facility's outfall and failed to articulate any other property interests closer to the outfall location or discharge route. He identified the area in which he recreates is 15 miles downstream and raised concerns about algae, aquatic wildlife, health hazards, and other environmental issues that could affect his and the general public's ability to recreate.

Therefore, because Mr. Collins failed to articulate any justiciable interest as defined under 30 TAC § 55.201(d)(2), the Executive Director recommends the Commission find Mr. Collins is not an affected person.

Emily Anne Craig:

While Ms. Craig submitted a timely hearing request, she did not comply with the procedures set forth in the TCEQ's rules when she submitted the request. 30 TAC § 55.201(d)(2) requires the requestor to, "identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public." In her Hearing Request, Ms. Craig provided an address that is over 5 miles away from the proposed

facility's outfall and failed to articulate any other property interests closer to the outfall location or discharge route. She raised concerns about the odors from the facility affecting her job and use and enjoyment of her property.

Therefore, because Ms. Craig failed to articulate any justiciable interest as defined under 30 TAC § 55.201(d)(2), the Executive Director recommends the Commission find Ms. Craig is not an affected person.

David R Hooper:

While Mr. Hooper submitted a timely hearing request, he did not comply with the procedures set forth in the TCEQ's rules when he submitted the request. 30 TAC § 55.201(d)(2) requires the requestor to, "identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public." In his Hearing Request, Mr. Hooper provided an address that is over 10 miles away from the proposed facility's outfall and failed to articulate any other property interests closer to the outfall location or discharge route. He stated he fishes ½ mile downstream of the outfall and raised concerns about algae, health hazards, and other environmental issues that could affect his and the general public's ability to recreate.

Therefore, because Mr. Hooper failed to articulate any justiciable interest as defined under 30 TAC § 55.201(d)(2), the Executive Director recommends the Commission find Mr. Hooper is not an affected person.

Johnnye Panther Michael:

While Mr. Michael submitted a timely hearing request, he did not comply with the procedures set forth in the TCEQ's rules when he submitted the request. 30 TAC § 55.201(d)(2) requires the requestor to, "identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public." In his Hearing Request, Mr. Michael provided an address that is over 10 miles away from the proposed facility's outfall and failed to articulate any other property interests closer to the outfall location or discharge route. He stated that his business operates on Clear Fork of the Trinity River and he is concerned that the health hazards, odor, and environmental conditions could affect his business. According to the Texas Water Code, the TCEQ does not have the jurisdiction to take into account economic impacts in the permitting process.

Therefore, because Mr. Michael failed to articulate any justiciable interest as defined under 30 TAC § 55.201(d)(2), the Executive Director recommends the Commission find Mr. Michael is not an affected person.

Johnnye Michael:

While Mr. Michael submitted a timely hearing request, he did not comply with the procedures set forth in the TCEQ's rules when he submitted the request. 30 TAC § 55.201(d)(2) requires the requestor to, "identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public." In his Hearing Request, Mr. Michael provided an address that is over 19 miles away from the proposed facility's outfall and failed to articulate any other property interests closer to the outfall location or discharge route. He stated that his business operates on Clear Fork of the Trinity River and he is concerned that the health hazards, odor, and environmental conditions could affect his business. According to the Texas Water Code, the TCEQ does not have the jurisdiction to take into account economic impacts in the permitting process.

Therefore, because Mr. Michael failed to articulate any justiciable interest as defined under 30 TAC § 55.201(d)(2), the Executive Director recommends the Commission find Mr. Michael is not an affected person.

Karla Kate:

While Ms. Kate submitted a timely hearing request, she did not comply with the procedures set forth in the TCEQ's rules when she submitted the request. 30 TAC § 55.201(d)(2) requires the requestor to, "identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public." In her Hearing Request, Ms. Kate provided an address that is over 9 miles away from the proposed facility's outfall and failed to articulate any other property interests closer to the outfall location or discharge route. She identified the area in which she recreates some 16 miles downstream and raised concerns about algae, health hazards and other environmental issues that could affect her and the general public's ability to recreate.

Therefore, because Ms. Kate failed to articulate any justiciable interest as defined under 30 TAC § 55.201(d)(2), the Executive Director recommends the Commission find she is not an affected person.

Andrew Ryan Sparks:

While Mr. Sparks submitted a timely hearing request, he did not comply with the procedures set forth in the TCEQ's rules when he submitted the request. 30 TAC § 55.201(d)(2) requires the requestor to, "identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public." In his Hearing Request, Mr. Sparks provided an address that is over 10 miles away from the proposed

facility's outfall and failed to articulate any other property interests closer to the outfall location or discharge route. He identified the area in which he recreates is 4 miles downstream and raised concerns about algae, health hazards, and other environmental issues that could affect his and the general public's ability to recreate.

Therefore, because Mr. Sparks failed to articulate any justiciable interest as defined under 30 TAC § 55.201(d)(2), the Executive Director recommends the Commission find that Mr. Sparks is not an affected person.

Meaghan Geary:

While Ms. Geary submitted a timely hearing request, she did not comply with the procedures set forth in the TCEQ's rules when she submitted the request. 30 TAC § 55.201(d)(2) requires the requestor to, "identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public." In her Hearing Request, Ms. Geary provided an address that is over 10 miles away from the proposed facility's outfall and failed to articulate any other property interests closer to the outfall location or discharge route. She identified the area in which she recreates some 16 miles downstream and raised concerns about algae, health hazards, and other environmental issues that could affect her and the general public's ability to recreate.

Therefore, because Ms. Geary failed to articulate any justiciable interest as defined under 30 TAC § 55.201(d)(2), the Executive Director recommends the Commission find she is not an affected person.

Ryan Helm:

While Mr. Helm submitted a timely hearing request, he did not comply with the procedures set forth in the TCEQ's rules when he submitted the request. 30 TAC § 55.201(d)(2) requires the requestor to, "identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public." In his Hearing Request, Mr. Helm provided an address that is over 75 miles away from the proposed facility's outfall and failed to articulate any other property interests closer to the outfall location or discharge route. He identified the area in which he operates a business 15 miles downstream and raised concerns about algae and other environmental issues that could affect his business and the general public's ability to recreate. According to the Texas Water Code, the TCEQ does not have the jurisdiction to take into account economic impacts in the permitting process.

Therefore, because Mr. Helm failed to articulate any justiciable interest as defined under 30 TAC § 55.201(d)(2), the Executive Director recommends the Commission find Mr. Helm is not an affected person.

Caroline Stephenson:

While Caroline Stephenson submitted a timely hearing request, she did not comply with the procedures set forth in the TCEQ's rules when she submitted the request. 30 TAC § 55.201(d)(2) requires the requestor to, "identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public." In her Hearing Request, Ms. Stephenson provided an address that is over 5 miles away from the proposed facility's outfall and failed to articulate any other property interests closer to the outfall location or discharge route. She identified the area in which she recreates some 15 miles downstream and raised concerns about algae, health hazards, and other environmental issues that could affect her and the general public's ability to recreate.

Therefore, because Ms. Stephenson failed to articulate any justiciable interest as defined under 30 TAC § 55.201(d)(2), the Executive Director recommends the Commission find she is not an affected person.

Travis Cate:

While Mr. Cate submitted a timely hearing request, he did not comply with the procedures set forth in the TCEQ's rules when he submitted the request. 30 TAC § 55.201(d)(2) requires the requestor to, "identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public." In his Hearing Request, Mr. Cate provided an address that is over 19 miles away from the proposed facility's outfall and failed to articulate any other property interests closer to the outfall location or discharge route. He identified the area in which he recreates is 15 miles downstream and raised concerns about algae, health hazards, and other environmental issues that could affect his and the general public's ability to recreate.

Therefore, because Mr. Cate failed to articulate any justiciable interest as defined under 30 TAC § 55.201(d)(2), the Executive Director recommends the Commission find that Mr. Cate is not an affected person.

George Gretser:

According to the information provided by George Gretser in his hearing request, he lives over 40 miles from the facility's discharge point. Mr. Gretser expressed concerns about the effluent discharge into the waterbody, particularly with algal blooms. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Mr. Gretser has not shown that he is an affected person due to the distance of his property from the facility. Therefore, Mr. Gretser does not have a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application not common to members of the general public and is not an affected person.

The Executive Director recommends the Commission find that George Gretser is not an affected person.

Tristen Rodriguez:

According to the information provided by Tristen Rodriguez in his hearing request, he kayaks within 14 miles downstream of the proposed Mary's Creek discharge point. Tristen Rodriguez raised concerns with water quality, algal blooms, nuisance odors, and that his business will be harmed by the discharge. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Mr. Rodriguez has not shown that he is an affected person due to the distance of his property from the facility. Therefore, Mr. Rodriguez does not have a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application not common to members of the general public and is not an affected person.

The Executive Director recommends the Commission find that Tristen Rodriguez is not an affected person.

Brittani Hall:

According to the information provided by Brittani Hall in her hearing request, her property is located more than 10 miles from the facility's location. Ms. Hall expressed general opposition to the facility, saying she recreates at Trinity Park. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Ms. Hall has not shown that she is an affected person due to the distance of his property from the facility and failing to raise a personal issue. Therefore, Ms. Hall does not have a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application not common to members of the general public and is not an affected person.

The Executive Director recommends the Commission find that Brittani Hall is not an affected person.

Jerry Cate:

According to the information provided in his hearing request, Jerry Cate's property is over 8 miles from the proposed facility. Mr. Cate stated that he recreates 15 miles downstream of the proposed discharge point. Mr. Cate raised issues of potential poisonous blooms, diminished water quality, and impact to recreational activities. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Mr. Cate has not shown that he is an affected person due to the distance of his property from the facility. Therefore, Mr. Cate does not have a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application not common to members of the general public and is not an affected person.

The Executive Director recommends the Commission find that Jerry Cate is not an affected person.

Sydney O'Connell:

According to the information provided in her hearing request, Sydney O'Connell recreates within 16 miles downstream of the proposed discharge point. In her hearing

request, Sydney O'Connell provided an address that is over 8 miles away from the proposed facility. Ms. O'Connell raised issues of potential poisonous blooms making the water dangerous to animals and humans, as well as impair the ability of individuals to recreate in the receiving waters. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Ms. O'Connell has not shown that she is an affected person due to the distance from where she recreates to the facility.

The Executive Director recommends the Commission find that Sydney O'Connell is not an affected person.

Betty Dillard:

According to the information provided in her hearing request, Betty Dillard recreates 16 miles downstream of the proposed discharge point. In her timely hearing request, she provided an address over 23 miles away from the proposed discharge point. Ms. Dillard raised issues regarding potential poisonous blooms, risk to human health from the blooms, and potential impact to ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Ms. Dillard has not shown that she is an affected person due to the distance from where she recreates to the facility.

The Executive Director recommends the Commission find that Betty Dillard is not an affected person.

Matt Oliver:

According to the information provided in his hearing request, Matt Oliver recreates 16 miles downstream of the proposed discharge point. In his timely hearing request, Mr. Oliver provided an address over 10 miles away from the proposed discharge point. Mr. Oliver raised issues regarding potential poisonous blooms, risk to human health from the blooms, and potential impact to ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Mr. Oliver has not shown that he is an affected person due to the distance from where he recreates to the facility.

The Executive Director recommends the Commission find that Matt Oliver is not an affected person.

Skyler Stephenson:

According to the information provided in her hearing request, Skyler Stephenson recreates 14 miles downstream of the proposed discharge point. In their timely hearing request, Skyler Stephenson provided an address over 19 miles away from the proposed discharge point. Skyler Stephenson raised issues regarding potential poisonous blooms, risk to human and animal health from the blooms, and potential impact to ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Skyler Stephenson has not shown that she is an affected person due to the distance from where she recreates to the facility.

The Executive Director recommends the Commission find that Skyler Stephenson is not an affected person.

Matthew Blake Mancino:

According to the information provided in his hearing request, Matthew Mancino recreates 14 miles downstream of the proposed discharge point. In his timely hearing request, Mr. Mancino provided an address over 10 miles away from the proposed discharge point. Mr. Mancino raised issues regarding potential poisonous blooms, risk to human health from the blooms, and potential impact to ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Mr. Mancino has not shown that he is an affected person due to the distance from where he recreates to the facility.

The Executive Director recommends the Commission find that Matthew Mancino is not an affected person.

Shanna Cate Granger:

According to the information provided in her hearing request, Shanna Cate Granger recreated 14 miles downstream of the proposed discharge point. In her timely hearing request, Ms. Granger provided an address that is over 11 miles away from the proposed discharge point. Ms. Granger raised issues regarding potential poisonous blooms, risk to human health from the blooms, and potential impact to the ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Ms. Granger has not shown that she is an affected person due to the distance from where she recreates to the facility.

The Executive Director recommends the Commission find that Shanna Cate Granger is not an affected person.

Russell Husted:

According to the information provided in his hearing request, Russell Husted recreates one mile downstream of the proposed discharge point. In his timely hearing request, Mr. Husted provided an address that is over 20 miles away from the proposed discharge point. Mr. Husted raised issues regarding potential for poisonous blooms, harm to human health, and potential impact to the ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Mr. Husted has not shown that he has a personal justiciable interest relative to the proposed activity that is not common to members of the general public.

The Executive Director recommends the Commission find that Russell Husted is not an affected person.

Jerry Hamon on behalf of Texas Council of Fly Fishers International:

According to the information provided in their hearing request, the Texas Council of Fly Fishers International and their members regularly fish in a location 8 miles downstream of the proposed discharge location. Mr. Hamon on behalf of Texas Council of Fly Fishers International raised issues relating to algae and interference with recreational activities, and recommended alternative methods for the applicant to dispose of the discharge. Considering the factors listed in section 55.205 that is used to determine requests for contested case hearing by a group or association. In their hearing request, Texas Council of Fly Fishers International identified Mr. Jerry Hamon as their member of the group that is an affected person. As Mr. Hamon recreates over

8 miles away from the proposed discharge location, he fails to have standing to request a hearing in his own right, as required by section 55.205(a)(1). Mr. Hamon has not shown that he or Texas Council of Fly Fishers International have a personal justiciable interest relative to the proposed activity that is not common to members of the general public.

The Executive Director recommends the Commission find that Jerry Hamon on behalf of Texas Council of Fly Fishers International is not an affected person.

Gregory Mark Mancino:

According to the information provided in his hearing request, Gregory Mark Mancino recreates 16 miles downstream of the proposed discharge point. In his timely hearing request, Mr. Mancino provided an address over 15 miles away from the proposed discharge point. Mr. Mancino raised issues regarding potential poisonous blooms, risk to human health from the blooms, and potential impact to ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Mr. Mancino has not shown that he is an affected person due to the distance from where he recreates to the facility.

The Executive Director recommends the Commission find that Gregory Mark Mancino is not an affected person.

John S Boid:

According to the information provided in his hearing request, John Boid recreates 16 miles downstream of the proposed discharge point. In his timely hearing request, Mr. Boid provided an address over 20 miles away from the proposed discharge point. Mr. Boid raised issues regarding potential poisonous blooms, risk to human health from the blooms, and potential impact to ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Mr. Boid has not shown that he is an affected person due to the distance from where he recreates to the facility.

The Executive Director recommends the Commission find that John Boid is not an affected person.

Mikela Van Horn:

According to the information provided in her hearing request, Mikela Van Horn recreates 16 miles downstream of the proposed discharge point. In her timely hearing request, Ms. Van Horn provided an address over 2 miles away from the proposed discharge point. Ms. Van Horn raised issues regarding potential poisonous blooms, risk to human health from the blooms, and potential impact to ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Ms. Van Horn has not shown that she is an affected person due to the distance from where he recreates to the facility.

The Executive Director recommends the Commission find that Mikela Van Horn is not an affected person.

Taylor Ellison:

According to the information provided in her hearing request, Taylor Ellison lives over 10 miles from the proposed discharge point. Taylor Ellison raised issues regarding algal blooms, and risks to human health and animal health, as well as potential impact to ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Ms. Ellison has not shown that she is an affected person due to the distance from where she lives to the facility.

The Executive Director recommends the Commission find that Taylor Ellison is not an affected person.

Landon Geary:

According to the information provided in his hearing request, Landon Geary recreates 15 miles downstream of the proposed discharge point. In his timely hearing request, Mr. Geary provided an address over 10 miles away from the proposed discharge point. Mr. Geary raised issues regarding potential nuisance conditions and hazardous conditions from the discharge, as well as the impact to property values. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Mr. Geary has not shown that he is an affected person due to the distance from where he recreates to the facility.

The Executive Director recommends the Commission find that Landon Geary is not an affected person.

Jodi Thomason:

According to the information provided in her hearing request, Jodi Thomason recreates 14 miles downstream of the proposed discharge point. In their timely hearing request, Jodi Thomason provided an address over 23 miles away from the proposed discharge point. Jodi Thomason raised issues regarding potential poisonous blooms, risk to human and animal health from the blooms, and potential impact to ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Jodi Thomason has not shown that she is an affected person due to the distance from where she recreates to the facility.

The Executive Director recommends the Commission find that Jodi Thomason is not an affected person.

Allison Jo Hocking:

According to the information provided in her hearing request, Allison Hocking Thomason recreates 12 miles downstream of the proposed discharge point. In their timely hearing request, Allison Hocking provided an address over 9 miles away from the proposed discharge point. Allison Hocking raised issues regarding potential poisonous blooms, economic impact, nuisance odors, risk to human and animal health from the blooms, and potential impact to ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Allison Hocking has not shown that she is an affected person due to the distance from where she recreates to the facility.

The Executive Director recommends the Commission find that Allison Hocking is not an affected person.

William Jared Fuller:

According to the information provided in his hearing request, William Fuller recreates 8 miles downstream of the proposed discharge point and lives 11 miles downstream from the discharge point. Mr. Fuller raised issues regarding potential nuisance conditions, ecological impacts, poisonous blooms, impacts to human health, and potential impact to ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Mr. Fuller has not shown that he is an affected person due to the distance from where he lives and recreates from the discharge point.

The Executive Director recommends the Commission find that William Fuller is not an affected person.

Autumn Crawford:

According to the information provided in her hearing request, Autumn Crawford recreates 16 miles downstream of the proposed discharge point. In her timely hearing request, Autumn Crawford provided an address over 10 miles away from the proposed discharge point. Autumn Crawford raised issues regarding potential poisonous blooms, economic impact, nuisance odors, risk to human and animal health from the blooms, and potential impact to ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status Autumn Crawford has not shown that she is an affected person due to the distance from where she recreates to the facility.

The Executive Director recommends the Commission find that Autumn Crawford is not an affected person.

Megan McMullen:

According to the information provided in her hearing request, Megan McMullen recreates 16 miles downstream of the proposed discharge point. In her timely hearing request, Megan McMullen provided an address over 7 miles away from the proposed discharge point. Megan McMullen raised issues regarding potential poisonous blooms, economic impact, nuisance odors, risk to human and animal health from the blooms, and potential impact to ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status Megan McMullen has not shown that she is an affected person due to the distance from where she recreates to the facility.

The Executive Director recommends the Commission find that Megan McMullen is not an affected person.

Thomas William Ames:

According to the information provided in his hearing request, Thomas William Ames recreates 13 miles downstream of the proposed discharge point. In his timely hearing request, Mr. Ames provided an address over 8 miles away from the proposed discharge point. Mr. Ames raised issues regarding potential algal blooms, and risks to human health, as well as potential impact to ability to recreate in the receiving water.

Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Mr. Ames has not shown that he is an affected person due to the distance from where he recreates to the facility.

The Executive Director recommends the Commission find that Thomas William Ames is not an affected person.

Kelly Shea Clem:

According to the information provided in her hearing request, Kelly Clem recreates 13 miles downstream of the proposed discharge point. In her timely hearing request, Kelly Clem provided an address over 8 miles away from the proposed discharge point. Kelly Clem raised issues regarding potential poisonous blooms, nuisance odors, risk to human health from the blooms, and potential impact to ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status Kelly Clem has not shown that she is an affected person due to the distance from where she recreates to the facility.

The Executive Director recommends the Commission find that Kelly Clem is not an affected person.

Daniel Ivery:

According to the information provided in his hearing request, Daniel Ivery recreates 14 miles downstream of the proposed discharge point. In his timely hearing request, Mr. Ivery provided an address over 16 miles away from the proposed discharge point. Mr. Ivery raised issues regarding potential algal blooms, and risks to human and animal health, as well as potential impact to ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Mr. Ivery has not shown that he is an affected person due to the distance from where he recreates to the facility.

The Executive Director recommends the Commission find that Daniel Ivery is not an affected person.

Gerard Joseph Schlegel:

According to the information provided in his hearing request, Gerard Schlegel recreates 16 miles downstream of the proposed discharge point. In his timely hearing request, Gerard Schlegel provided an address over 7 miles away from the proposed discharge point. Gerard Schlegel raised issues regarding potential algal blooms, and risks to human health, as well as potential impact to ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Gerard Schlegel has not shown that he is an affected person due to the distance from where he recreates to the facility.

The Executive Director recommends the Commission find that Gerard Schlegel is not an affected person.

Valerie Ann Ramos:

According to the information provided in her hearing request, Valerie Ramos recreates 16 miles downstream of the proposed discharge point. In her timely hearing request, Valerie Ramos provided an address over 15 miles away from the proposed

discharge point. Valerie Ramos raised issues regarding potential poisonous blooms, risk to human health from the blooms, and potential impact to ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Valerie Ramos has not shown that she is an affected person due to the distance from where she recreates to the facility.

The Executive Director recommends the Commission find that Valerie Ramos is not an affected person.

Gerry Schlegel:

According to the information provided in his hearing request, Gerry Schlegel's business customers recreate 9.5 miles downstream of the proposed discharge point. In her timely hearing request, Gerry Schlegel provided an address over 15 miles away from the proposed discharge point. Mr. Schlegel failed to demonstrate how he personally would be affected by the proposed facility. Gerry Schlegel raised issues regarding potential poisonous blooms, risk to human health from the blooms, and potential impact to ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Gerry Schlegel has not shown that he is an affected person due to the distance from where his customers recreate to the facility.

The Executive Director recommends the Commission find that Gerry Schlegel is not an affected person.

Bailey Templin:

According to the information provided in her hearing request, Bailey Templin recreates 16 miles downstream of the proposed discharge point. In her timely hearing request, Bailey Templin provided an address over 19 miles away from the proposed discharge point. Bailey Templin raised issues regarding potential poisonous blooms, risk to human health from the blooms, and potential impact to ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status Bailey Templin has not shown that she is an affected person due to the distance from where she recreates to the facility.

The Executive Director recommends the Commission find that Bailey Templin is not an affected person.

Charles Reid:

According to the information provided in his hearing request, Charles Reid lives 10 miles downstream of the proposed discharge point. Charles Reid raised issues regarding potential poisonous blooms, risk to human and animal health from the blooms, and potential impact to ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status Charles Reid has not shown that he is an affected person due to the distance from where she recreates to the facility.

The Executive Director recommends the Commission find that Charles Reid is not an affected person.

Chandler S Davis:

According to the information provided in his hearing request, Chandler Davis recreates 9 miles downstream of the proposed discharge point. In his timely hearing request, Chandler Davis provided an address over 12 miles away from the proposed discharge point. Chandler Davis raised issues regarding potential algal blooms, and risks to human health, as well as potential impact to ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, Chandler Davis has not shown that he is an affected person due to the distance from where he recreates to the facility.

The Executive Director recommends the Commission find that Chandler Davis is not an affected person.

JD Granger:

In his timely hearing request JD Granger provided an address over 10 miles away from the proposed discharge point. JD Granger raised issues regarding impacts to recreational use, effluent impacts during low flow conditions, potential algal blooms, risks to human and animal health, as well as potential impact to the ability to recreate in the receiving water. Considering the factors listed in section 55.201(d)(2) that are used to determine affected person status, JD Granger has not shown that he is an affected person due to the distance from where he lives to the facility.

The Executive Director recommends the Commission find that JD Granger is not an affected person.

B. Whether the Issues the Requestor Raised are Referable to the State Office of Administrative Hearings (SOAH).

Issue 1) Whether the draft permit is protective of aquatic and terrestrial wildlife as well as the environment. *(RTC Response 2, 5, 6, 19)*

- This issue involves a disputed question of fact, that was not withdrawn and that is relevant and material to a decision on the application. This issue was raised by the TRWD and Martha Leonard. The Executive Director concludes that this issue **is appropriate** for referral to SOAH.

Issue 2) Whether the draft permit will be protective of surface water quality. *(RTC Response 6, 18, 21, 32)*

- This issue involves a disputed question of fact, that was not withdrawn and that is relevant and material to a decision on the application. This issue was raised by the TRWD and Martha Leonard. The Executive Director concludes that this issue **is appropriate** for referral to SOAH.

Issue 3) Whether the nutrient limits in the draft permit will comply with the Texas Surface Water Quality Standards. *(RTC Response 3, 17, 18, 28, 32)*

- This issue involves a disputed question of fact, that was not withdrawn and that is relevant and material to a decision on the application. This issue was raised by the TRWD and Martha Leonard. The Executive Director concludes that this issue **is appropriate** for referral to SOAH.

Issue 4) Whether the draft permit is protective of the health of nearby residents. (RTC Response 4)

- This issue involves a disputed question of fact, that was not withdrawn and that is relevant and material to a decision on the application. This issue was raised by the TRWD and Martha Leonard. The Executive Director concludes that this issue **is appropriate** for referral to SOAH.

Issue 5) Whether existing uses will be protected and maintained under the draft permit. (RTC Response 3, 6, 17, 18, 25, 32)

- This issue involves a disputed question of fact, that was not withdrawn and that is relevant and material to a decision on the application. This issue was raised by the TRWD and Martha Leonard. The Executive Director concludes that this issue **is appropriate** for referral to SOAH.

Issue 6) Whether the draft permit will violate TCEQ's antidegradation policy and procedures. (RTC Response 3, 17, 25, 32)

- This issue involves a disputed question of fact, that was not withdrawn and that is relevant and material to a decision on the application. This issue was raised by the TRWD and Martha Leonard. The Executive Director concludes that this issue **is appropriate** for referral to SOAH.

VI. CONCLUSION

The Executive Director recommends the following actions by the Commission:

1. The Executive Director recommends the Commission find Martha V Leonard and Tarrant Regional Water District affected persons and grant their hearing requests.
2. If referred to SOAH that the duration of the hearing be 180 days from the preliminary hearing to the presentation of a proposal for decision to the Commission.
3. If referred to SOAH, concurrently refer the matter to Alternative Dispute Resolution.
4. If referred to SOAH, refer the following issues as raised by the affected person as identified by the Executive Director:

Issue 1) Whether the draft permit is protective of aquatic and terrestrial wildlife as well as the environment. (RTC Response 2, 5, 6, 19)

Issue 2) Whether the draft permit will be protective of surface water quality. (RTC Response 6, 18, 21, 32)

Issue 3) Whether the nutrient limits in the draft permit will comply with the Texas Surface Water Quality Standards. (RTC Response 3, 17, 18, 28, 32)

Issue 4) Whether the draft permit is protective of the health of nearby residents. (RTC Response 4)

Issue 5) Whether existing uses will be protected and maintained under the draft permit. (RTC Response 3, 6, 17, 18, 25, 32)

Issue 6) Whether the draft permit will violate TCEQ's antidegradation policy and procedures. (RTC Response 3, 17, 25, 32)

Respectfully submitted,

Texas Commission on Environmental Quality

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Guy Henry, Acting Deputy Director
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REPRESENTING THE EXECUTIVE DIRECTOR OF
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CERTIFICATE OF SERVICE

I certify that on October 8, 2021, the “Executive Director’s Response to Hearing Request” for TCEQ Permit WQ0015668001 for The City of Fort Worth was filed with the TCEQ’s Office of the Chief Clerk, and a copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, electronic submittal, or by deposit in the U.S. Mail.



Harrison Cole Malley
Staff Attorney
Environmental Law Division

Attachment A

City of Fort Worth WQ0015668001

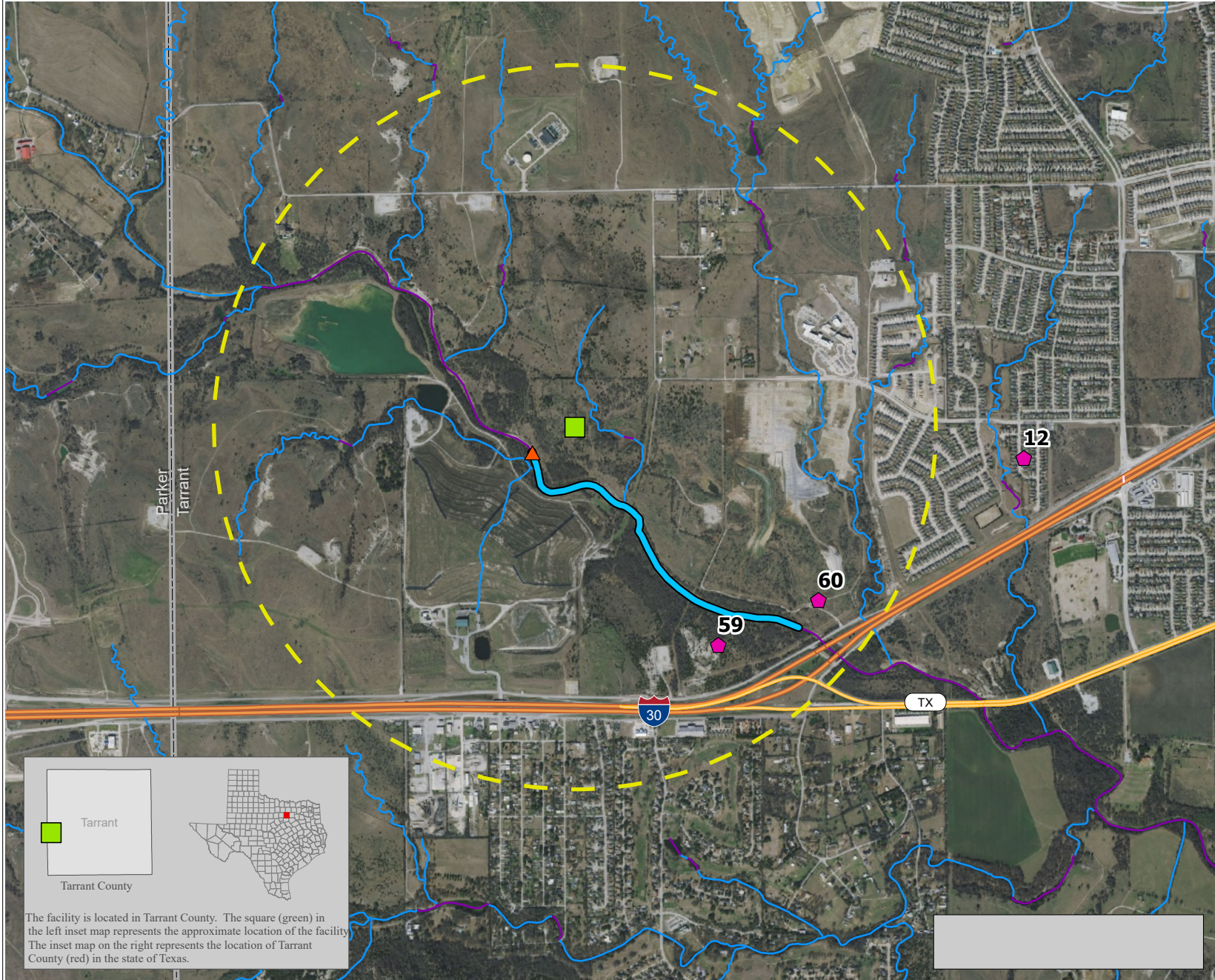
Facility and Outfall

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



Protecting Texas by
Reducing and
Preventing Pollution

Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
Date: 10/7/2021
CRF 0059664
Cartographer: CHoddePi



- Requestors
- Facility
- Outfall
- 1 Mile Radius
- One Mile Discharge

See Appendix A for a list of requestors.

***Any individuals not seen on the maps, but listed in the Appendix, reside at such a distance that their locations could not be mapped for the purposes of agenda.**

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

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



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

City of Fort Worth WQ0015668001

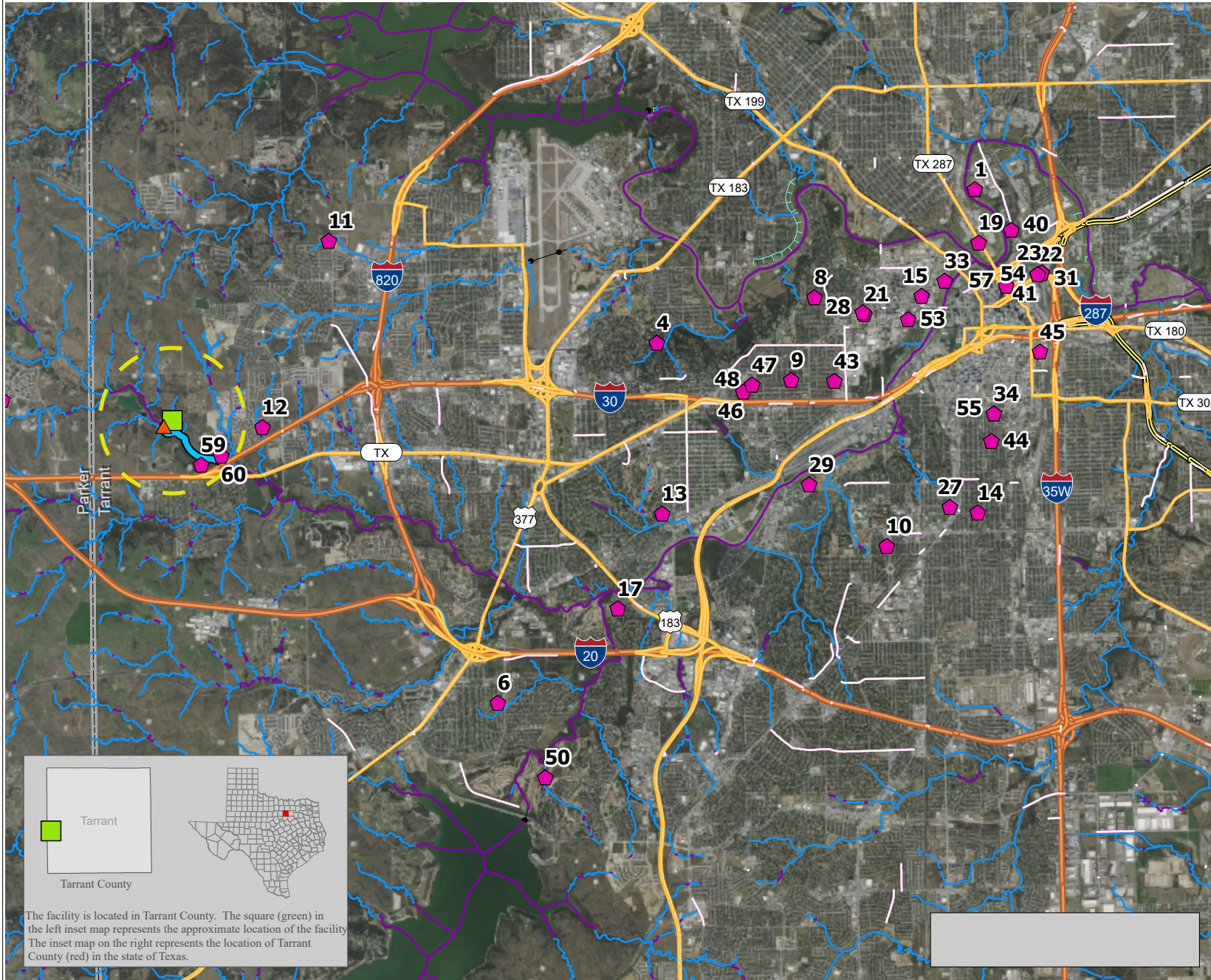
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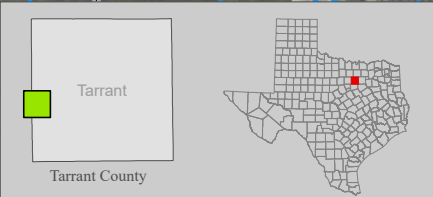
- Requestors
- Facility
- Outfall
- 1 Mile Radius
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See Appendix A for a list of requestors.

***Any individuals not seen on the maps, but listed in the Appendix, reside at such a distance that their locations could not be mapped for the purposes of agenda.**

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

Appendix A

NUMBER	NAME	ADDRESS	Distance (in Miles)
1	Tarrant Regional Water District	800 E Northside Dr Fort Worth, TX 76102	11.65
2	Teresa Patterson	5400 Parker Henderson Road Fort Worth, TX 76119-6264	16.40
3	Forth Worth Fly Fishers	7805 Regatta Ct Fort Worth, TX 76179	11.73
4	Martha V Leonard	1411 Shady Oaks Ln Fort Worth, TX 76107-3537	6.90
5	Texas Rivers Protection Association	444 Pecan Park Dr San Marcos, TX 78666	198.90
6	Michelle Kopp	1026 Kane St Benbrook, TX 76126-2632	5.98
7	George Gretser	4220 Joshua Ln Dallas , TX 75287-5117	44.42
8	Stephen M Woodcock	4008 W 5th St Fort Worth, TX 76107-1618	9.15
9	Jeremy Raines	2313 Ashland Ave Fort Worth, TX 76107-4261	8.68
10	Tristen Rodriguez	3212 Rogers Ave Fort Worth, TX 76109-2258	10.11
11	Julie Hencke	9925 Osprey Dr Fort Worth, TX 76108-4332	3.42
12	Kian Amos	3008 Yoakum St Fort Worth, TX 76108-8907	1.36
13	Jacob A Posey	6032 Westbridge Ln Fort Worth, TX 76116-8471	6.98
14	Katherine Taft	2842 5th Avenue Fort Worth, TX 76110-3005	11.29
15	Kevin McConnell	441 Carrol St Fort Worth, TX 76107-2245	10.61
16	Noah Collins	147 Solano Cir Aledo , TX 76008-4744	9.09
17	Emily Anne Craig	5930 River Bend Dr Benbrook, TX 76132-2738	6.75
18	David R Hooper	7805 Regatta Ct Fort Worth, TX 76179-2742	11.73
19	Johnnye Panther Michael	501 N Main St Fort Worth, TX 76164-9508	11.52
20	Johnnye Michael	5737 Dunraven Trl Fort Worth, TX 76244-5667	19.80
21	Karla Kate	3320 Camp Bowie Blvd Fort Worth, TX 76107-2765	9.79
22	Andrew Ryan Sparks	940 Cotton Depot Ln Fort Worth, TX 76102-5589	12.24
23	Meaghan Geary	1060 Cotton Depot Ln Fort Worth, TX 76102-5598	12.29
24	Ryan Helm	1238 W Somers Ln Axtell, TX 76624-1173	77.48
25	Caroline Stephenson	220 Odessa Dr Haslet, TX 76052-4015	19.32
26	Travis Cate	220 Odessa Dr Haslet, TX 76052-4015	19.32
27	Brittani Hall	2801 Livingston Ave Fort Worth, TX 76110-2920	10.90
28	Jerry Cate	3333 Darcy St Fort Worth, TX 76107	9.77
29	Sydney O'Connell	2400 Via Villani Fort Worth, TX 76109-6553	8.94
30	Betty Dillard	1100 Jericho Ct Keller, TX 76262-9391	23.70
31	Matt Oliver	1060 Cotton Depot Ln Fort Worth, TX 76102-5598	12.29
32	Skyler Stephenson	220 Odessa Dr Haslet, TX 76052-4015	19.31
33	Matthew Blake Mancino	301 Arthur St Fort Worth, TX 76107-2352	10.96

Appendix A

34 Shanna Cate Granger	1328 Washington Ave Fort Worth, TX 76104-4545	11.45
35 Russel Husted	3416 Jerry Ln Arlington, TX 76017-3520	22.15
36 Jerry Harmon	643 Clements Ave Van Alstyne , TX 75495	73.36
37 Gregory Mark Mancino	4920 Glen Springs Trl Fort Worth, TX 76137-4171	18.17
38 John S Boid	208 Shawnee Trk Keller, TX 76248-4932	20.58
39 Mikela Van Horn	14008 Walsh Ave Aledo , TX 76008-1635	2.26
40 Taylor Ellison	637 Samuels Ave Fort Worth, TX 76102-1395	12.00
41 Landon Geary	940 Cotton Depot Ln Fort Worth, TX 76102-5589	12.24
42 Jodi Thomason	428 Wren Ct Bedford, TX 76021-3228	23.28
43 Allison Jo Hocking	3801 Collinwood Ave Fort Worth, TX 76107-4540	9.27
44 William Jared Fuller	1821 Washington Ave Fort Worth, TX 76110-1429	11.42
45 Autumn N Crawford	220 E Broadway Ave Fort Worth, TX 76104-1363	12.13
46 Megan W McMullen	4924 Birchman Ave Fort Worth, TX 76107-5333	8.01
47 Thomas William Ames	4815 El Campo Ave Fort Worth, TX 76107-4917	8.14
48 Kelly Shea Clem	4815 El Campo Ave Fort Worth, TX 76107-4917	8.14
49 Daniel Ivery	2239 Whistler Creek Dr Fort Worth, TX 76177-8251	16.97
50 Gerard Joseph Schlegel	7016 Shadow Creek Ct Fort Worth, TX 76132-4550	7.14
51 Valerie Ann Ramos	5701 Sandshell Dr Fort Worth, TX 76137-2911	15.21
52 Bailey Templin	224 Glenn Dr Hurst, TX 76053-6113	19.87
53 Charles Reid	2701 Calder Ct Fort Worth, TX 76107-3077	10.37
54 Chandler S Davis	940 Cotton Depot Ln Fort Worth, TX 76102-5589	12.24
55 JD Granger	1328 Washington Ave Fort Worth, TX 76104-4545	11.45
56 Richard H Grayson	6230 Vanderbilt Ave. Dallas , TX 75214-3334	10.38
57 Gerry Schlegel	115 W. 3rd St. Fort Worth, TX 76102	11.77
58 Mary Margaret Richter	7225 McNay Rd. Fort Worth, TX 76135-9165	9.55
59 Martha Leonard	2120 Ridgmar Blvd Ste 14 Fort Worth, TX 76116-2200	0.74
60 Martha Leonard	PO Box 2050 Fort Worth, TX 76113-2050	0.89
Texas Council of Fly Fishers International *	PO Box 171031 Arlington, TX 76003-1031	

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DOCKET NO. 2021-1211-MWD; PERMIT NO. WQ0015668001**

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